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Cover: *Kenilworth Castle Ruins, England: Great Arched Passage leading to the Great Hall (Photographs by Rumiko Handa). (See p. 33)*

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Learning Among Friends: Using Heritage-Based Educational Practices to Improve Preservation Law Pedagogy

This paper proposes that historic preservation professionals' perspectives are shaped by educational experiences. Therefore, exposure to learning about preservation using methodologies developed by different cultural traditions might facilitate a richer experience. Indeed, certain subjects may be learned more efficiently using methods developed by other cultures. This premise is exhibited in the teaching of historic preservation law and legal practice. The traditional Socratic method, as developed by Harvard University's Christopher Columbus Langdell (1826-1906), is compared with the *havruta* method used by the Jewish people, with preservation law used in place of Jewish religious law in a secular academic setting. This method can add a layer of significance to legal and preservation education.

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Learning Among Friends: Using Heritage-Based Educational Practices to Improve Preservation Law Pedagogy

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The recognition and appreciation for the diversity of philosophies and practices regarding heritage preservation is reflected in the 2008 ICOMOS *Charter for the Interpretation and Presentation of Cultural Heritage Sites*. One of the basic principles of this charter is *Inclusiveness* (Principle 6), which stipulates, “The Interpretation and Presentation of cultural heritage sites must be the result of meaningful collaboration between heritage professionals, host and associated communities, and other stakeholders.” Underlying this principle is the recognition of the contributions and participation of diverse cultural groups in the heritage preservation process - a process that is generally defined by laws and rules.

Lynne Armitage and Yung Yau have advocated for the integration and assimilation of conservation ideologies from places with different cultural backgrounds (Armitage and Yau 2008). Meanwhile, Priya Jain and Goody Clancy have expressed concern that trained historic preservation professionals are sometimes perceived as “outsiders,” whose perspective might lead to “the alienation of the people who lived in or actively used these [cultural] landscapes.” This situation is likely to be exacerbated in cases where professionals view themselves as imbued with the “correct” answer by virtue of their training (Australian Heritage Commission 2002).

Principle 6 goes on to note, “The multidisciplinary expertise of scholars, community members, conservation experts, governmental authorities, site managers and interpreters, tourism operators, and other professionals should be integrated in the formulation of interpretation and presentation programmes” (Section 6.1). The diverse perspectives

raised by this process often evolve into what has been defined as “ill-structured problems” (Kitchener 1983). Ill-structured problems are those in which opposing or contradictory evidence, assumptions, or opinions exist; they do not necessarily have one correct answer (as opposed to a math problem), but a balance of better or worse solutions. Ill-structured problems include poverty, pollution, and health care. Pedagogical procedures should reflect actual practice, ethical issues, and methods.

The instructional methods most widely used at educational institutions in North America are products of Western European culture. While certainly effective, the question is whether the way preservation education is taught with respect to the cultural heritage of minority groups is providing the necessary *weltanschauung* (worldview) to sensitize future professionals to a diversity of cultures and perspectives. Could preservation education (and preservation practice) be a richer and more comprehensive experience if it were to consider pedagogical alternatives? Preservation education must respond to inherent socio-cultural issues as the country’s demographic changes.

This paper addresses the teaching of preservation law and legal practice to future professional consultants and administrators. Is the traditional guided-question approach of the Socratic method, as developed by Harvard University’s Christopher Columbus Langdell (1826-1906) in the late nineteenth century, the best way to learn law? The Socratic method is used in the teaching of law in universities across the country, although both law students and legal scholars have argued for its reform (Williams 1993). It is also used nationally in the teaching of historic preservation

law, including in non-law degree-granting programs. Abdul Paliwala, a professor at the University of Warwick School of Law, argues that:

[U]nlike Socrates, Langdell's epistemology was not really a process of ethical self-discovery but technician in argument to discover the structure of law.... [Furthermore], pragmatists and realists suggested that the Case Method, by *concentrating* [author's emphasis] on the judicial decision, reified the decision and abstracted it away from the real life of the law (Paliawala 2010, 2).

As teachers and academics of education and historic preservation, we believe preservation legal education should be focused on "the real life of the law" (Paliawala 2010, 2). Paliwala's research explored how legal education might be enriched through the pedagogies of other cultures, using those of the Islamic Middle East and Confucian China as examples. While somewhat unorthodox, this approach is not unique. Christine Zuni Cruz, a law professor at the University of New Mexico, studies the pedagogies and ethics of legal practice

for indigenous peoples and teaches a course on the subject with emphasis on the Navajo approach to law (Zuni Cruz 2006).

This paper illustrates another cultural-pedagogical alternative - the *havruta* methodology created by the Jewish people in rabbinical seminaries, called *yeshivot* (s. *yeshiva*). Most generally, *havruta* involves working through complex Jewish texts in teams of small student groups (Fig. 1). Legal texts are often used, but not exclusively (Kent 2008).¹ The starting point is usually the *Talmud* and later, works and commentaries that continue to investigate features of the Talmudic text under study.² The *havruta* approach has been hailed as a model by a number of scholars (Segal 2003). The term comes from the Aramaic word for friendship, and it requires students to partner with one another to learn a text by reading it, arguing over it, and trying to figure out what it means. While this pedagogy is traditionally used in the teaching of Jewish religious law, preservation law would be used in a secular academic setting.

Havruta is a form of collaborative learning and has been used in secular curriculums in college-level English and American government classes, as well as in law schools (Blumenfeld 2012; Bergom, Wright, Brown,



Fig. 1. Postcard titled "Disputation," c.1910, by Wilhelm Wachtel (1875-1942), depicting a Catholic monk and a Jewish scholar debating a religious text using the *havruta* method (William A. Rosenthal Judaica Collection, Special Collections, College of Charleston Library).

and Brooks 2011). Contemporary understanding of collaborative learning developed out of the work of Lev Vygotski (1896-1934) and his Circle (1920-1941). He believed students are capable of performing at higher intellectual levels when they are asked to work in collaborative situations rather than individually. He viewed group diversity in terms of knowledge and experience as contributing positively to the learning process (Vygotski and Cole 1978). Similarly, Jerome Bruner proposed that cooperative learning methods improve problem-solving strategies, because students are confronted with different interpretations of the given situation. The peer support system makes it possible for the learner to internalize both external knowledge and critical thinking skills and to convert them into intellectual functioning tools (Brunner 1985).

More recent studies have affirmed that while collaborative learning approaches improve higher order or critical thinking about problems in a variety of content areas, they do not diminish content. Daniel Marburger found in comparing student performance between cooperative and traditional formats in an undergraduate economics class that while no difference in multiple-choice exam performance between the two groups was discovered, cooperative learning did appear to have a significant positive effect on students' abilities to analyze cases and apply their knowledge. He suggests that because multiple-choice exams "decompose" course content into smaller chunks, one may wonder whether previous empirical studies that disclosed no differences in test performance adequately distinguished between surface learning and deep learning (Marburger 2005). These findings parallel those reported earlier by Anuradha Gokhale, who found that students in an electronics technology course who participated in collaborative learning performed significantly better on the critical-thinking test than students who studied individually. She also found that both groups did equally well on the drill-and-practice test (Gokhale 1995).

Like other collaborative learning approaches, an underlying concept of *havruta* is that knowledge is constructed rather than merely imparted. While *havruta* has also been described as fostering the development of higher-order and critical-thinking skills, it differs from other

collaborative learning methodologies in two important aspects. The first is that the *havruta* methodology is intended to address the types of ill-structured problems involving differences in interpretation and perspective. The second is that the partners remain the same during the course of a term. A study on *havruta* conducted at the University of Michigan also observed that:

As a result of this prolonged partnership, students develop trust, which enables them to grapple more openly with the complexities they encounter in the text and in their discussions. The cooperative, trusting relationship between partners provides the framework within which students can evaluate their own epistemological assumptions and move to more advanced understandings about knowledge and knowing (Bergom, Wright, Brown, and Brooks 2011, 21).

TRADITIONAL LEGAL EDUCATION IN THE UNITED STATES

The teaching of American law in institutions of higher education is almost as old as the United States, beginning in 1779 with George Wythe (1726-1806) at the College of William and Mary. It is perhaps fitting that he was the country's first law professor, since he was a career lawyer, judge, and signer of the Declaration of Independence and the Virginia Constitution of 1776. Indeed, the academic teaching of law in the United States had commenced shortly after it started in Great Britain, beginning with Sir William Blackstone (1723-1780) and his position in English common law at Oxford University in 1758. His publications were widely used in the teaching of law in Great Britain, its empire, and the United States well into the nineteenth century (Sheppard 1999).³ In 1784, the first American law school, Litchfield Law School, a private institution, was established by Tapping Reeve (1744-1823) in Connecticut. Professors like Wythe and the Litchfield Law School used an analytical and systematized approach. However, during this time and well into the nineteenth century, most practitioners acquired their legal education through an apprenticeship system (Stevens 1983).

Despite the early start by William and Mary and Litchfield law schools, it was Harvard University's Law School that would rise to preeminence. Founded in 1817, it is the oldest continuously operating law school in the United States. Between 1851 and 1854, Christopher Columbus Langdell attended Harvard Law School. Upon graduating, Langdell practiced law in New York City before returning to Harvard Law where he took a professorship in 1870, soon becoming dean of the school. He remained in this post for the rest of his career, until 1895. While a professor and dean, Langdell developed the method of learning appellate cases – known as the case method – arguing that the study of law is an empirical “science.” In this process, student learning is reinforced with the Socratic “question-and-answer technique” – the traditional law school “quiz.” Because Harvard had one of the earliest successful programs, and thanks to Langdell's effectiveness as an administrator, his pedagogy spread to law schools across the country (Stevens 1983). Langdell's students who took faculty positions at other universities helped facilitate this proliferation (Sheppard 1999). Not until the mid-twentieth century was Langdell's pedagogy seriously scrutinized, resulting in the development of clinical legal education (New York State Judicial Institute 2005; Anzalone 2010). Today, both methods are used in many law schools across the country. Barbara Blumenfeld describes the traditional American law school classroom:

In the Socratic class room the professor asks questions about cases which the students should have read and briefed; the professor then presents hypotheticals that require students to apply the law to a new situation. While this to some extent develops the students' legal reasoning skills, there may remain the sense that the professor understands better than the students the reasoning involved in the hypothetical; the professor essentially directs the flow and direction of the conversation and of the reasoning, perhaps closing off some possibilities. The professor, through her questioning, leads the student toward

an analysis or answer that the professor may have, or appear to have predetermined to be the best result of the discussion. Socratic method, because it is in essence a form of structured lecture, maintains a sense for students that there is a superior, if not correct, viewpoint held by the instructor (Blumenfeld 2010, 54).

TRADITIONAL PRESERVATION LAW EDUCATION IN THE UNITED STATES

The development of historic preservation law reflects a gradual evolution from the traditional government role in protecting private property rights (a premise of property law) to its assertion of property rights on behalf of its populace, formally beginning with the Antiquities Act of 1906. While aspects of historic preservation law were embedded in and taught as part of property law, formal historic preservation legal education is a more recent phenomenon, beginning in 1971 with Cornell University's nascent curriculum. The course, developed by Ernest Roberts (1930-) at Cornell's Law School, became part of the Master of Arts in Historic Preservation Planning in 1974-1975. Just one year later James Marston Fitch (1909-2000) established Columbia University's Master of Science in Historic Preservation, the first such program in the country. During the 1960s, these institutions, as well as the University of Virginia and the University of California at Berkeley, had classes in historic preservation with legal aspects as points of discussion, such as the creation of historic districts and easements (Tomlan 1994).

Cornell Law School's Ernest Roberts received his LL.B. from Boston College in 1954. Meanwhile, the preservation education pioneer and attorney Robert Stipe (1929-2007), while on a Fulbright Fellowship at the University College of London, published an influential article in the July 1970 issue of *Preservation News* titled “Preservation Lawyers Unite.” Stipe's experience in the United Kingdom must have moved him to write such an article from the other side of the Atlantic. In response, the *Duke Law Journal* and the *Wake Forest Law Review*

published editions exclusively on preservation law in 1971 and 1976, respectively (Stipe 2008; Edmisten 1979-1980). At the time (c.1970) Roberts created his course and Stipe was engaged in his research in England, the National Historic Preservation Act of 1966 was only four years old. The landmark historic preservation case, *Penn Central Transportation Co. v. New York City*, would not be decided by the U.S. Supreme Court for another eight years. In the absence of these cornerstone cases and regulations, the material taught in the nascent classes on preservation law was different from what is taught today.

The first educators were lawyers by training. Indeed, the Preservation Law Institute in 1979 and the American Law Institute-American Bar Association Committee on Continuing Professional Education in 1983 joined the bandwagon by running seminars and programs on historic preservation law (Winson 1999). As historic preservation programs proliferated across the country during the 1980s, 1990s, and 2000s, preservation legal education became part of the curriculum. Other than adding new material as new court cases and legislation came about, preservation legal education has changed little over the years.

At present, there appears to be considerable variability in the instruction offered in preservation law. While several universities with law schools offer joint degrees in law and historic preservation – such as Boston University, Cornell University, and the University of Georgia – other historic preservation programs require no specific coursework in preservation law; in these instances, it is often subsumed under general courses, such as preservation planning, economics, or theory. At those universities offering law courses within historic preservation or architecture programs, in some instances attorneys teach these courses, while non-attorney professionals teach these classes at others.

HISTORIC PRESERVATION LAW PEDAGOGY: A NEW APPROACH

For attorneys, the goal of legal argument is to prevail. The use of the Socratic method may be well suited to “inculcate in students the habit of rigorous and

critical analysis of the arguments that they hear, as well as the practice of assessing and revising their own ideas and approaches in light of new information or different reasoning... since developing the ability to present ideas forcefully and effectively... is integral to becoming a lawyer” (Garrett 2011). The objective for historic preservation professionals is to meet compliance requirements while balancing the needs of all stakeholders. Blumenfeld indicates that either methodology may foster the development of critical thinking skills in students. The benefit of *havruta* is that it brings in diverse perspectives for a “best” instead of an “only” solution (Blumenfeld 2010).

What should be the purpose of learning preservation law? Many believe that learning the legal aspects of historic preservation is necessary so the practitioner, his/her client, agency, or organization can meet compliance standards (King 2008). Most of the time, the use of preservation-related regulations involves compliance and adherence in deriving a best and inclusive decision, rather than argument. How might the teaching of preservation law reflect this difference? Accessible data is not currently available on how the legal aspects of historic preservation are taught in the sixty-two programs listed by the National Council for Preservation Education (NCPE),⁴ the organization that has assumed the task of overseeing preservation education in the United States. NCPE has developed guidelines for minimum standards for degree-granting programs. *Standard 3.2.4. Legal Issues*, under section *Specialized Components*, is defined as the teaching of “Constitutional law, preservation case law, federal, state and local regulatory legislation and administration.” Little else is mentioned. The Lawyers’ Committee for Cultural Heritage Preservation, “a nonprofit organization of lawyers, law students and interested members of the public who have joined together to promote the preservation and protection of cultural heritage resources in the United States and internationally through education and advocacy,” was equally unhelpful, listing only seven institutions offering courses in “Historic Preservation Law,” when there are actually many more.⁵

Furthermore, until recently, there has been little published by academic scholars on preservation education, let alone preservation law pedagogy.

Books on historic preservation may briefly mention the beginnings of university-level preservation education, such as with Fitch at Columbia University, but the focus is on curriculum materials (if on preservation education) and practice, site-specific case histories, principles and theory, and standards and techniques. Scholarly journals devoted specifically to historic preservation, such as the *APT Bulletin: The Journal of Preservation Technology*, Columbia University's *Future Anterior*, and NCPE's *Preservation Education & Research*, rarely publish articles on teaching preservation law.⁶ These publications focus on specific issues of preservation law but not pedagogical aspects. The emphasis of various law reviews and reporters – one of the more important being the *Preservation Law Reporter* published by the National Trust for Historic Preservation – has been either on the history and evolution of preservation and/or technical legal issues. *The Journal of Legal Education* has not yet had an article devoted to historic preservation. Except during the early years of preservation education, when a handful of academic articles identified the dearth and dire need for teaching aspiring lawyers and practitioners of preservation law, little has been published on the delivery and effectiveness of this niche subject (Robinson 1981).

From its origins as an interdisciplinary field, historic preservation has utilized pedagogical approaches derived from its allied areas of study. Michael Tomlan has mentioned that architecture-based courses in historic preservation were taught initially by “architectural historians, who were trained as architects” (Tomlan 1994, 188), while content in such areas as history and American studies would be taught by members of those departments as the need arose. The teaching of preservation law was merely another subfield for the legal academic. As the field matures, it has developed its own unique integrated perspective, requiring practitioners to understand and utilize principles of design, to develop scientific and valid approaches to restoration of material integrity, and to base these activities within normalized and legally prescribed boundaries in the context of a variety of inputs and perspectives.

So, how did we arrive at our new approach? During the 2004-2005 winter break from doctoral studies, Barry Stiefel enrolled at a *yeshiva* in Jerusalem, Israel. One afternoon, he was paired with another fulltime student his age (mid-twenties) during an open-study session. They chose a random page in the *Mishnah*, a collection of oral laws that form part of the *Talmud*, and began studying regulations related to real property and land-use.⁷ His partner, or “hevrá-man,” was out of his depth. While his knowledge of Hebrew was far superior to Stiefel's, indeed he translated much of the text into English with a keen understanding of the nuanced meanings of the language, his seminary-bound experience made it difficult for him to grasp the practical application of the land-use ordinances. Stiefel, on the other hand, had already learned about equivalent secular land-use laws and had participated in their implementation.⁸ Together, they struggled through the text, with each acquiring a greater understanding. Indeed, from this one afternoon, not only had Stiefel learned more about property law and land-use, but he enjoyed it. What Stiefel found valuable about this learning method, in contrast to others, is that there was time and space to think and exchange ideas about the material through listening and articulating with a partner. Most importantly, the partner was at the same level of understanding. A respectful working relationship about learning had developed.

JEWISH PEDAGOGY AND HAVRUTA METHODOLOGY

The most literal Hebrew word for “Jewish law” is *halacha*; however, a better way of understanding this term is as “the way” or “path,” meaning that this is the manner by which things are to be done. These laws are derived from the *Torah*, which comprises the Hebrew Bible, or Pentateuch, as well as the oral law, a literary corpus also known as the *Talmud*. Often, all of these elements collectively are referred to as “the Law” within rabbinic literature. Learning about Jewish law is thousands of years old and took place in *yeshivot*. The eminent scholar Nathan Drazin summarized the fundamental differences between the philosophy of Jewish and Greco-Roman education, the forbearer of Western scholastic culture:

The outstanding difference between Jewish and Greek and Roman education was, of course, in the matter of aims. In Sparta and for the early Athenians the chief aim of education was to make good citizens. Individual excellence was stressed in its relation to public usefulness.... The goal of education for Socrates was the development of the power of thinking in order to enable man to arrive at fundamental universal moral principles. Other Greek philosophers held that since reflective reasoning was man's peculiar function, knowledge for its own sake was man's highest good.... The chief aim of education in Rome was very much the same. The orator was considered the finest type of citizen. For the Jews, on the other hand, the religious motive was the dominating factor of education. All Jews were required to know the Law and to observe it in practice. Their education was hence thoroughly practical. It was integrated with all the activities of life. The development of the intellectual faculty was only a by-product of that education (Drazin 1940, 137-138).

To know and observe the law is the fundamental objective of Jewish education. The custom of learning with a partner also developed in *yeshivot*. Mention is made of the practice in early rabbinic literature;⁹ however, there is disagreement among scholars on the exact age of *havruta* pedagogy.¹⁰ *Havruta* requires students to study in groups and to present material to each other in a model of independence and interdependence (Segal 2003). Students usually recite the material aloud. Oral reading of Jewish text is an ancient practice to facilitate memorization and to encourage exposure to multiple perspectives about a particular issue (Bergom, Wright, Brown, and Brooks 2011). Following the oral reading, students are encouraged to ask each other questions about the meanings and implications of what they have read. Depending upon the topic, student body, class time, or objective for assessment and grading, minor adjustments may be needed if the method is used outside of a *yeshiva*. For instance, orientation

to this method within a secular learning environment may require that an instructor be present to monitor and provide feedback; later, discussions could be encouraged outside the classroom. A comprehensive examination of this methodology can be found in Orit Kent's doctoral dissertation, *Interactive Text Study and the Co-Construction of Meaning: Havruta in the DeLeT Beit Midrash (2008)*, where multiple transcriptions of *havruta* study sessions between students are described.¹¹

Paired study groups not only facilitated the understanding of text but also reduced the demands on instructors (rabbis) in *yeshivot*. *Havruta* is a philosophy for educating, not simply a set of instructional techniques. Pedagogical scholars agree that the method is innovative because it provides secondary cognitive and social benefits (Segal 2003). Of course, these benefits can vary depending on the experience and effectiveness of the instructor and the quality of the students. For instance, successful instructors have to offer up-front support, or guidance, for establishing an effective *havruta* learning environment, and students have to be willing to participate.

Like other collaborative learning approaches, *havruta* is not a pedagogical script but a set of conditions that include instructions to students, physical setting, monitoring, and regulating the interaction in line with institutional constraints. These conditions are intended to facilitate particular types of interactions among the participants. It is important for instructors to think of themselves not as expert transmitters of knowledge but as designers of intellectual experiences that trigger specific learning mechanisms. As Pierre Dillenbourg notes, "this includes the activities/mechanisms performed individually, since individual cognition is not suppressed in peer interaction. But, in addition, the interaction among subjects generates extra activities (explanation, disagreement, mutual regulation...) which trigger extra cognitive mechanisms (knowledge elicitation, internalization, reduced cognitive load...)" (Dillenbourg 1999, 6).

Unlike some cooperative learning formats, *havruta* does not assign specific roles or portion out particular responsibilities, or produce a specific delineated product. The emphasis is on a continuous effort to learn by solving problems together. This type

of interdependent community, according to Jean MacGregor, possesses all the joys, tensions, and difficulties that attend communities, which might include unequal contribution of effort and distribution of power or influence between partners (MacGregor, et al. 2000). This is where the instructor assists either in redirecting the group, or optimally, providing the peers with tools for self-regulation.

PRESERVATION LAW AT THE JOINT COLLEGE OF CHARLESTON/CLEMSON UNIVERSITY PROGRAM

For the preservation law class taught at the joint graduate program in historic preservation at the College of Charleston and Clemson University, each student follows the *havruta* methodology, defined in the syllabus as “involving the studying [of] text and laws with a partner, and entail[ing] intense debate.” The students form their *havrot* groups, which are composed of two or

three people, depending on the class size, on the first day. A warning is given about selecting a partner wisely, someone a student can learn from and with, since study and research take place both inside and outside class. The best partners are those who challenge the most in regard to inquiry and understanding. In this way, students push one another to grow intellectually. The pair of students is responsible for his/her own and each other’s learning (Fig. 2), while the professor ensures quality control.

The students review together the assigned laws and associated readings outside class, for example the “takings” clause in the Fifth Amendment, the Antiquities Act, or the National Historic Preservation Act. The text of each law serves as the *halacha* and the associated readings as the Talmudic explanation, such as Section 106 of the National Historic Preservation Act and Thomas King’s explanation of it in *Cultural Resource Laws & Practice*.¹² Students then discuss what they have read. Following some comprehension



Fig. 2: The law class at the joint College of Charleston / Clemson University Historic Preservation graduate program (Photograph by Allisyn Miller. From the personal collection of Barry Stiefel).

of the law – more may be acquired with the next step – students conduct research in pairs and write about their findings and understanding of the law’s significance from this experience.¹³ Class begins with sharing what they have learned. Then a brief lecture is given, called a *shiur* in the *yeshiva* environment, covering the highlights and lessons that everyone should be aware of so that nothing is inadvertently left out. The studied materials is reviewed during the lecture, and additional information is incorporated, most frequently, something significant that a pair or minority of students discovered in their investigations. Students are expected to ask questions about the material to facilitate intergroup learning.

Most of the time the class runs smoothly. One exception occurred in early February 2009, shortly after the Illinois Appellate Court decided *Hanna v. City of Chicago*, ruling on January 30th that Chicago’s Landmark Ordinance was unconstitutional due to “vagueness.” Students were concerned as to what this could mean or lead to - would local-level historic preservation be declared illegal in Illinois? What about elsewhere? The legal aspects of the case were discussed *vis-à-vis* other material, such as the U.S. Supreme Court’s 1978 ruling upholding local historic preservation ordinances in *Penn Central Transportation Co. v. New York City*. While the matter of *Hanna v. City of Chicago* had yet to be redecided by the Circuit Court of Cook County – which happened March 6, 2009, since it had been sent back by the Appellate Court – by the end of class, students had peace of mind through discussing the legal aspects with their *havruta* partners. *Hanna v. City of Chicago* would not be the end of local historic preservation protections in this country, let alone within Chicago city limits. Legal precedents by higher courts ensured this. The students came to this understanding on their own. From the class’s viewpoint of the most likely scenario, legal “vagueness” might be clarified by statutory interpretation, and at the time, an appeal was being made to the Supreme Court of Illinois. In the end, this did not happen. The Circuit Court of Cook County “reversed and remanded” the former ruling of “vagueness,” and historic preservation practice in Chicago returned to normal (*Hanna v. City of Chicago* 2009).

BENEFITS OF HERITAGE-BASED EDUCATIONAL PRACTICES

Assuming that a practitioner’s perspective is shaped by educational experience, would it not be reasonable to consider the use of preservation education methodologies developed by other cultural traditions as a means of facilitating student awareness of minority heritage issues? Indeed, since “our knowledge cannot transcend our values and cultural concepts, rather it is grounded in them” (Williams 2003, 1572), we should try turning this predicament to an advantage. Using *havruta*, or any other pedagogical method developed by a cultural group for that matter, can benefit the heritage preservation field. Though not on the Intangible Heritage List, *havruta* is a social practice as defined by Article 2(c) of the 2003 UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage*. Using these pedagogies “ensure[s] respect for the intangible cultural heritage” and “raise[s] awareness at the local, national and international levels... ensuring mutual appreciation thereof.” Considering the current state of world affairs, especially the Israeli-Palestinian conflict in the Middle East, as well as the reemergence of anti-Semitism, exposure to a diversity of cultural traditions could have societal benefits by promoting tolerance through understanding of other people (Schenker and Zayyad 2006).

Respecting other cultural traditions also has a place within legal practice. Though not valid in American courts of law at the moment, from an ethical perspective, the traditions related to the treatment of culturally important properties of ethnic minority groups need to be understood and respected by the preservationist. The preservation law class would be the place to bring up such ethical issues, even if the coverage of cultural approaches is limited. In this way, historic preservation students can become sensitive to cultural expectations and norms, as well as ethnic and religious rules, an aspect that goes beyond federal, state, and local laws and regulations.¹⁴ For example, the rabbis established guidelines for the proper treatment of synagogues and sites, which were recorded in the *Talmud* (c.550 C.E.). These laws, taken from Rabbi Joseph Karo’s (1488-1575) 1563 codification of Talmudic law, called the *Shulchan Aruch* (150:1-154:15), are:

- A synagogue should not be torn down or sold until a replacement for it has been built, unless it is in danger of collapsing, and parts of it may be taken down only on condition that it is rebuilt.
- Even a ruined synagogue must be treated respectfully, but it may be used for dignified purposes if this was stipulated when it was built.
- The materials of a ruined synagogue must not be used even to build a new one.
- The attic above a synagogue must not be used for disrespectful purposes; but if part of an existing building is made into a synagogue, the other parts of the building may continue to be used. These things do not apply to a place that is used for prayers only temporarily.
- A synagogue may be converted into a yeshiva, but not vice versa [since a yeshiva, a place of learning, is considered more sacred than a house of worship within the Jewish tradition].

In an ideal world, these rules should be applied in addition to any other required building treatment, such as the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. While the number of Jewish sacred properties within the United States is relatively small, exposure to cultural conventions of minority ethnic groups can push a professional to consider other ways of practicing, such as with Native American tribes and their traditional cultural properties (King 2003). Utilizing this ethical approach brings us back to Principle 6 on *Inclusiveness* of the 2008 ICOMOS *Charter for the Interpretation and Presentation of Cultural Heritage Sites*. In this way, preservation legal education can take on an additional layer of significance and meaning.

FUTHER IMPLICATIONS

Though more experimentation is warranted on pedagogies for preservation legal education, students may find that methods developed by other cultures enable certain subjects to be learned more efficiently. *Havruta* is a methodology that has shown itself to be successful in other educational programs, particularly for ill-structured problems. *Havruta* may not be for everyone. On the other hand, the use of alternative instruction methods may

attract a broader variety of students to participate in this process, promoting greater inclusiveness. Pedagogies by other ethnic groups – such as Islamic, Confucian, or Navajo – may be just as successful for learning law and other preservation topics as Jewish *havruta*. Indeed, offering a sampling of ethnic pedagogies within a preservation curriculum, instead of just one or two, would result in a richer, more culturally diverse learning experience. Furthermore, heritage-based educational practices can have programmatic benefits for the preservation field by putting social, intangible heritage practices into use, as well as exposing students to the “laws” of cultural minority groups.

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Barry Stiefel is an assistant professor in the joint College of Charleston/Clemson University Historic Preservation graduate program. He completed his Ph.D. in historic preservation at Tulane University in 2008. In 2011, Dr. Stiefel was awarded the College of Charleston's ExCEL (Excellence in Collegiate Education and Leadership) Award for Outstanding Faculty of the Year from the graduate school. The students who had taken the class described in this paper initiated the nomination for this award. His research focuses on the preservation of Jewish heritage.

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ENDNOTES

1. See Orit Kent, *Interactive Text Study and the Co-Construction of Meaning: Havruta in the DeLeT Beit Midrash*, Ph.D. diss., Brandeis University, 2008.
2. The *Talmud* is a collection of writings constituting Jewish civil and religious law compiled during the early centuries of the common era.
3. Courses in Roman law and canon law, which are very different from common law, had been taught at Oxford and Cambridge universities since the twelfth century. Additionally, during the Middle Ages and into the seventeenth century, barristers acquired their educations through vocational exercises at Inns of Court.
4. See Paul Kapp. *National Council for Preservation Education* (2 February 2011) <<http://www.ncpe.us/>> and other links (14 February 2011). The sixty-two programs counted included eleven undergraduate historic preservation programs, two undergraduate programs with certificates or emphasis in historic preservation, twenty-four graduate historic preservation degree programs, twenty-two graduate programs with certificates or emphasis in historic preservation, and three associated programs. Some programs, such as the College of Charleston's undergraduate program in historic preservation and a joint graduate program with Clemson University, are listed more than once.
5. See The Lawyers' Committee for Cultural Heritage Preservation, (2010) <<http://www.culturalheritagelaw.org/>> and other links (14 February 2011). The seven programs listed were Southern Methodist University's Dedman School of Law, Pace University, Tulane University, University at Buffalo (SUNY), University of Missouri- Kansas City School of Law, Georgetown University Law School, and the University of Connecticut Law School. Note that Boston University, Cornell University, and the University of Georgia - institutions with joint law and historic preservation degree-granting programs - are not listed.
6. A survey of titles shows *APT Bulletin: The Journal of Preservation Technology* (since 1969) has published fewer than a half dozen articles, *Future Anterior* (since 2004) has published nothing on U.S. preservation law (there are several on Russian and Spanish heritage law), and *Preservation Education & Research* (since 2008), only a few. None of these articles deals with pedagogical issues.
7. Tractate *Bava Batra*.
8. Barry Stiefel had a preservation planning internship at the City of Shaker Heights, Ohio, and was an architectural historian for a cultural resource management firm in Austin, Texas, in 2003-2004, where he worked on projects related to some of the issues discussed in *Bava Batra*. Stiefel was also a doctoral student at Tulane University's historic preservation program at the time.
9. See Babylonian Talmud, tractate *Berakhot* 63b.
10. The pedagogy used today can be verified to the early nineteenth century *yeshivot* of Lithuania. The earliest of these was the *yeshiva* of Volozhin, now in Belarus, operating from 1803 to 1892. It is from this *yeshiva* that *pilpul* (complex analysis) and *peshat* (basic textual analysis) were developed. See Saul Stampfer's *ha-*

Yeshivah ha-Litait be-Hithayutah (Jerusalem, Israel: Merkaz Zalman Shazar le-toldot Yiśrael, 1995) on the Lithuanian origin. However, in Orit Kent's *Interactive Text Study and the Co-Construction of Meaning* there is a discussion (note 63, pp.24-25) with an exceptional critique of previous studies and lack of attention to other Jewish groups outside Poland-Lithuania, opening the possibility for an older origin of *havruta* elsewhere.

11. Transcribed *havruta* sessions are too lengthy to produce in their entirety.
12. The associated readings used are mostly from Thomas King, *Cultural Resource Laws & Practice* and Sherry Hutt, Caroline Blanco, and Ole Varmer, *Heritage Resources Law: Protecting the Archeological and Cultural Environment* (New York: Wiley, 1999).
13. Grading of students in most *yeshiva* environments is different from American universities. Therefore, this writing assignment was created as a modification of *havruta* methodology in order to better assess each student's understanding of the material.
14. The authors recognize that this can become a difficult ideal to live up to, for example, if the cultural law of one group stipulates that the house of worship of another cannot be repaired nor built higher than its own.

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