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## DOING LAW SCHOOL WRONG: CASE TEACHING AND AN INTEGRATED LEGAL PRACTICE METHOD

GREGORY J. MARSDEN\* AND SOLEDAD ATIENZA\*\*

### ABSTRACT

*Since its inception, the Langdellian case method has been used to teach legal analysis and reasoning to generations of U.S. law students. For nearly as long, business school faculty have used their own version of the case method to teach management decision-making. In law school, a “case” is an appellate court decision, which students must analyze in preparation for Socratic questioning. To business students, a “case” is a narrative problem they must solve before debating and defending their solutions in a moderated classroom discussion.*

*This Article asserts that neither of these two methods are optimal to prepare students for bar admission and the practice of law. After examining both methods in detail, with particular emphasis on the role of group work, the Article then considers IE Law School in Spain as a pioneer in the use of practical “case” problems to teach law and legal skills. It concludes with outline of a proposed Integrated Legal Practice Method, drawing on business school case teaching to provide students not only with substantive and adjective legal knowledge, but also with the skills necessary to begin the practice of law.*

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### I. PROFESSOR, YOU'RE DOING LAW SCHOOL WRONG!

He was one of the brightest and hardest-working students in the class, and he surely went on to become an excellent lawyer. However, as a student in one of his first U.S. law school classes, he was quite upset with how the class was being taught.

For a start, he resented having to work as part of a team and being graded collectively on his team's work product. Nor did he think much of working on case problems. When asked to submit his team's written deliverables before the class session in which that particular case problem was to be discussed, he bitterly complained how it "*wasn't fair to grade on things that you haven't yet taught us!*"

The professor tried to explain, pointing out that as an attorney, the student would be called upon to research the law in unfamiliar areas, then use his findings to solve client problems. Unless the student planned to hang out a shingle as a solo practitioner, he would almost certainly be expected to work as part of a practice group or team and be evaluated by supervising attorneys on the output produced with his teammates. The professor finished up with the advice that it would be better for him to rehearse these skills while still a student, instead of as a junior associate.

The student was taken aback for a moment. He then rallied to reply, "But that's when we go to work. *This is Law School.*"<sup>1</sup>

### II. A DIFFERENT CASE METHOD

This anecdote points out some of the differences between two professional school teaching methodologies. This particular student, along with most of his peers, came into class expecting to be taught according to some version of the Langdellian case method. Instead, they found themselves faced with a different learning experience, based on a teaching method developed at the Harvard Business School and used at business schools worldwide.

We believe that the business school case method provides a starting point to address the shortcomings of the Langdellian method. As faculty members of IE Law School in Madrid, Spain, we first came into contact with a law teaching methodology that drew on case problems and discussion teaching influenced by business school pedagogy. This law school had quietly begun teaching its students with a case method inspired in part by its sister IE Business School, and had been doing so since the 1970s. This Article draws on our primary research, in a first attempt to document IE Law School's experience as a pioneer of this new way of teaching law.

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1. This incident took place in Fall Semester 2014, in an Introduction to U.S. Law course taught by Gregory Marsden at the Elizabeth Haub School of Law, Pace University.

The Article begins by establishing some common terminology for further discussion of law and business school teaching methodologies. It then considers that preparing students for bar admission and the successful practice of law must be the primary objective of legal education, and contrasts the case methods used in law and business schools. The Article continues to examine the origins and characteristics of the case method pioneered by IE Law School. Finally, it describes a new form of case teaching, one which we call the Integrated Legal Practice Method, designed to teach substantive and adjective law, together with legal skills, by replicating the functions and challenges of legal practice through the use of case problems.<sup>2</sup>

### III. DEFINITIONS & DISTINCTIONS

The term “case method” is ambiguous, as it may refer to either the Langdellian method of law school instruction or to the separate and distinct method used in business schools.<sup>3</sup> The confusion caused by this ambiguity is evident in scholarship about law school pedagogy in the United States and even beyond.<sup>4</sup> To discuss law and business school teaching methodologies with any degree of precision, some key terms must first be defined.

#### A. Law School Case Method

In the Law School Case Method a “case” is a court decision.<sup>5</sup> This is the method of law teaching originally implemented in 1870 at Harvard Law School by Dean Christopher Columbus Langdell, and which has become the predominant method of legal education in the United States,<sup>6</sup> such that “the nearly exclusive use of appellate cases as the only or primary course materials continues nearly 150 years after Langdell’s reform of legal education.”<sup>7</sup> Other

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2. Bradley T. Borden, *Using the Client-File Method to Teach Transactional Law*, 17 CHAPMAN L. REV. 101, 114–15 (2013).

3. *Id.* at 102.

4. See Yolanda Sosa et al., *La enseñanza del derecho a través del estudio de casos*, 79 ALEGATOS 825, 829 (2011) (Mex.) (tracing history of Langdellian ‘case method’ but then saying ‘cases’ may be written by faculty based on professional experience).

5. HARVARD LAW SCHOOL: THE CASE STUDIES, <https://casestudies.law.harvard.edu/the-case-study-teaching-method/> (last visited Oct. 15, 2021) [hereinafter HLS CASE STUDIES]. See also WILLIAM P. STASKY & R. JOHN WERNET, JR., CASE ANALYSIS AND FUNDAMENTALS OF LEGAL WRITING 6 (West 2d ed. 1984) (‘opinion’ and ‘case’ are sometimes used interchangeably).

6. Russell L. Weaver, *Langdell’s Legacy: Living with the Case Method*, 36 VILL. L. REV. 517, 518 (1991).

7. Celeste M. Hammond, *Borrowing from the B Schools: The Legal Case Study as Course Materials for Transaction Oriented Elective Courses: A Response to the Challenges of the Maccratte Report and the Carnegie Foundation for Advancement of Teaching Report on Legal Education*, 11 TRANSACTIONS TENN. J. BUS. L. 9, 18–19 (2009).

names for this method are the “casebook method,”<sup>8</sup> or the “case-dialogue method.”<sup>9</sup>

According to the Carnegie Report, the Law School Case Method is “distinctive to North American legal education and quite sharply different from the method used in the United Kingdom, continental Europe, and, indeed, most of the world: a more typical academic presentation of material through classroom lecture.”<sup>10</sup> In our experience, non-U.S. law professors and students often say that the Law School Case Method is a ‘more practical’ way of teaching, and so it is—when compared to the lecture model prevalent in the civil-law world, more critically described as “sitting idly in a packed amphitheatre to listen to what is essentially a monolithically doctrinal, one-dimensional reconstruction of legal authorities followed by weeks of cramming for the final exam.”<sup>11</sup>

As in our opening anecdote, U.S. law students expect to be taught using the Law School Case Method, and its use may be seen as the hallmark of a serious law school course. Professors Roger Cramton and Susan Koniak advised against the use of a problem-based method to teach legal ethics, on the grounds that requiring students to read and discuss anything other than appellate court decisions “would ‘reinforce students’ perception of legal ethics as a marginal . . . subject.”<sup>12</sup> They assert that students are “less likely to take seriously instruction that does not use rigorous and familiar teaching methods.”<sup>13</sup> Paradoxically, overuse of this method may also explain the disengagement of law students in their second and third years,<sup>14</sup> who find themselves “often learning the same old thing (case analysis, argumentation skills, and doctrine) in the same old way (casebooks and discussion classes in the law school).”<sup>15</sup>

### B. *Business School Case Method*

In the Business School Case Method, a “case” is a narrative, written by business school faculty and ideally based on an actual problem faced by a real business enterprise.<sup>16</sup> The case narrative itself is often followed by several pages

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8. Arthur D. Austin, *Is the Casebook Method Obsolete?*, 6 WM. & MARY L. REV. 157, 157 (1965).

9. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 47 (2007).

10. *Id.* at 51.

11. Arthur Dyevre, *Fixing European Law Schools*, 25 EUR. REV. PRIVATE L. 151, 162 (2017).

12. Thomas D. Morgan, *Use of the Problem Method for Teaching Legal Ethics*, 39 WM. & MARY L. REV. 409, 414 (1998).

13. *Id.*

14. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 140 (2007).

15. B.A. Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627, 659 (1991).

16. HLS CASE STUDIES, *supra* note 5.

of numerical data.<sup>17</sup> Here, “cases are action-oriented and business school students are placed in the role of a manager who must make decisions that will impact the success of the enterprise.”<sup>18</sup> The Business School Case Method was derived from Langdell’s original method and first implemented in 1920 at the Harvard Business School, under the leadership of Dean Wallace P. Donham, who was himself a graduate of Harvard Law School.<sup>19</sup> Although some wanted to call this new form of management pedagogy the “problem method,” a 1921 faculty vote decided that “case method” was a more descriptive name,<sup>20</sup> thus setting the stage for confusion of the two methods even today. Following its introduction at Harvard Business School, the new method spread to business schools worldwide.<sup>21</sup>

In his 1920 address to the HBS Faculty, Dean Edwin Gay spelt out the teaching philosophy that underpins the school: The school should equip the student for business by providing a background of facts and principles and by giving the student training for practice in dealing with business problems . . . . Instruction should be based on specific facts and problems stated in varied forms as they present themselves to the businessman. The student should be required in each course to investigate the facts, to sort undigested material, to state problems, to analyze problems, to reach conclusions and to present subject matter and his decisions orally, and in writing, as he will be required to do in business.<sup>22</sup>

The extent to which business schools make use of the Business School Case Method varies. A 2012 article summarizes data on Master of Business Administration (“MBA”) teaching methods, as self-reported by business schools to Bloomberg for use in compiling the latter’s business school rankings.<sup>23</sup> According to this data, “most schools deliver about a third of their MBA learning via case study.”<sup>24</sup> Some schools far exceed this figure, with Harvard Business School reporting that eighty percent of its MBA program is taught through cases.<sup>25</sup>

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17. David A. Garvin, *Making the Case: Professional Education for the World of Practice*, 106 HARV. MAG. 56, 60 (2003).

18. George J. Siedel, *Legal Complexity in Cross-Border Subsidiary Management*, 36 TEXAS INT’L L.J. 611, 614 (2001).

19. Garvin, *supra* note 17, at 60.

20. Hammond, *supra* note 7, at 13.

21. CASE CENTRE, *Using Cases in Teaching: Beyond the Case Method*, <https://web.archive.org/web/20210516193044/https://www.thecasecentre.org/educators/casemethod/resources/features/beyond> (last visited Jan. 9, 2022).

22. *Id.*

23. John A. Byrne, *How the World’s Top Business Schools Teach Their MBAs*, POETS & QUANTS (Nov. 18, 2012), <https://poetsandquants.com/2012/11/18/how-the-worlds-top-business-schools-teach-their-mbas/>.

24. *Id.*

25. *Id.*

### C. *Socratic Method*

“Socratic Method” is sometimes used as a synonym for the entire Langdellian method of instruction,<sup>26</sup> and other times to denote a model of classroom interaction which is a traditional component of the Langdellian method.<sup>27</sup> While authors differ as to whether or not these terms are indeed synonymous,<sup>28</sup> this Article treats them as two different concepts, on the basis that each can be used independently of the other. Thus, professor and students may engage in Socratic dialogue over materials other than court decisions, while court decisions may be studied by means other than Socratic dialogue.<sup>29</sup>

### D. *Problem-Based Methods*

Adding to the confusion, the word “case” also appears in an assortment of terms describing approaches to legal instruction focused not on the analysis of court decisions, but on the solution of real or fictitious problems. Examples include the “case study method,”<sup>30</sup> the “client-file method,”<sup>31</sup> and the “CaseFile method.”<sup>32</sup> The raw materials are described as “case studies, case files, current matters, fact patterns, simulations, or briefs.”<sup>33</sup> This Article will refer to these non-Langdellian law school teaching methodologies under the general rubric of Problem-Based Methods.

## IV. FUNDAMENTAL OBJECTIVES: BAR ADMISSION & PREPARATION FOR PRACTICE

We begin with the proposition that the fundamental objectives of legal education, and therefore of law schools, are to prepare students so that upon their graduation, they may (i) become admitted to the bar and (ii) successfully begin the practice of law. “A law school is a professional school. It is in the business

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26. Cynthia G. Hawkins-León, *The Socratic Method—Problem Method Dichotomy: The Debate over Teaching Method Continues*, 1998 B.Y.U. EDUC. & L.J. 1, 4 (1998).

27. Jeffrey D. Jackson, *Socrates and Langdell in Legal Writing: Is the Socratic Method a Proper Tool for Legal Writing Courses*, 43 CAL. W. L. REV. 267, 271 (2007).

28. *E.g.*, Hawkins-León, *supra* note 26. *Cf.* Michael Vitiello, *Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 HOFSTRA L. REV. 955, 964 n.67 (2005) (case method refers to casebook method combined with Socratic dialogue). *But cf.* Jackson, *supra* note 27, at 271 (Socratic Method not synonymous with case method).

29. Jackson, *supra* note 27.

30. HLS CASE STUDIES, *supra* note 5.

31. Borden, *supra* note 2, at 102.

32. Douglas Leslie, *How to Not Teach Contracts, and Any Other Course Powerpoint, Laptops, and The CaseFile Method*, 44 ST. LOUIS U. L.J. 1289, 1306 (2000).

33. Stephen Nathanson, *Designing Problems to Teach Legal Problem Solving*, 34 CAL. W. L. REV. 325, 326 (1998).

of training its graduates for lifetime careers as practicing lawyers . . . .”<sup>34</sup> This fundamental purpose forms the basis of the American Bar Association (“ABA”) Standards,<sup>35</sup> and was succinctly expressed by Dean Stephen Friedman, who stated that “for most students and most law schools, the *raison d’être* of legal education is to educate and train students to be *effective new lawyers*. . . .”<sup>36</sup> Friedman acknowledged that he had “no illusions about the universal acceptability of this goal as a standard among law professors and deans,”<sup>37</sup> thus recognizing the many competing interests in the contemporary law school environment, including such laudable pursuits as producing legal scholarship, advancing social justice, or even improving a school’s *U.S. News & World Report* ranking.

In spite of the many competing interests, the primacy of bar admission and preparation for practice is demonstrated by the simple fact that if either of these two objectives are unmet, the whole law school enterprise grinds to a halt. No matter how worthy they may be in their own right, scholarship, social justice, or improved rankings are not sustainable in a law school if its graduates find themselves unable to become admitted to the bar, or unprepared to begin the practice of law. As shown by several recent examples, such a law school will find it difficult to survive.<sup>38</sup>

#### V. LEGAL ANALYSIS IS INSUFFICIENT

It has become a commonplace that the Law School Case Method is intended to teach students to “think like a lawyer.”<sup>39</sup> Defining what it means to “think like a lawyer” is more complicated, leading at least one author to conclude that the concept itself is “so circular that it is essentially meaningless.”<sup>40</sup>

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34. H.P. Southerland, *English as a Second Language—or Why Lawyers Can’t Write*, 18 ST. THOM. L. REV. 53, 66 (2005–2006).

35. AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2017–2018 15 (2017). Standard 301(a) provides that “A law school shall maintain a rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical and responsible participation as members of the legal profession.”

36. Stephen J. Friedman, *Why Can’t Students Be More Like Lawyers?*, 37 U. TOL. L. REV. 81, 82 (2005).

37. *Id.*

38. *E.g.*, Sonali Kohali et al., *Whittier Law School is closing, due in part to low student achievement*, L.A. TIMES (Apr. 20, 2017), <http://www.latimes.com/local/education/la-me-edu-whittier-law-school-closing-20170420-story.html> (twenty-two percent pass rate for first time takers of July 2016 California bar exam, only two percent of 2016 graduates got large law firm jobs). *See also* Elizabeth Olson, *For-Profit Charlotte School of Law Closes*, N.Y. TIMES (Aug. 15, 2017), <https://www.nytimes.com/2017/08/15/business/dealbook/for-profit-charlotte-school-of-law-closes.html> (one in five 2016 graduates passed bar exam and got a job requiring a law degree).

39. SULLIVAN ET AL., *supra* note 9, at 47.

40. STUCKEY ET AL., *supra* note 14, at 40.



Other authors equate “thinking like a lawyer” with the ability to perform legal analysis. For instance, Professors Howard E. Katz and Kevin Francis O’Neill advise beginning law professors that teaching legal analysis is their most important job, as well as the ultimate objective of the Law School Case Method.<sup>41</sup> They break this down into learning “how to spot an issue, articulate the governing rule, and apply that rule to the pivotal facts”<sup>42</sup> as well as “how to dissect a judicial decision and how to apply its holding to new fact patterns.”<sup>43</sup> To Katz and O’Neill, these skills are so fundamental that “students’ most pressing need is to graduate from law school with a highly developed talent for legal analysis.”<sup>44</sup>

More than sixty years ago, Professor Lon Fuller wrote, “‘We teach men to think’ has been the last refuge of every dying discipline from Latin and Greek to Mechanical Drawing and Common-Law Pleading.”<sup>45</sup> While we do not claim that law study is a dying discipline, we are able to point to a growing recognition that while legal analysis—or in other words, “thinking like a lawyer”—is a fundamental and necessary part of a legal education, it alone is insufficient for success in the practice of law.<sup>46</sup>

Professor Cynthia Hawkins-León states that “preparation to think like a lawyer is no longer sufficient. Law students need preparation to act and react like lawyers.”<sup>47</sup> More critically, Professor Judith Younger concluded that law schools only succeed at teaching issue spotting and legal labeling or categorization of facts.<sup>48</sup> Professor John Sonsteng cites nine areas of legal skills in which legal education fails to train students: “(1) understanding and conducting litigation; (2) drafting legal documents; (3) oral communications; (4) negotiations; (5) fact gathering; (6) counseling; (7) organizing and managing legal work; (8) instilling others’ confidence in the students; and (9) providing the ability to obtain and keep clients.”<sup>49</sup>

The traditional Law School Case Method is not doing an optimal job in preparing students for the full range of knowledge and skills that will be expected of them in practice. A fundamental readjustment of law teaching methodology is long overdue.

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41. HOWARD E. KATZ & KEVIN FRANCIS O’NEILL, STRATEGIES AND TECHNIQUES OF LAW SCHOOL TEACHING 41 (2009).

42. *Id.* at 6.

43. *Id.* at 19.

44. *Id.* at 41.

45. Lon L. Fuller, *What the Law Schools Can Contribute to the Making of Lawyers*, 1 J. LEGAL ED. 189, 190 (1948).

46. Lowell Bautista, *The Socratic Method as a Pedagogical Method in Legal Education*, UNIV. WOLLONGONG FAC. L. HUMAN. & ARTS—PAPERS 1, 7 (2014) (Austl.).

47. Hawkins-León, *supra* note 26, at 15.

48. STUCKEY ET AL., *supra* note 14, at n.135.

49. John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 318 (2007).

## VI. LAW & BUSINESS SCHOOL METHODOLOGIES COMPARED

Our focus now shifts to a comparison of the law school and business school teaching methodologies, with emphasis on the following aspects:

- What is a “case”?
- What takes place before, during, and after class?
- The role of group work

### A. *The Law School Case Method*

#### 1. What is a “Case” in the Law School Case Method?

In the Law School Case Method, a “case” is a court decision,<sup>50</sup> more specifically the opinion of an appellate court.<sup>51</sup> A common criticism of this method is that its raw materials, in other words, its “cases” are significantly removed from the reality of law practice, in that students must analyze a problem that has already been solved.<sup>52</sup> At the point where a law student encounters the case, the lawyering and judging have already been done. Facts have already been sorted through and organized, and the important decisions have already been made: whether or not to sue, the grounds for the lawsuit, how to prepare the relevant pleadings, how to conduct discovery, whether to go to trial instead of settling, and whether or not to appeal. This criticism is by no means new. In 1948, Professor Karl Llewellyn expressed his preference for teaching with cases in which “the problem is presented as one *for* solution, as a problem not with its answer at hand, but as one to which possible answers are to be worked out in class.”<sup>53</sup>

#### 2. Before, During, and After the Law School Class

From a student’s perspective, the steps involved in the Law School Case Method are “studying and abstracting (‘briefing’) . . . opinions, studying the supplementary notes and text in the casebook, discussing these and the instructor’s questions and comments about them in class, asking questions, taking notes and then comparing and putting them together through systematic reviewing and outlining.”<sup>54</sup> Another law student broke down the process into four steps, three of which are common to other learning environments: preparing for class, actually attending and participating in class, and reviewing for

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50. HLS CASE STUDIES, *supra* note 5. See also STATSKY & WERNET, *supra* note 5 (‘opinion’ and ‘case’ are sometimes used interchangeably).

51. Hammond, *supra* note 7, at 18–19.

52. HLS CASE STUDIES, *supra* note 5.

53. Karl N. Llewellyn, *The Current Crisis in Legal Education*, 1 J. LEGAL ED. 211, 214 (1948).

54. STANLEY V. KINYON, INTRODUCTION TO LAW STUDY AND LAW EXAMINATIONS IN A NUTSHELL 33–34 (1971).

examinations.<sup>55</sup> The fourth step, said by the same student to be unique to the Law School Case Method, is “the post-class phase . . . which is to pull together the information, put it in outlines, on notecards.”<sup>56</sup> Professor Michael Schwarz wrote that outside the classroom, the Law School Case Method “involves self-teaching because law professors expect students to figure out on their own, or through study groups, what they need to know and be able to do to succeed in the class.”<sup>57</sup> Students are advised to prepare written syntheses (outlines) of material covered in class, which then form the basis for review and memorization before exams.<sup>58</sup> Traditionally, assessment depends on a single written examination at the end of the course.<sup>59</sup>

As previously explained, the term Socratic Method is not used here as a synonym for the Law School Case Method. Instead, the Socratic Method refers to a form of classroom interaction within the Law School Case Method, governed by its own set of unwritten traditions, norms, and expectations. Law professors and students engage in a formalistic interaction, which has been described as “ritualized combat.”<sup>60</sup> In brief, “[s]tudents read appellate courts’ decisions in casebooks and answer professors’ questions about the holdings and principles of law contained in the cases. This question and answer practice is loosely referred to as ‘Socratic dialogue.’”<sup>61</sup>

Characteristic of the Socratic Method of classroom interaction is its “hub-and-spokes” model between professor and student.<sup>62</sup> Students are questioned individually and are expected to respond only to the professor,<sup>63</sup> while other members of the class silently observe and listen to this two-way dialogue.<sup>64</sup> “The students who are not actively answering the question are expected to be following along and considering the problems and answers in case they are called upon next.”<sup>65</sup> This passive observation is sometimes claimed as a basis for considering the Socratic Method as a method of group teaching and

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55. Dorothy H. Evensen, *To Group or Not to Group: Students’ Perceptions of Collaborative Learning Activities in Law School*, 28 S. ILL. U.L.J. 343, 401 (2004).

56. *Id.* at 401–02.

57. STUCKEY ET AL., *supra* note 14, at 135.

58. R. RANDALL KELSO & CHARLES D. KELSO, *STUDYING LAW: AN INTRODUCTION* 479–80 (1984).

59. STUCKEY ET AL., *supra* note 14, at 236.

60. Lani Guinier et al., *Becoming Gentlemen: Women’s Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1, 62 (1994).

61. STUCKEY ET AL., *supra* note 14, at 207.

62. HLS CASE STUDIES, *supra* note 5.

63. Jenny Morgan, *The Socratic Method: Silencing Cooperation*, LEG. ED. REV. 13 (1989) (Austl.).

64. Llewellyn, *supra* note 53, at 212.

65. Jackson, *supra* note 27, at 273.

learning.<sup>66</sup> In contrast, Schwarz characterized this aspect of the Law School Case Method as a vicarious method of instruction, as “most students in the class are not engaged in the professor-on-student dialogue and must experience vicariously what the speaking student actually experiences.”<sup>67</sup>

Student-to-student dialogue in U.S. law classrooms is said to be “relatively rare.”<sup>68</sup> Nor do professors using the Socratic Method make much use of students’ prior experience in classroom discussion, in clear contrast to the business school teaching model and to the best practice recommendations in the Stuckey report.<sup>69</sup> None of the respondents to a law student survey conducted by Professor Dorothy Evensen mentioned a professor drawing on students’ preexisting background knowledge or academic and professional experience in class.<sup>70</sup>

### 3. Group Work in Law School

Law school group work is generally a matter of student choice. Student outlining and review may take place individually or in informal study groups.<sup>71</sup> Law schools may suggest that students engage in some form of group study, but this decision is ultimately left up to the students themselves, as is their choice of group members.<sup>72</sup> Students are also left to their own devices as to the functioning of their groups, leading Evensen to conclude that study groups often fail because law students “simply do not know what to do during group meetings.”<sup>73</sup> In any event, cooperation among law students tends to take place outside the classroom.<sup>74</sup>

Paradoxically, law students work together in the hope of improving their individual performance on examinations. True teamwork, in which members share responsibilities and are evaluated collectively on the group’s work product, is uncommon in law schools. Professor Carole Silver points out that “group writing assignments are unusual. Moreover, it is the rare law school class that attempts to address the challenges of group projects.”<sup>75</sup> Silver goes on to say that law students “are accustomed to working alone and competitively. . . . They are reluctant to share responsibility for their grades with other students for fear that they will suffer because of another student’s lack of initiative or

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66. Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213, 218 (1998).

67. STUCKEY ET AL., *supra* note 14, at 135.

68. SULLIVAN ET AL., *supra* note 9, at 50.

69. STUCKEY ET AL., *supra* note 14, at 115.

70. Evensen, *supra* note 55, at 414.

71. KINYON, *supra* note 54, at 87–88.

72. Evensen, *supra* note 55, at 385.

73. *Id.* at 417.

74. J. Morgan, *supra* note 63.

75. Carole Silver, *Adventures in Comparative Legal Studies: Studying Singapore*, 51 J. LEGAL EDUC. 75, 85 (2001).

ability.”<sup>76</sup> Some of the law students in the Evensen survey mentioned negative experiences with teamwork assignments, saying that these assignments were rejected by students “because they were seen as incongruous with the larger goal of getting more tangible and exam-focused information on a given subject.”<sup>77</sup>

One justification for the lack of group work in U.S. legal education is that the practice of law is claimed to be mainly an individual undertaking.<sup>78</sup> On this premise, professors are even warned away from group work. “Often, lawyers must work alone on projects or with little supervision from their superiors . . . A professor might wisely reject group projects in light of the realities of law practice.”<sup>79</sup> The Evensen survey respondents had differing opinions “concerning whether or not lawyers actually worked collectively, and therefore, whether group work better prepared students for collaborative, professional work.”<sup>80</sup> One of the surveyed students “perceived study groups as a preparation for practice because ‘in the real world you have to work together to develop solutions.’”<sup>81</sup> In contrast, another student described his summer clerkship as receiving assignments passed down from partner to associate to clerk, which he presumably was expected to complete on his own.<sup>82</sup>

In contrast, a number of authors point out the clear benefits of lawyers and law students knowing how to work together as a team. “Best practices *encourage cooperation among students*, because effective learning, like effective professional work, is usually collaborative and social rather than competitive and isolated.”<sup>83</sup> The ability to work effectively as part of a team is recognized by the Law Society of England and Wales as one of the core components of entry-level competence for new solicitors.<sup>84</sup> Teamwork was also identified as one of the skills considered essential or very important for success in the practice of law by a survey of Arizona lawyers carried out by Stephen Gerst and Gerald Hess.<sup>85</sup>

Law schools could do more to prepare their students for effective teamwork. Professor B.A. Glesner recognizes an unmet need for students to learn how to

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76. *Id.*

77. Evensen, *supra* note 55, at 417.

78. Ruta K. Stropus, *Mend It, Bend It, and Extend It: The Fate of Traditional Law School Methodology in the 21st Century*, 21 LOY. U. CHI. L.J. 449, 470 (1996).

79. Michael Vitiello, *Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 HOFSTRA L. REV. 955, 986 n.225 (2005).

80. Evensen, *supra* note 55, at 412.

81. *Id.*

82. *Id.*

83. Kent J. Syverud, *The Caste System and Best Practices in Legal Education*, 1 J. ASS'N LEGAL WRITING DIRS. 12, 16 (2002).

84. STUCKEY ET AL., *supra* note 14, at 54 (citing THE LAW SOCIETY, SECOND CONSULTATION ON A NEW TRAINING FRAMEWORK FOR SOLICITORS, § 4, ¶ 46 (Sept. 2003)).

85. Stephen Gerst & Gerald Hess, *Professional Skills and Values in Legal Education: The GPS Model*, 43 VAL. U. L. REV. 513, 525 (2009).

work effectively with their classmates and seems to acknowledge that law professors contribute to this shortcoming.<sup>86</sup> Evensen recommends that law schools and law faculty do more in this regard and suggests that second and third year students, often referred to as 2Ls and 3Ls, be trained as study group facilitators for their 1L colleagues.<sup>87</sup> She also suggests that group work goes beyond mere preparation for examinations.<sup>88</sup> More interesting is what these authors don't say, as they stop short of proposing that law schools might follow the business-school example by not only requiring teamwork as part of the curriculum, but also actively training and coaching students in teamwork as a valuable soft skill.

Except for the relatively few brave souls who set up as solo practitioners fresh out of law school,<sup>89</sup> most graduates will find themselves working in a law firm, company, or other organization, with defined roles, common objectives, and shared accountability for outcomes. Preparing law students for effective teamwork gives them an additional set of skills for success in a law firm, practice group or legal department. These skills complement students' ability to complete individual tasks, and empower them to achieve larger team and organizational objectives.

#### B. *The Problem-Based Method in Law School*

In 1948, Fuller called for the use of case problems, modeled on business school cases, to teach law students:

An important part of the student's training in law school should be directed toward the solution of problems that involve a synthesis of legal and 'extra-legal' considerations. Except in a few courses, problems suited to this purpose cannot be obtained directly from reported appellate cases. Something like the 'cases' used in the Harvard Graduate School of Business Administration would seem to be in order.<sup>90</sup>

Since then, a number of methods have focused on the use of case problems, under a variety of different names, including Harvard Law School's "Case Study Method,"<sup>91</sup> and the "Case File Method" developed by Professor Douglas Leslie of the University of Virginia School of Law.<sup>92</sup>

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86. Glesner, *supra* note 15, at 652.

87. Evensen, *supra* note 55, at 418.

88. *Id.*

89. NAT'L ASS'N FOR LAW, PLACEMENT CLASS OF 2018 NATIONAL SUMMARY REPORT, [https://www.nalp.org/uploads/NationalSummaryReport\\_Classof2018\\_FINAL.pdf](https://www.nalp.org/uploads/NationalSummaryReport_Classof2018_FINAL.pdf) (last visited Oct. 6, 2020) (of 34,221 law graduates in 2018, only 323 were reported as solo practitioners).

90. Fuller, *supra* note 45, at 201.

91. HLS CASE STUDIES, *supra* note 5.

92. Leslie, *supra* note 32, at 1306.

### 1. Case, Hypothetical, or Problem?

Sources for problems to be used in the law school classroom include CALI lessons or a casebook that includes problems,<sup>93</sup> faculty adaptation of traditional casebook cases,<sup>94</sup> or case problems written from scratch by faculty.<sup>95</sup> Harvard case studies are written by recent graduates of Harvard Law School, under supervision of Harvard Law School faculty,<sup>96</sup> and “are based on interviews or public sources; sometimes, case studies are disguised versions of actual events or composites based on the faculty authors’ experience and knowledge of the subject.”<sup>97</sup>

In contrast to business schools and their insistence that cases be based on actual business problems,<sup>98</sup> law schools have a longstanding tradition of using invented fact patterns or “hypotheticals” as part of the Socratic Method.<sup>99</sup> However, there are significant differences between a hypothetical and a case problem:

A problem, in contrast to a hypothetical, is best presented to students in writing, usually in advance of the class session in which it is employed. A problem is best offered not with built-in factual variations, but as one concrete fact pattern, and it is best used not to illustrate one particular element, but to give the students practice in applying *all* of the elements that make up a cause of action or defense . . . .<sup>100</sup>

Hypotheticals are generally shorter than case problems. The brevity of a hypothetical is suited to oral presentation, and a hypothetical “is best offered as a series of slightly different factual variations, and . . . best used to illustrate the limits of one particular element in a cause of action or defense.”<sup>101</sup> In contrast, the more extensive case problems “may be more effective than hypotheticals, because they involve real-life, often well known, scenarios or stories where the players face issues that require resolution, thus providing students with a chance to test their book learning and to make decisions on how to provide advice to their clients.”<sup>102</sup>

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93. KATZ & O’NEILL, *supra* note 41, at 52–53.

94. Hammond, *supra* note 7, at 13.

95. KATZ & O’NEILL, *supra* note 41, at n.54.

96. HLS CASE STUDIES, *supra* note 5.

97. *Id.*

98. Indian School of Business, *Case Writing as Academic Scholarship: What is Not a Case*, YOUTUBE (Aug. 17, 2010), <https://www.youtube.com/watch?v=uwo9cpneyKM>.

99. JOSEF REDLICH, THE COMMON LAW AND THE CASE METHOD IN AMERICAN UNIVERSITY LAW SCHOOLS: A REPORT TO THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING 74 (1914).

100. KATZ & O’NEILL, *supra* note 41, at 51–52.

101. *Id.*

102. Hammond, *supra* note 7, at 10–11.

## 2. Benefits & Limitations of the Problem-Based Method

Unlike the traditional Law School Case Method, as students work through a case problem, they are expected to assume a particular role and advocate on behalf of their hypothetical client.<sup>103</sup> In contrast to clinical education, they have greater freedom to try out various alternatives and even to make mistakes—without putting the interests of a live client at risk.<sup>104</sup> Problem-based teaching may also facilitate a balance of substantive knowledge and practical skills, plus the ability to apply both knowledge and skills in a practical setting.<sup>105</sup>

However, some advocates of the Problem-Based Method appear to limit its use to the same goals as the Law School Case Method: teaching students to perform legal analysis in preparation to take law school examinations.<sup>106</sup> Katz and O'Neill advise the problem-based professor to “push the students to walk through every step of their analysis—in exactly the same sequence, and with exactly the same level of detail, as if they were writing it on a final exam.”<sup>107</sup> They also state that the value of case problems is to “reinforce the step-by-step nature of legal analysis, training students to identify all the elements in a cause of action and giving them practice applying those elements as they would on an exam.”<sup>108</sup> These recommendations seem to miss the mark, by asserting that legal analysis and exam performance are the end goals of legal education, instead of the broader objective of entry-level competence in the practice of law.

### C. *The Business School Case Method*

#### 1. What is a “Case” in the Business School Case Method?

The Business School Case Method makes use of narrative case problems, written by business school faculty and ideally based on an actual situation faced by a real company.<sup>109</sup> Here, “cases are action-oriented and business school students are placed in the role of a manager who must make decisions that will impact the success of the enterprise.” Llewellyn recognized the greater length and complexity of business school cases, “Consider, for example, the possibility of building up our so-called cases out beyond the judicial opinion into something resembling the completeness of cases gathered for the Harvard Business School.”<sup>110</sup> Harvard Business School cases “usually run from two to 25 pages

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103. Leslie, *supra* note 32.

104. T. Morgan, *supra* note 12, at 418.

105. Hammond, *supra* note 7, at 15.

106. William J. Carney, *Teaching Problems in Corporate Law: Making it Real*, 34 GA. L. REV. 823, 833 (2000).

107. KATZ & O'NEILL, *supra* note 41, at 52.

108. *Id.*

109. HLS CASE STUDIES, *supra* note 5.

110. Llewellyn, *supra* note 53, at 215.



of text and exhibits.”<sup>111</sup> The actual case narrative is often followed by several pages of numerical data.<sup>112</sup>

Cases, generally including a Teaching Note prepared by the case author,<sup>113</sup> are published by institutions including the Harvard Business School and Ivey Business School.<sup>114</sup> “Of all the cases sold across the entire planet, 80% are created by HBS faculty. . . . Each year, the faculty produce about 200 to 250 new cases.”<sup>115</sup>

There are three types of business school cases: field cases, library or public record cases, and so-called “armchair” cases.<sup>116</sup> Source material for these cases includes field interviews, public records, and personal experiences of the case author.<sup>117</sup> There is a clear preference for field cases, defined as those based on real business problems and developed through actual field research, including interviews with company managers involved in the case itself.<sup>118</sup> In second place are the library cases, which the case writer has developed from sources available as part of the public record, including news articles and court and administrative filings.<sup>119</sup>

More controversy surrounds the “armchair” cases, defined as fictitious narratives invented by the case writer.<sup>120</sup> While some business school faculty say that these invented narratives “bear some resemblance to authentic cases”<sup>121</sup> and may be used when actual data is unavailable or to simplify complex scenarios,<sup>122</sup> others do not consider them to be cases at all.<sup>123</sup> Invented cases are rejected outright by one of the major case publishers, which advises would-be case writers that “[c]ases are based on real people, companies, and events. . . . Fictional cases will not be accepted.”<sup>124</sup> This point was belabored by Ivey Business School faculty member Andreas P.J. Schotter in his Case Teaching

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111. Ethan Baron, *How They Teach the Case Method at Harvard Business School*, POETS & QUANTS (Sept. 29, 2015), <https://poetsandquants.com/2015/09/29/how-they-teach-the-case-method-at-harvard-business-school/>.

112. Garvin, *supra* note 17, at 60.

113. Andreas P.J. Schotter, Case Writing Workshop 2016, at 12 (Dec. 9–10, 2016) (original slide deck on file with authors).

114. *Id.* at 44–58.

115. Baron, *supra* note 111.

116. James S. O’Rourke, *Analyzing a Case Study 1*, Teaching Note 00–06, MENDOZA COLL. BUS., UNIV. NOTRE DAME (2000).

117. Schotter, *supra* note 113, at 9–12.

118. O’Rourke, *supra* note 116, at 2.

119. *Id.*

120. *Id.* at 3.

121. *Id.*

122. *Id.*

123. Indian School of Business, *supra* note 98.

124. *Case and Teaching Note Submission Guidelines*, IVEY PUBL’G, <https://es.scribd.com/document/357984327/Ivey-Case-Submission-Guidelines> (last visited Oct. 6, 2020).

Workshop 2016: “An Ivey Case is NOT . . . [a]n ‘armchair or invented case.’”<sup>125</sup> The business schools’ rejection of armchair cases stands in contrast to the longstanding law school tradition of “hypotheticals” invented by faculty for use in classroom dialogue.

## 2. Before, During, & After the Business School Class

In the Business School Case Method, students are trained in the use of a three-step learning model, sometimes referred to as a “Staged Learning Method.”<sup>126</sup> The first two steps of this process take place outside of class. “Typically, students receive a case a week before it’s to be discussed.”<sup>127</sup> Upon receiving the case, students begin with the first step, consisting of individual preparation and reading of the case.<sup>128</sup> The next step is comprised of additional preparation in small groups, where students are supposed to meet with their ‘learning team’—a group of peers from different sections with diverse backgrounds—to compare notes and bounce opinions back and forth about how the case problem should best be solved.<sup>129</sup> From their small-group discussion, team members should arrive at a consensus as to the best solution for the case, in addition to preparing any deliverable or case write-up assigned by the professor.<sup>130</sup> The third and last step in this method is actual discussion of the case in the classroom.<sup>131</sup> Each case is discussed extensively; the entire ninety-minute class session is commonly taken up with discussion of just one case.<sup>132</sup> The three-step method is an iterative learning model, with students at the Harvard Business School repeating the process for more than 450 cases over the two years of their MBA program.<sup>133</sup>

Unlike their law school counterparts, business school faculty use a method of classroom interaction known as discussion teaching, described as a “[p]rocess of comparison and contrasting of different solutions proposed by the various groups.”<sup>134</sup>

Case-based classes [in business school] are essentially 90-minute discussions of the case, with professors asking questions and making comments, and students

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125. Schotter, *supra* note 113, at 85.

126. Schotter, *supra* note 113, at 12 (citing JAMES A. ERSKINE ET AL., *LEARNING WITH CASES* (2001)).

127. Baron, *supra* note 111.

128. Schotter, *supra* note 113, at 12 (citing JAMES A. ERSKINE ET AL., *LEARNING WITH CASES* (2001)).

129. Baron, *supra* note 111.

130. Schotter, *supra* note 113, at 12 (citing JAMES A. ERSKINE ET AL., *LEARNING WITH CASES* (2001)).

131. *Id.*

132. Baron, *supra* note 111.

133. *Id.*

134. HLS CASE STUDIES, *supra* note 5.

offering analysis and opinions. . . . Professors may prompt debates among students, or put them into roles of players in the case. Sometimes professors need to step in to keep student discussions on track . . .<sup>135</sup>

Discussion teaching is different from the Socratic Method, although the two are sometimes conflated.<sup>136</sup> Discussion teaching encourages interaction among class members, instead of the hub-and-spokes model of the Socratic Method, where all interaction is expected to involve the professor. “Discussion features ‘two-way spoken communication between students and teacher and direct interaction among students themselves.’”<sup>137</sup> Discussion teaching also makes use of student backgrounds. “Discussion is a non-hierarchical technique, unlike Socratic dialogue and lecture. Students’ opinions, ideas and experiences are valued as well as their understanding of assigned readings.”<sup>138</sup> Professors may plan to call on students “based . . . on any particular expertise a student may bring to a discussion.”<sup>139</sup> Hammond says that the discussion teaching professor plays a nontraditional role, responsible for guiding the learning process instead of merely providing information.<sup>140</sup>

Teaching becomes a collaborative process where, as discussion leader, the instructor must also be a learner in order to not only provide information, but to monitor the quality and nature of the student analysis and presentation so that the discussion continues on a high-quality path of problem solving. In doing this, the teacher becomes the role model, demonstrating the skills of observation, listening, communication, and decision making that are ultimately expected of students when they become practitioners.<sup>141</sup>

As preparation for discussion teaching, faculty may prepare board plan diagrams showing how they plan to use the classroom chalkboard during the session.<sup>142</sup> The board is used to provide an outline of key points, give structure to the class, and remind students of points brought up in the class, as “a record of where the class has been and what still needs to be done.”<sup>143</sup> Note the difference between using a slide presentation prepared in advance of the class and writing out one’s board plan as the class discussion develops. The former is a static means of transmitting information, while the latter is dynamic, responsive to the progress of class discussion, and able to show the development of ideas in real time.

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135. Baron, *supra* note 111.

136. See Tim Young, *MBA vs. Law School*, JOINT DEGREE BLOG (Jan. 4, 2011).

137. STUCKEY ET AL., *supra* note 14, at 55.

138. *Id.* at 226.

139. Baron, *supra* note 111.

140. Hammond, *supra* note 7, at 14.

141. *Id.* at 14–15.

142. Schotter, *supra* note 113, at 39.

143. *Id.*

From the students' perspective, business school "is geared toward collaboration and creativity in approaching problems. Professors want you to insert experience and supposition into your answers. In law school there is a 'right answer,' and chances are, the professor is the only one who knows it."<sup>144</sup> "There rarely is a 'correct' answer in a business school case."<sup>145</sup> However, in contrast to their law school counterparts, business school faculty are encouraged to provide conclusions or take-home lessons at the end of each class session, or even to ask class members for a wrap-up of the key points discussed.<sup>146</sup>

### 3. Group Work in Business School

Business schools view teamwork as an integral part of their curricula. Unlike law students, MBA students "are immersed in team projects from the beginning of their program, until collaboration becomes second nature to them."<sup>147</sup> Beyond mere immersion, with its sink-or-swim overtones, the business school curriculum is intentionally crafted to provide students with material support, systematic coaching, and feedback to foster and develop their teamwork skills. In contrast to the anonymous grading of individual examinations that forms the basis for law school assessment,<sup>148</sup> business school grading is based, at least in part, on group work.<sup>149</sup> Team formation, participation, and membership decisions are not left up to the students themselves. Instead, MBA students are formed into teams by program management<sup>150</sup> and are generally expected to remain in the same teams for the full semester.<sup>151</sup>

The extent to which business schools support student teamwork is exemplified by the Queen's University MBA program, in which teams enjoy their own conference rooms stocked with supplies,<sup>152</sup> as well as their own coaches. "A dedicated, professional Team Coach is assigned to every team. For the entire program core, they will monitor your team's effectiveness and provide regular feedback and guidance that is pivotal to the learning process."<sup>153</sup> Excerpts from the Queen's University website show the extent of team-building

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144. Young, *supra* note 136.

145. Hammond, *supra* note 7, at 14.

146. Schotter, *supra* note 113, at 77.

147. Silver, *supra* note 75, at 86.

148. See Daniel L. Keating, *Ten Myths About Law School Grading*, 62 WASH. U.L.Q. 171, 172-74 (1998).

149. *The Power of Teams*, QUEEN'S UNIV., SMITH SCH. BUS., EXEC. MBA NAT'L PROGRAM, [https://smith.queensu.ca/mba\\_programs/amba/the\\_queens\\_experience/index.php](https://smith.queensu.ca/mba_programs/amba/the_queens_experience/index.php) (last visited Oct. 6, 2020). [Hereinafter *Power of Teams*].

150. *Which MBA Programs Lead in Teamwork?*, ARINGO MBA ADMISSIONS CONSULTING, <https://aringo.com/which-mba-programs-lead-in-teamwork/> (last visited Oct. 6, 2020).

151. *Id.*

152. *Id.*

153. *Power of Teams*, *supra* note 149.

efforts at the school, and the extent to which team learning is marketed as a competitive advantage of the MBA program:

A great deal of time during the first week of the program is devoted to setting the tone for your learning team. You and your teammates will be led through a series of exercises designed to get acquainted, gain insight into each member's preferred thinking style, formulate a team mission statement, develop group "norms", and successfully conduct your first team meeting. You will be provided with proven processes and best practices for overcoming any obstacles that may arise during the year.<sup>154</sup>

MBA students recognize the challenges of teamwork and that working effectively as part of a team is the result of a learning process. After complaining about the time-consuming nature of teamwork and the needless drama in his workgroup,<sup>155</sup> one MBA student went on to say how "it took us all semester to figure out how to communicate our expectations and appropriately divide work."<sup>156</sup> The key point here is not that these team members struggled in their first semester, but instead that they worked through their frustrations, and by doing so learned how to overcome these challenges and function better as a team.

## VII. THE CASE TEACHING EXPERIENCE AT IE LAW SCHOOL

We became interested in law teaching methodology upon joining the faculty of IE Law School in Madrid, Spain. There, we encountered a teaching method based on the Business School Case Method, but targeted at law students. We came to realize that, starting in the 1970s, IE Law School had pioneered a new method of legal education, and that nearly nothing has been written or published about its origins and characteristics. This section presents the result of our primary research into the case method developed at IE Law School.

### A. Background on IE

Instituto de Empresa ("IE") was founded in 1973 as a private business school, originally offering the Master of Business Administration degree.<sup>157</sup> Circa 1978, the school offered its first law program, focused on legal practice in a business context.<sup>158</sup> Since then, it has evolved into IE University, with campuses in Madrid and Segovia, nearly 7,000 undergraduate and graduate

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154. *Id.*

155. Young, *supra* note 136.

156. *Id.*

157. *Our Story*, IE UNIV., <https://www.ie.edu/university/about/who-we-are/our-story/> (last visited Oct. 6, 2020). IE University is made up of five schools: the original IE Business School, plus IE Law School, IE School of Global and Public Affairs, IE School of Architecture, and IE School of Human Science and Technology. *Studies*, IE UNIV., <https://www.ie.edu/university/studies/> (last visited Oct. 6, 2020).

158. E-mail from Concepción Lozano Robles, Program Assistant, IE Univ., to Soledad Atienza, Vice Dean, IE Univ. L. Sch. (Sep. 16, 2020, 14:32 CST) (on file with authors).

students, and over 100 different nationalities among its students, faculty, and staff.<sup>159</sup> IE Law School is listed on the Financial Times list of top law schools worldwide,<sup>160</sup> plays an active role in the International Bar Association, and is a member of the Law Schools Global League.<sup>161</sup>

The late Professor José María Cervelló Grande is well remembered as the founder of IE law programs.<sup>162</sup> He is likewise well remembered for arriving at important meetings with three or four key points jotted on a scrap of paper and for the similar paucity of his writings on legal topics, including the history and development of IE Law School and its teaching methodology.<sup>163</sup> To fill this gap, we consulted Dr. Pilar Galeote Muñoz, Director of the José María Cervelló Chair at IE Law School.<sup>164</sup> Dr. Galeote pointed us to two essays submitted as part of a 2012 writing competition in tribute to Professor Cervelló, one by Juan Carlos Olarra Zorrózua<sup>165</sup> and the second by Luis María Grande Turégano.<sup>166</sup> We next interviewed four senior IE Law School faculty members: Adolfo Menéndez

159. E-mail from Yolanda Regodón Poblador, Deputy Dir. Commc'ns, IE Univ., to Soledad Atienza, Vice Dean, IE Univ. L. Sch. (May 11, 2020, 8:31 CST) (on file with authors).

160. *LLM Listing 2016*, FIN. TIMES, <https://web.archive.org/web/20170505150056/http://rankings.ft.com/lawschools/llm-listing-2016> (last visited Jan. 9 2022).

161. *Members*, L. SCH. GLOB. LEAGUE, <https://lawschoolsgloballeague.com/about-lsgl/members/> (last visited Oct. 6, 2020).

162. Professor Cervelló was a member of the IE Law School faculty from 1979 until his death in 2008. He combined his work as a lawyer and partner in the Madrid office of Ernst & Young with his interests as an academic, historian, and bibliophile, earning his Ph.D. in Art History in 2001. Thereafter, he became a corresponding member of Spain's Royal Academy of Fine Arts of San Fernando. His library of art books was donated to the Prado Museum in 2003. Javier Portús Pérez, *Cervelló Grande, José María*, MUSEO DEL PRADO ENCICLOPEDIA, <https://www.museodelprado.es/aprende/enciclopedia/voz/cervello-grande-jose-maria/9c8441ca-3918-48a2-a81e-6d11ca964019> (last visited Oct. 6, 2020).

163. Transcript of interview with Juan José Torres Fernández, in Madrid, Spain (Jan. 21, 2020) (on file with authors) [hereinafter Torres transcript].

164. *Equipo*, CÁTEDRA JOSÉ MARÍA CERVELLÓ, <https://catedracervello.ie.edu/equipo/> (last visited Oct. 6, 2020).

165. Juan Carlos Olarra Zorrózua, *José María Cervelló: ¿Dónde lo pone?*, CÁTEDRA JOSÉ MARÍA CERVELLÓ (2012), [https://catedracervello.ie.edu/wp-content/uploads/sites/124/2013/11/Trabajo\\_Premiado\\_Edicion\\_Especial\\_2012.pdf](https://catedracervello.ie.edu/wp-content/uploads/sites/124/2013/11/Trabajo_Premiado_Edicion_Especial_2012.pdf).

166. Luis María Grande Turégano, *José María Cervelló: El atípico liderazgo de la genialidad*, CÁTEDRA JOSÉ MARÍA CERVELLÓ (2012), [https://catedracervello.ie.edu/wp-content/uploads/sites/124/2013/11/Premio\\_Homenaje\\_Accesit.pdf](https://catedracervello.ie.edu/wp-content/uploads/sites/124/2013/11/Premio_Homenaje_Accesit.pdf) (published under pseudonym Gaspar Desconcertado).

Menéndez,<sup>167</sup> Tomás Pelayo Muñoz,<sup>168</sup> Juan José Torres Fernández,<sup>169</sup> and Juan Carlos Olarra Zorrózua.<sup>170</sup> The interviews were conducted according to a questionnaire that we developed for this purpose, and the interviewees' responses were recorded and subsequently transcribed. These essays and interviews have allowed us to piece together the story of IE's pioneering teaching methodology.

### B. *Origins of IE Law School*

IE Law School grew out of a recognition that legal education in Spain needed to change.<sup>171</sup> The time was ripe for change, as Spain began to look outward following the country's transition to democracy and approval of its 1978 constitution.<sup>172</sup> Spanish universities had traditionally taught law from a theoretical standpoint, far removed from actual practice.<sup>173</sup> Their undergraduate law curriculum consisted of yearlong lecture courses heavy on legal doctrine and theory.<sup>174</sup> A commercial law course might cover the bill of exchange from a comparative law perspective, with lectures on how such bills were regulated under Roman or Italian law.<sup>175</sup> Students came away with detailed knowledge about the theoretical underpinnings of negotiable instruments, but without ever having drafted or even seen a contract clause.<sup>176</sup> It was no surprise that these same students were unprepared for practice.<sup>177</sup> One interviewee quipped that the gap between legal education and practice was so wide that even the best law

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167. Professor Menéndez is a State Attorney, Of Counsel of the Ontier law firm, and co-holder of the José María Cervelló Chair at IE Law School. Professor Menéndez joined the IE law faculty in the 1985–1986 academic year. *Adolfo Menéndez Menéndez*, IE UNIV. L. SCH., <https://www.ie.edu/law-school/faculty-research/faculty/adolfo/> (last visited Fed. 10, 2022).

168. Professor Pelayo is a founding partner of the law firm Pelayo Clemente Baos Abogados and a member of the IE Law School faculty. He is an alumnus of IE Law School (Class of 1984) and joined the faculty in 1986. *Tomás Pelayo Muñoz*, IE UNIV. L. SCH., <https://www.ie.edu/law-school/faculty-research/faculty/tomas-pelayo-munoz/> (last visited Fed. 10, 2022).

169. Professor Torres is head of the Office of *Abogados del Estado* and co-holder of the José María Cervelló Chair at IE Law School. He became a member of the IE law faculty in 1990. *See Equipo*, *supra* note 164.

170. Professor Olarra is managing partner of the law firm Lexinter Abogados as well as a faculty member of IE Law School. He is an alumnus of IE Law School (Class of 1992) and has been a faculty member since 1996. *Juan Carlos Olarra*, IE UNIV. BUS. SCH., <https://www.ie.edu/business-school/faculty-and-research/faculty/juan-carlos-olarra/> (last visited Feb. 10, 2022).

171. Torres transcript, *supra* note 163.

172. Transcript of interview with Adolfo Menéndez Menéndez, in Madrid, Spain (Feb. 11, 2020) (on file with authors) [hereinafter Menéndez transcript].

173. Torres transcript, *supra* note 163.

174. *Id.*

175. *Id.*

176. *Id.*

177. *Id.*

graduate of Spain's top university would be about as useful as a piece of office furniture when starting work as a junior associate.<sup>178</sup>

Cervelló and his colleagues decided to create a graduate program different from those available at that time and from the traditional Spanish universities.<sup>179</sup> They started with the understanding that students had already acquired the necessary theoretical foundation during their undergraduate law studies, and that in practice they would be required to apply their knowledge to solve actual problems.<sup>180</sup> They also recognized the need for a law faculty made up of expert practitioners, in contrast to the doctrinal scholars of the traditional university law schools.<sup>181</sup> The IE law faculty would therefore be made up of the best practitioners from a variety of legal professions and specializations, in order to provide students with an understanding of the realities of law practice in a range of areas.<sup>182</sup> Early faculty members included two justices of Spain's Supreme Court, along with prosecutors and many lawyers from large and medium-size law firms.<sup>183</sup> Also included were civil servants, judges, and tax inspectors.<sup>184</sup> They had in common the fact that all were professionals, willing and able to transmit their practical experience to students.<sup>185</sup> From the very beginning, these professors were expected to bring the reality of their work into the classroom.<sup>186</sup>

We have identified three key components in the origin of IE's case teaching methodology: (i) the selection process for Spain's *Abogados del Estado*; (ii) the demands of practicing law for a business client; and (iii) the influence of IE Business School and its MBA program.

Cervelló, Menéndez, and Torres had all been trained as *Abogados del Estado*, members of the civil service charged with providing legal advice and representation to Spain's government and associated entities.<sup>187</sup> Selected by public competitive examination, this small group of civil servants is considered to be the elite of Spain's legal profession.<sup>188</sup> Both Menéndez and Torres referred to this public competitive examination as one of the inspirations for the IE Law

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178. Transcript of interview with Juan Carlos Olarra Zorroza, in Madrid, Spain (Feb. 14, 2020) (on file with authors) [hereinafter Olarra transcript].

179. Transcript of interview with Tomás Pelayo Muñoz, in Madrid, Spain (Feb. 10, 2020) (on file with authors) [hereinafter Pelayo transcript].

180. Torres transcript, *supra* note 163.

181. Menéndez transcript, *supra* note 172.

182. Pelayo transcript, *supra* note 179.

183. *Id.*

184. Menéndez transcript, *supra* note 172.

185. Pelayo transcript, *supra* note 179.

186. Menéndez transcript, *supra* note 172.

187. *¿Qué es el Abogado del Estado y cuál es su función?*, CONFILLEGAL (Nov. 16, 2014), <https://confilegal.com/20141116-funcion-abogado-16112014-2102/>.

188. *Acceso a convocatorias por perfiles profesionales, Cuerpo de Abogados del Estado*, MINISTERIO DE JUSTICIA DE ESPAÑA (Dec. 27, 2016), <https://www.mjusticia.gob.es/cs/Satellite/Portal/es/servicios-ciudadano/empleo-publico/acceso-convocatorias-perfiles/abogados-estado>.



School methodology.<sup>189</sup> In particular, Torres pointed out that the examination covered both theoretical legal knowledge and two practical exercises, one requiring the examinee to prepare a legal memorandum and the other requiring the drafting of a complaint.<sup>190</sup> He went on to say that even though the theoretical part of the examination covered 450 subjects, examinees in general had more difficulty with the practical exercises.<sup>191</sup> Olarra drew a comparison between this examination and the oral exams originally used at IE Law School at the end of all three academic quarters, consisting of a single complex fact pattern involving several areas of law, instead of individual questions dealing with separate subject areas.<sup>192</sup>

Instead of training elite civil servants, IE Law School was designed to prepare multidisciplinary business lawyers.<sup>193</sup> To determine the knowledge and skills needed by such lawyers, Cervelló and Pelayo, together with lawyer Fernando Pombo, held a series of meetings with members of the Madrid legal community, asking major law firms what they sought when hiring new associates.<sup>194</sup>

The third factor was rooted in the somewhat unusual situation that IE had begun as a business school, and later branched out to offer a postgraduate program in business law. The IE Business School teaching methodology thus served, to some extent, as a model for IE Law School.<sup>195</sup> The founding law faculty realized that there was substantial crossover between the business and law programs, as they knew that lawyers needed to know about economics and management in order to advise their business clients.<sup>196</sup> The business school influence also meant that the law programs adopted other aspects typical of the MBA experience, in particular the use of multidisciplinary case problems and teamwork.<sup>197</sup>

### C. *Origins of the IE Law School Case Method*

Cervelló believed his case method to be a process of questioning, in which he did not give students the answers, but instead guided them as they found the answers for themselves.<sup>198</sup> Instead of handing out a written fact pattern, he was known for telling students the facts of his cases orally in class.<sup>199</sup> In doing so,

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189. Torres transcript, *supra* note 163; *see also* Menéndez transcript, *supra* note 172.

190. Torres transcript, *supra* note 163.

191. *Id.*

192. Olarra transcript, *supra* note 178.

193. Torres transcript, *supra* note 163.

194. Pelayo transcript, *supra* note 179.

195. Menéndez transcript, *supra* note 172.

196. *Id.*

197. Olarra transcript, *supra* note 178.

198. Torres transcript, *supra* note 163.

199. Olarra transcript, *supra* note 178.

he would take on the role of a client, expecting students to ask pertinent questions to draw out more information about the case, and even to ask him for the necessary documents.<sup>200</sup> He knew from long experience that few clients present their lawyer with a neatly written summary of facts and legal issues.<sup>201</sup> Instead, clients tend to pour out a rambling, disjointed tale of woe, which the lawyer must probe and question to get an accurate idea of the case.<sup>202</sup> We recall Cervelló finishing one of his case lessons with a surprising request, asking his students to send him a bill for their legal advice and prepare the corresponding statement of fees.

Cervelló's new method was designed to teach law and legal skills by simulating the work process of a practicing lawyer, using case problems inspired in real life.<sup>203</sup> In this respect, the IE law student is like the trainee pilot who practices landings in a flight simulator.<sup>204</sup> In aviation and in law, trainees are expected to make mistakes during the learning process, and in both cases, it is highly preferable that when trainees "crash," they do so in a simulation and not in real life. By giving them the chance to learn from their mistakes without suffering real-world consequences, they will make fewer mistakes once they begin working.<sup>205</sup>

Professor Cervelló was convinced that IE law programs should be based on his case method.<sup>206</sup> As he started training other faculty to use his method,<sup>207</sup> and as they began using this method and discussing it among themselves, the IE Law School Case Method was born.<sup>208</sup>

#### D. What is a "Case" in the IE Law School Case Method?

In the IE Law School Case Method, a case is a set of facts containing one or more issues, involving substantive law, adjective law, or both, and focused on a particular subject area, but without ignoring the relationship between that area of the law and other areas.<sup>209</sup> The IE Law School Case Method does not focus on an analysis of court decisions.<sup>210</sup> Instead, it is centered on the analysis of fact situations,<sup>211</sup> and on the reasoning process required to solve a problem with statute or case law in favor or in contra, or even one in which rules of law have

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200. Torres transcript, *supra* note 163.

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

205. Torres transcript, *supra* note 163.

206. *Id.*

207. *Id.*

208. *Id.*

209. *Id.*

210. Pelayo transcript, *supra* note 179.

211. *Id.*

yet to be created.<sup>212</sup> Often the specific solution to the problem is of secondary interest; more important is the process by which students are able to analyze the case.<sup>213</sup> In doing so, students are expected to use listening and problem-solving skills.<sup>214</sup> They are also expected to speak and write effectively, so that their hypothetical client may understand their recommendations and advice.<sup>215</sup> The goal is to train future lawyers in logical and analytical skills, providing them with the tools necessary to effectively practice law.<sup>216</sup>

IE Law School cases are developed by professors for use in their classes.<sup>217</sup> Most cases are based on actual experiences from their authors' own professional practices.<sup>218</sup> Some are based on completed matters, so that students can see how they finally turned out, while others are taken from pending matters which have yet to reach their final outcome.<sup>219</sup> Sometimes case authors change the case narrative by adding or deleting aspects in function of the class discussion they want to provoke or the conclusions they plan to reach.<sup>220</sup> In very few instances, cases have been made up from whole cloth in order to present specific issues, although these invented cases are thought to be inferior to real-life ones on the basis that truth is much richer than fiction.<sup>221</sup> One faculty member remarked on the need to review and update cases each academic year after having the chance to see which cases worked well in class and which did not.<sup>222</sup> Another mentioned the ethical need to disguise real-life cases by changing some of the details, as well as the recommendation to change cases from one year to another, as some graduating students would share their case solutions with friends in the incoming classes, thus short-circuiting the learning process.<sup>223</sup>

#### *E. Role of Professor & Students in the IE Law School Case Method*

In the IE Law School classroom, professors present the case and lead the discussion, guiding, orienting, and correcting the students, improving their legal knowledge as well as the communication skills necessary for a lawyer.<sup>224</sup> Professors also perform the important function of choosing cases that illustrate

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212. Torres transcript, *supra* note 163.

213. Olarra transcript, *supra* note 178.

214. Torres transcript, *supra* note 163.

215. *Id.*

216. *Id.*

217. Pelayo transcript, *supra* note 179.

218. Olarra transcript, *supra* note 178.

219. Torres transcript, *supra* note 163.

220. Olarra transcript, *supra* note 178.

221. Menéndez transcript, *supra* note 172.

222. Torres transcript, *supra* note 163.

223. *See* Menéndez transcript, *supra* note 172.

224. Torres transcript, *supra* note 163.

and develop a theoretical topic being covered in class, with the appropriate in-class explanation and written documentation.<sup>225</sup>

Pelayo gives an overview of how he uses the IE Law School Case Method over three separate class meetings: in the first class meeting, he assigns a case problem; in the next session, he explains the relevant topic with an eye towards the issues arising in the assigned case; and in the third session, he works together with students to summarize and solve the case, functioning alongside the students as if he were an additional member of the class.<sup>226</sup> The final step in this process is for the professor to provide written feedback on students' written case deliverables.<sup>227</sup> He mentions that students will sometimes find different solutions to those found by the professor or to how the real-life case actually turned out.<sup>228</sup>

Before class, students must work with their teams to prepare their assigned cases.<sup>229</sup> In the classroom, students present their solutions to the case problem, each group defending its proposed solution against those put forward by other groups and against the probing questions of the professor.<sup>230</sup> At all times, students are challenged to provide solutions appropriate to the interests of their hypothetical client.<sup>231</sup> After class, students are expected to review case deliverables once they are returned with feedback from the professor.<sup>232</sup> They are also encouraged to review in-class explanations concerning the case and its proposed solutions, taking into account that some cases may have more than one possible solution, or even have no viable solution.<sup>233</sup> In this post-class stage, students may also engage in deeper study of the particular topic using recommended readings provided or cited by the professor.<sup>234</sup>

#### F. Teamwork in an Intentionally Stressful Environment

The IE Law School teaching methodology is designed to subject students to a stressful and fatiguing environment, in which they are expected to work intensively and with no distractions for extended periods of time.<sup>235</sup> One faculty member referred to this intense environment as a key factor in IE Law School's success, pointing out a qualitative shift when IE changed from a part-time schedule to a more intensive program requiring class attendance five days per

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225. Pelayo transcript, *supra* note 179.

226. *Id.*

227. *Id.*

228. *Id.*

229. Torres transcript, *supra* note 163; *see also* Pelayo transcript, *supra* note 179.

230. Torres transcript, *supra* note 163.

231. *Id.*

232. *Id.*

233. *Id.*

234. Menéndez transcript, *supra* note 172.

235. *Id.*

week.<sup>236</sup> The student workload is intentionally set at a very demanding level, as students are required to complete some 500 case problems over a ten-month academic year.<sup>237</sup> We recall Cervelló's orientation talk for new students, in which he told them that if they were allowed more free time, they would not have to learn time management skills or get as much done as they would when pushed to undertake a seemingly unsurmountable schedule of classes, readings, individual assignments, and workgroup meetings, plus comprehensive oral exams at the end of each semester.

As part of the same orientation, we also recall program managers warning that it was impossible for any student to successfully complete such an intensive program by working alone, thus introducing the concept of teamwork as a fundamental part of the IE Law School Case Method. Students were bluntly told that the only way they would make it through to graduation was to learn to work together effectively in their assigned teams. IE Law School's emphasis on teamwork stems from three main factors. First, teamwork was already a standard practice in the existing IE MBA program.<sup>238</sup> Second, from a purely practical standpoint, teamwork reduces the faculty workload to a manageable level, as professors can evaluate and provide feedback on one case deliverable per team, instead of one per student.<sup>239</sup> Third, and more importantly, teamwork at IE is intended to prepare students to work in large law firms or company legal departments, in which they will have to work under pressure as part of a multidisciplinary team.<sup>240</sup> As part of this preparation, students are assigned to teams instead of being allowed to choose their teammates.<sup>241</sup> In the early days, team assignments were made for the entire academic year; now teams are changed two or three times during the program.<sup>242</sup> The goal is to provide students with the opportunity to learn how to build an effective team from a diverse group of strangers, some of whom they may get on well with, and others they might not care for.<sup>243</sup> Teamwork at IE Law School has evolved over the years, as at the beginning students were simply thrown together and expected to figure out how to work as a team.<sup>244</sup> As the school evolved, greater resources were dedicated to helping students through this process, providing them with

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236. Pelayo transcript, *supra* note 179.

237. *Double Masters in Lawyering*, IE UNIV. L. SCH., <https://www.ie.edu/law-school/programs/double-masters-in-lawyering/> (last visited Oct. 6, 2020).

238. Menéndez transcript, *supra* note 172.

239. *Id.*

240. Olarra transcript, *supra* note 178.

241. Torres transcript, *supra* note 163.

242. Pelayo transcript, *supra* note 179.

243. Torres transcript, *supra* note 163.

244. Pelayo transcript, *supra* note 179.

study rooms and materials, scheduling formal team meetings in addition to class meetings, and assigning a tutor to each team.<sup>245</sup>

### G. Outcomes

From its early days, with classes of a mere twenty students,<sup>246</sup> IE Law School has grown to a total enrollment of 1,177 students, including 929 undergraduates, 248 in master's degree programs, and over 300 lawyers participating in executive education programs each year.<sup>247</sup> The school has also expanded its global reach beyond its original focus on local students and domestic Spanish law, and now offers a range of academic programs centered on international and transnational law, as well as compliance and legal tech.<sup>248</sup> The school has 9,223 alumni, representing at least eighty-five different nationalities.<sup>249</sup> Over more than forty years, the IE Law School Case Method has thus proven itself to be an effective means of preparing students for the practice of law.

## VIII. TOWARDS AN INTEGRATED LEGAL PRACTICE METHOD

The following section consists of a series of observations based largely on our personal experiences in designing and running undergraduate and graduate law programs in Spain, the United States, and Mexico. They provide a brief overview of an instructional methodology which we will call the *Integrated Legal Practice Method*.<sup>250</sup> The reference to “legal practice” underscores the fundamental objective of preparing law graduates to become admitted to the bar and begin the practice of law. “Integrated” represents the integration of substantive legal knowledge with the associated adjective law and the practical skills necessary to successfully apply these bodies of knowledge in professional practice. This fits well with the calls by legal education reformers for greater integration of theory, doctrine, and practice.<sup>251</sup> To achieve this integration, the artificial barrier between doctrine and skills—and between doctrinal and skills faculty—must yield to the overriding interest of better preparing law students for bar admission and practice.

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245. *Id.*

246. Torres transcript, *supra* note 163.

247. IE LAW SCHOOL ENROLLMENT REPORTS AS OF OCT. 2020 (original on file with authors).

248. *IE Law School Programs*, IE UNIV. L. SCH., <https://www.ie.edu/law-school/programs> (last visited Oct. 21, 2020).

249. E-mail from Carmen Moreno-Cova de Solís, Dir. Alumni Programs, IE Univ., to Soledad Atienza, Vice Dean, IE Univ. L. Sch. (Oct. 19, 2020) (on file with authors).

250. This name was originally suggested by Jaime Redondo Leal, founder of Zelan Consulting in Monterrey, Mexico.

251. *See* STUCKEY ET AL., *supra* note 14, at 194–200.

The ideal Integrated Legal Practice Method faculty member is first and foremost an experienced practitioner, with the vocation to teach and share their extensive practical experience with new generations of lawyers.

The basic instructional materials in the Integrated Legal Practice Method are narrative case problems, similar to business school cases, but focusing on legal issues. To the extent possible, these cases are drawn from real life, either the result of fieldwork or from the real-life experience of their authors. Case writers are allowed greater freedom to use invented fact patterns, in recognition of the traditional use of hypotheticals in law teaching, as well as from the need in certain instances to preserve client confidentiality.

Integrated Legal Practice Method cases are centered on a hypothetical client, who is seeking a solution to a legal problem. Law students are expected to assume the role of an attorney in representing, advising, and advocating on behalf of this client. From the outset, it is emphasized to students that the client and their interests are at the center of their enquiry. Students' proposed solutions must be evaluated in function of the client's interests. Subject to the caveat of the attorney's ethical obligations, a solution which satisfies the client's interests is at least legitimate (though perhaps not optimal); it is thus worthy of further consideration.

Teamwork is an integral and required part of the Integrated Legal Practice Method. Instead of being able to choose whether or not to join a study group and then having to figure out teamwork on their own, students are assigned to diverse teams, then trained, coached, and supported by program management throughout the team learning process, particularly in early stages of the program.

In contrast to traditional law school study groups, focused on improving individual exam performance, the teams are expected to produce work product which is graded collectively as an integral part of the assessment process. Clear expectations are communicated to students as to the nature of assessment, on the basis that once students graduate and begin work, they may well be evaluated on team performance in the workplace, without the shield of anonymous grading.

Faculty are advised to base course grades on a mixture of class participation, group work, and individual assignments. Some require traditional written examinations, others assign final projects, papers, or oral presentations. Faculty may mix multiple-choice questions or other forms of objective assessment with non-objective measures of evaluation, in order to forestall student complaints of subjective or biased grading.

The three-step staged learning model from business school is a good starting point for the Integrated Legal Practice Method, but we need to add a couple of steps so that it better reflects the tasks expected of a lawyer. Business schools focus on teaching future executives to make decisions with incomplete information. Decision-making is part of the lawyer's job, but not the whole of it. To make a decision regarding a legal course of action, the lawyer must first

gain a detailed understanding of the facts and law applicable to the matter at hand, then use their skills of legal analysis to come up with a reasoned conclusion or answer. This answer then must be documented and communicated (to a senior lawyer or directly to the client), and written work product must be produced to implement the recommended action—for example, a pleading, contract clause, or request for arbitration.

Instead of the three-step learning model, five steps are necessary for the Integrated Legal Practice Method.<sup>252</sup> Also necessary is a conscious effort by program management and faculty to train students to follow these steps.

*A. Individual Preparation*

This step consists not only of careful case reading, but also the identification of relevant facts and legal issues, plus the initial legal research and analysis necessary for each group member to become familiar with the relevant area of law and prepare their preliminary conclusion in answer to the questions presented in the case.

*B. Group Preparation*

Here each team meets to compare and contrast each member's preliminary conclusions in an effort to determine the recommended course of action by consensus. Additional questions may be raised, calling for additional research and analysis. Teams must be advised in advance of certain ground rules, in that they are expected to reach consensus on a single response and individual members may not submit dissenting or concurring responses.

*C. Preparation of Written Work Product*

This is the step which most distinguishes the Integrated Legal Practice Method from other law and business school methodologies, and the one which takes into account the importance of the written word in legal practice. It requires each team to produce the documents necessary to implement their chosen course of action. Of course, the documents will depend on what the group decides is the best solution for their hypothetical client. If the group decides that a lawsuit is in their client's best interest, they might draft the complaint. If they decide not to sue, a draft settlement agreement might be the appropriate document. Also involved in this step may be the written communication of their findings to the client, by means of a letter or memorandum laying out the analysis and reasoning behind the decision.

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252. Note that steps one through three take place outside the classroom, *and before the class session in which the case is to be discussed*. Instead of being lectured on the legal principles involved, students are expected to use their research skills to find the applicable law.



*D. Classroom Discussion*

As students enter the classroom, they hand in the written work prepared by their groups and take their places ready to discuss the case. Instead of a lecture or Socratic dialogue, the instructor moderates a discussion, in which members of the various teams compare, contrast, and evaluate their proposed solutions. In contrast to the traditional Socratic Method, instructors are expected to provide conclusions or take-home lessons. If the case is taken from the professor's real-life experience, they will often end the class with an explanation of how the actual case was resolved and whether the actual outcome was or was not optimal for the real client.

*E. Instructor Feedback*

In the fifth and final step, which takes place after the class session, the instructor closes the circle by evaluating the teams' written submissions and providing feedback on their work. Note that the Integrated Legal Practice Method is an iterative process, with a number of different cases solved using the same five steps, and with feedback on each one leading to improvement in performance on future cases.

## CONCLUSION

In our opening anecdote, we saw a law student who, while upset with an unfamiliar teaching method, was astute enough to recognize a difference between what was expected of him as a law student and how he would be expected to perform as a new lawyer. We concur with this student's conclusion: the gap between law school and law practice is too wide.

Traditional teaching methodologies used in law and business schools are insufficient to prepare students for the practice of law. The Law School Case Method overemphasizes legal analysis to the detriment of the other knowledge and skills needed by a new lawyer. In contrast, the Business School Case Method focuses on management decision-making, which is likewise insufficient. While lawyers must necessarily make decisions, an indispensable part of the lawyer's job is to take the necessary actions to implement these decisions.

Our experience at IE Law School inspired us to research the history and characteristics of a teaching method developed at this institution starting over forty years ago, and which has proven itself as an effective means of preparing law students to begin the practice of law. Building on our experience at IE, we propose that the steps outlined above form the structure of a new law teaching methodology, to be called the Integrated Legal Practice Method.

We understand that any proposal to change law school teaching methodologies, including this one, will not be without controversy.<sup>253</sup> In this

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253. See Friedman, *supra* note 36.

light, we echo a remark by Professor Richard Matasar, to the effect that market disruption will force law schools to change, requiring them to “assure that educational objectives are aligned with students’ and employers’ needs, both of which should be aligned with clients’ needs.”<sup>254</sup> We believe that the Integrated Legal Practice Method outlined in this article represents one step in this necessary process of change.

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254. Richard A. Matasar, *The Canary in the Coal Mine: What the University Can Learn from Legal Education*, 45 MCGEORGE L. REV. 161, 203 (2014).

