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— **The Rt. Hon. Lord Neuberger of Abbotsbury, former President of the UK Supreme Court**

Dr Kryvoi's original and insightful book demonstrates that online courses should not be seen as a convenient substitute for in-person education, but rather as a mode of pedagogy that can, with care, offer advantages not available in the traditional model."

— **Joan Donoghue, former President, International Court of Justice**

"This book offers a challenging critique of legal education as well as the pathway to a more inclusive and effective future. The key is to bring legal education into the digital age. It is an impressively interdisciplinary argument, beautifully constructed and charmingly illustrated."

— **Diana Laurillard, Professor of Learning with Digital Technology, UCL; formerly Head of the e-Learning Strategy Unit at Department for Education and Skills of the UK Government**

"With his wealth of experience as both a scholar and practitioner, Professor Kryvoi shows how digital platforms can democratize legal learning, making it affordable and accessible to aspiring lawyers worldwide and make them better equipped to address the complex challenges of the modern legal landscape."

— **Justice A.H.M.D. Nawaz, Supreme Court of Sri Lanka**

"The book 'Educating Lawyers in the Digital Age: From Theory to Practice' takes a unique approach by exploring the ways for applying educational theories to teaching in law."

— **Prof. G.S. Bajpai, Senior Professor & Vice-Chancellor, National Law University Delhi**

"What sets this book apart is its practical approach, grounded in cognitive psychology and education theory, which offers innovative solutions for delivering just-in-time, online training that is accessible, effective, and scalable across jurisdictions. Professor Kryvoi's work is insightful reading for legal educators and practitioners alike who are committed to preparing the next generation of lawyers for a globally integrated, technology-driven legal landscape."

— **Benjamin Barrat — Knowledge Director, Clifford Chance**

Yarik Kryvoi is a senior fellow at the British Institute of International and Comparative Law in London and a co-founder of the Arbitration Lab. He holds an LL.M. from Harvard Law School, a Ph.D. in law, and a Ph.D. in educational technology from University College London. Professor Kryvoi was admitted to the New York Bar and has practiced law with leading law firms in Europe and the United States. With experience in international law and both civil and common law jurisdictions, he combines academic work with legal practice and law reform advising.

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International and
Comparative Law



Yarik Kryvoi

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From Theory to Practice



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to practice

from theory



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International and
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Educating Lawyers in the Digital Age: From Theory to Practice

This book takes a practical, design-based research approach to enhance and refine learning design principles for legal education. Drawing on extensive research conducted at University College London, including interviews with legal practitioners, students, and educators, it explores what sets legal education apart from other fields. It identifies what works in online courses and offers strategies to bridge the gap between academic learning and real-world legal practice, making legal education more effective and affordable. The book formulates seven essential legal skills and provides practical guidance on teaching these skills in both traditional and online learning environments. It also introduces a comprehensive set of learning design principles tailored to legal education. While the focus is on the legal field, the findings and recommendations have broader applications across various disciplines.

Yarik Kryvoi (b. 1980) is a senior fellow at the British Institute of International and Comparative Law (BIICL) and a co-founder of the Arbitration Lab. Born in Belarus, Kryvoi holds an LLM from Harvard Law School; in addition to a PhD in law he holds a PhD from University College London in education technology. He was admitted to the New York Bar, served as an extern law clerk for a US Court of Appeals and practiced with Morgan Lewis in Washington and Freshfields in London. He has over 20 years' experience practicing and teaching law worldwide.

Dr Kryvoi's original and insightful book is a valuable resource for anyone engaged in legal training for professionals and/or online learning. He used his own BIICL course on investor-state dispute settlement to test various propositions, to obtain participant feedback and to develop concrete recommendations for successful online courses. His research demonstrates that online courses should not be seen as a convenient substitute for in-person education, but rather as a mode of pedagogy that can, with care, offer advantages not available in the traditional model.

Joan Donoghue, former President, International Court of Justice

Dr Yarik Kryvoi brings a unique perspective to the issue of educating lawyers. He has the knowledge and understanding of a lawyer, the practical experience of teaching international law, both in person and online, and the deep analysis from his research on how digital technologies can strengthen and extend the value of legal education.

This book offers a challenging critique of legal education as well as the pathway to a more inclusive and effective future. The key is to bring legal education into the digital age. It is an impressively interdisciplinary argument, beautifully constructed and charmingly illustrated.

The reader can skim through the helpful summaries, explore the intriguing quotes from practitioners, enjoy the rare delight of a careful cost-benefit analysis of online learning, and go as deeply as they wish into any area of the argument to find a clear and persuasive analysis. Dr Kryvoi uses his extensive research and experience to demonstrate how optimising digital and online methods can achieve both quality and affordability.

He thinks like a lawyer and acts like the best kind of educator. He transforms the traditions and complexities of legal education, using the clarity and precision of educational theory, to optimise digital pedagogies that will advance every law student's ultimate ambitions. Remarkably, the book achieves all this in the engaging and exciting journey of a passionate and insightful advocate for a better way.

Diana Laurillard, Professor of Learning with Digital Technology, University College London (UCL); formerly Head of the e-Learning Strategy Unit at Department for Education and Skills of the UK Government

Having served for many years on the bench, I have witnessed firsthand the challenges faced by legal professionals, especially those from developing countries, in accessing quality legal education. Professor Yarik Kryvoi's book offers a timely and essential exploration of how online legal education can break down the financial, visa, and logistical barriers that have long excluded talented individuals from pursuing legal careers. With his wealth of experience as both a scholar and practitioner, Professor Kryvoi shows how digital platforms can democratize legal learning, making it affordable and accessible to aspiring lawyers worldwide and make them better equipped to address the complex challenges of the modern legal landscape.

Justice A.H.M.D. Nawaz, Supreme Court of Sri Lanka

The book 'Educating Lawyers in the Digital Age: From Theory to Practice' takes a unique approach by exploring the ways for applying educational theories to teaching in law. This book significantly enhances the understanding in the contemporary areas of online technologies in legal education. By bridging the gap between theory and practice, this book shall be an invaluable resource both for academicians and practicing lawyers.

***Prof. G.S. Bajpai, Senior Professor & Vice-Chancellor,
National Law University Delhi***

Professor Yarik Kryvoi's book presents a critical examination of the evolving intersection between legal education and online technologies. As knowledge director at a global law firm, I am acutely aware of the challenges and opportunities that digital transformation brings to the legal profession. This book highlights the urgent need for law schools and other legal education providers to adapt their teaching methods to reflect the rapid advancements in legal practice, from AI-powered case management systems to the rise of remote work and the gig economy.

What sets this book apart is its practical approach, grounded in cognitive psychology and education theory, which offers innovative solutions for delivering just-in-time, online training that is accessible, effective, and scalable across jurisdictions. Professor Kryvoi's work is insightful reading for legal educators and practitioners alike who are committed to preparing the next generation of lawyers for a globally integrated, technology-driven legal landscape.

Benjamin Barrat – Knowledge Director, Clifford Chance

Foreword

As a barrister and then as a judge working in the UK, I was always interested in, and sometimes troubled by, the relationship between traditional legal training and the practical demands of the legal profession. Indeed, it still is of interest to me as an arbitrator now working with lawyers from various jurisdictions. So, I was immediately drawn to the topics covered by this book. And, on reading it, was pleased to find that it was an essential and timely contribution to the evolving field of legal education.

Professor Kryvoi's expertise and experience in both law and instructional design has enabled him to provide a unique perspective on the challenges facing modern legal education. He highlights the gap between the (inevitably) somewhat theoretical approach of legal education and the practical demands of the legal profession, a gap which has become greater in what is an increasingly globalised and competitive environment. The gap results in law graduates being ever more at risk of being underprepared for the realities of legal practice. Consequently, Professor Kryvoi's insights into how online learning can bridge this divide are invaluable.

His thorough examination of online education, and particularly its application in legal training, is thought-provoking and forward-looking. I found his discussion about the use of cognitive psychology and educational theory to shape online learning experiences especially noteworthy. And I think that the use of practical examples, such as the case study on international investment law, is a very valuable aspect, as they effectively demonstrate how these principles can be applied to real-life legal contexts. I also think that this book is valuable in addressing the financial sustainability of online education, and in demonstrating that it is possible to deliver high-quality, affordable legal training on a large scale.

Like the future of so many other areas of human endeavour, the future of legal education is undoubtedly digital, and this book provides the roadmap for how educators can adapt to the considerable changes which this will involve, while still maintaining a strong connection to the practical skills and ethical standards which will always be needed in the legal profession. I recommend this book to anyone involved in the design, delivery, or administration of legal education.

*The Rt. Hon. Lord Neuberger of Abbotsbury
former President of the United Kingdom Supreme Court*

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This book is largely based on my second PhD dissertation, which I defended at University College London in 2022. I am grateful to Professor Diana Laurillard, who proved an exemplary supervisor: wise, knowledgeable, and patient. From the moment of her agreeing to supervise this project in 2016 we had countless in-person and online meetings, including during the COVID pandemic in which Professor Laurillard shared her deep theoretical and practical knowledge of design for online learning. Many thanks also to my secondary supervisor, Dr Eileen Kennedy, who shared her helpful insights on my work-in-progress and otherwise supported this research project.

I thank my examiners Professor Carol Costley and Dr Cosette Crisan, for spending the time with my work and later with me in the defence. I also thank Professors Andrew Burn and Yvonne Rogers for their feedback on the thesis at an earlier stage.

I am grateful to my employer and publisher, the British Institute of International and Comparative Law and its director Professor Spyros Maniatis, who supported this research project. Working at BIICL allowed me to benefit from an excellent environment where I could discuss and implement various ideas related to legal education.

Several practitioners devoted their time to sharing their expertise in international investment law during interviews filmed for the International Investment Law and Dispute Resolution online course. In this regard, I am grateful to Suzanne Spears (Allen & Overy), Stuart Dutson (Simmons & Simmons), Samantha Rowe and Patrick Taylor (Debevoise & Plimpton), Hussein Haeri (Withersworldwide), Maurice Mendelson KC (Blackstone Chambers), and Professor Phillippe Sands KC (University College London).

I would also like to thank senior legal practitioners based in London, Washington, D.C., Hong Kong, Kyiv, and Riyadh who shared their thoughts about the skills lawyers require in practice and how to train such skills: Nicholas Lawn (Van Bael & Bellis), Dr Johannes Koepf (Baker Botts), Dinmukhamed Eshanov (White & Case), Matthew Hodgson (A&O Shearman), Hussein Haeri (Withersworldwide), Pavel Shevtsov (A&O Shearman), Michael Sabin (Clifford Chance), Olena Perepelynska (Integrities), Danielle Morris (WilmerHale), Evgeniya Rubina (Enyo Law), and Audley Sheppard (Clifford Chance).

Underpinning all of this has been the support of my family, particularly my wife, Dr Paula Borowska-Kryvoi who took care of our three children (Jan Francis, Antonia and Marysia) born while working on her own PhD dissertation at UCL, and Kalina who was born during my work on this book. Finally, I would like to thank my father, Viktor Kryvoi (1956–2019), also a legal academic and educator, who encouraged me to pursue this research project while he was still alive. I would also like to thank my mother, Halina, a practising barrister who had to flee Belarus because of politically motivated prosecution for the illustrations she prepared for this book. These illustrations demonstrate that, aside from her legal career, she could have a successful future as an artist.

I also thank nearly 300 participants of the online course International Investment Law and Dispute Resolution for their feedback, which helped to improve the course and advance my work and those who shared their views about online legal education in dozens of interviews conducted for this book. Special thanks go to Sasha Belavokaya, who has played an immense role in the technical and artistic aspects of creating the online course at the heart of this thesis. I am also grateful to students at the University of West London (in England and Sri Lanka) and of FutureLearn around the world who have shared their views about what works and what does not in the context of online learning. Finally, I would like to thank Emma Wang, Harsh Khanchandani and Dr Paul Hunsbury for their help with preparing this book for publication.

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Glossary of Key Terms

Acquisition (learning through) – the process by which learners acquire knowledge or skills through instruction or transmission from a teacher or other authoritative source.

Adaptive skills – skills connecting new knowledge to learners' experience and applying it in different practical contexts.

Active learning – the process that involves the participation of learners in the learning process, which maintains their focus and interest, and allows a significant degree of self-regulation.

Calibration (learning through) – the process of allowing the learners to understand better their level of knowledge, the areas for improvement, and compare their performance against a given standard.

Cognitive overload – the stage at which the volume of new information processed by the learners exceeds their cognitive capacity and ability to mentally organise the material and integrate it with the existing knowledge.

Collaboration – peer feedback, working together, and supporting each other's learning.

Context-based learning – a process inspired by the real world involving authoritative experts, connecting new knowledge to the practical context, and enabling learners to test their new knowledge continuously against real-life scenarios.

Defamiliarisation – presenting concepts in an unusual way to enhance the perception of the familiar, thereby improving learning.

Discussion (learning through) – the process of interactive dialogue, articulation of ideas, and the negotiation of meaning, allowing learners to externalise their conceptions and co-construct knowledge with others.

Feedback – the process of providing information or insights to learners about their performance, understanding, or progress towards achieving learning goals.

Feed forward – highlighting the next steps to improve and bridge the gap between the current and desired state of learning, and the ability to apply new knowledge in different contexts.

Image-argument synergy – using relevant and memorable illustrations while not overwhelming the learners with too many illustrations to keep their focus on.

Inquiry (learning through) – learning process by which learners explore questions, problems, or scenarios to construct knowledge and understanding.

Learning design – the process of purposeful planning of instructional experiences, materials, and environments that facilitate effective learning to achieve specific learning objectives.

Mind-wandering – the experience of having one's thoughts drift away (attention lapse) from the task or material at hand to unrelated internal thoughts or external distractions.

Motivation – internal processes that initiate, guide, and maintain goal-oriented behaviours influencing an individual's willingness to engage in learning activities, sustain effort, and persist in the face of challenges or setbacks.

Motivation: intrinsic and extrinsic – intrinsic motivation refers to the internal drive or desire to engage in an activity for its inherent satisfaction, enjoyment, or personal interest, while extrinsic motivation is determined by external rewards (e.g., grades, praise, money) or avoiding punishments.

Narrative – the use of storytelling to facilitate learning and understanding, which can take various forms, including storytelling, case studies, simulations, role-playing, and scenarios.

Pedagogy – the method and practice of teaching, which encompasses the strategies, techniques, and approaches used by educators use to facilitate student learning and development.

Practice (learning through) – the process where learners actively apply and rehearse their knowledge, skills, and understanding through repeated engagement with tasks, activities, or exercises.

Production (learning through) - the process where learners actively create an output or product to demonstrate their knowledge and capabilities.

Scaffolding – educational theory that refers to the temporary support or guidance provided to learners by teachers, peers, or instructional materials to help them achieve learning goals or complete tasks that they cannot initially accomplish independently.

Skills – the abilities or competencies that individuals acquire through learning and practice, essential for personal growth, academic success, and professional development.

Social learning – learning and development resulting from social interactions and collaborative processes – individuals learn through observing others and engaging in social experiences.

Surface and deep level learning – surface level learning (processing) involves memorising information through repetition without seeking deeper understanding or making connections, while deep level learning (pro-

cessing) focuses on the underlying meaning, principles and relationships within the subject matter.

Zone of proximal development – range of abilities or skills that a learner cannot yet independently master but can potentially develop with external guidance and support of a more knowledgeable educator or peer.

Introduction

Lawyers have written many books about legal education but very few, if any, of these lawyers had been trained in education theory and practice. I am a lawyer who, in addition to a doctorate in law, has a doctorate from University College London in instructional design with a focus on legal education. Much of this book is based on my doctorate and my practical experience in designing online learning.

I was already an established legal practitioner and scholar when I developed an interest in the theory of practice of legal education and online education more generally. Practising and teaching law in various countries helped me to realise that online education can make legal education more relevant to the real practice of law, more affordable for learners, and cheaper to create for educators. Running a pro-democracy think tank in Belarus from the United Kingdom, and working as an academic at a London university, allowed me to make my first steps in online learning and developing online courses. Many approaches developed in this book were shaped by interviews with senior legal practitioners in London, New York, Hong Kong, and elsewhere, and by working with young and mid-career lawyers and law firms at the British Institute of International and Comparative Law and at the Arbitration Lab, a British-Swiss initiative to advance innovative ideas and practical knowledge of international arbitration.

In many countries, including the United Kingdom and the United States, most students study law at universities, where most academics have no or negligible practical experience. This often prevents students from understanding how the law operates in their own jurisdiction, let alone in other jurisdictions. At the same time, many practising lawyers now work in an increasingly globalised environment, which involves dealing with foreign and international law. The lack of focus on global and comparative law elements makes former students unprepared to deal successfully with such situations.

This book examines the feasibility of providing online professional legal training that fills the gaps of conventional legal education with more relevant, practice-oriented guidance. It also shows how to make legal education more accessible and affordable for law practitioners in various countries than what is currently offered.

The book begins by examining why conventional legal education often fails to adapt to the changing nature of the legal profession. It shows that digital technologies have profoundly affected the practice of law. Complex case management systems, online courts, artificial intelligence, remote work, and subcontracting of legal services are increasingly used by practitioners. However, despite these changes, in the pre-COVID-19 era, legal education remained largely didactic and offline, with little integration of modern technologies or of theories from cognitive psychology. At the height of the COVID-19 pandemic, although many institutions turned to online learning, such learning often replicated didactic, in-person learning in most instances.

The book then explores the changing nature and geography of the legal profession and the effects it can have on legal education. As a result of globalisation and the development of new technologies, international law firms have increasingly outsourced work to other jurisdictions with lower labour costs (Noronha et al., 2016). That drives the demand for quality legal education in developing countries. In addition, the legal services market is shifting from a model based on permanent employment to the “gig economy,” where various tasks are subcontracted to external firms or temporary workers to adjust more quickly to the situation on the market (Kryvoi, 2007). More flexible working arrangements became commonplace (Hongdao et al., 2019), but teaching methods in law schools have barely changed, as explained in more detail elsewhere in this book. As a result, law graduates end up poorly prepared for the real-world workplace and need additional training and education before they qualify to practise law.

Even though national legal systems differ, this book shows the extent to which international legal practice is becoming increasingly homogeneous. This happens primarily because of the pervasive presence of large legal and accounting firms, their growing significance in international law, and the harmonisation efforts of states and international organisations. Master of Law degrees (LLM), mainly from English-speaking countries, have become the standard route for students to top up their legal education and be competitive domestically and internationally.

This book demonstrates that despite the differences between common and civil law legal traditions, the way law is taught around the world is becoming increasingly similar, especially when it comes to international commercial law and dispute resolution. However, legal education often gives learners little exposure to the knowledge and skills necessary for successful legal practice in a globalised world.

Understanding the distinct characteristics of legal education and how to use and improve online teaching techniques can help to design engaging online short courses. Creating such courses in a financially sustainable way would also allow educators to reach a wide audience of learners in various countries who wish to gain a deeper understanding of the law, venture into new areas of law, update their knowledge, or improve their skills.

Drawing extensively upon cognitive psychology and education theories related to the use of technology in learning, this book explores the evolution of online legal education. It shows how new technologies can bridge the gap between legal education and the legal profession. To investigate the potential of online and digital methods in this context, the book uses an online course on international investment law as a case study. I created this course for my employer, the British Institute of International and Comparative Law.

Being a work-based research project, the book benefits from my years practising law with leading international law firms in the United States and Europe, teaching law to graduate students and senior professionals, and directing online legal education projects in various parts of the world. The book is not merely an academic exercise: it formulates and recommends good practices for those who teach law more generally and in particular in the online context.

Before moving on to learning design principles for lawyers. I will summarise the key questions and answers, which this book will address.

What is This Book about?

This book examines how to make legal education more accessible across many jurisdictions by using online technologies, as well as how to make it more effective and relevant to legal practice. It applies educational theories in the context of legal education and online learning. It uses a designed-based approach to create an affordable online course with participants from around the globe to address several questions.

What makes legal education distinct from other disciplines, and what is the role of online technologies in it?

- The book shows that higher education fails to prepare law graduates for practising law successfully or even for attempting to qualify as lawyers. Usually they require some additional, non-university training to qualify. Moreover, at universities, students learn very few practical skills required in the real-world workplace owing to the detachment of legal education from legal practice.
- The book helps educators to understand how to make legal education more relevant to the legal profession. It draws on interviews with senior legal practitioners how to teach law and legal skills using online technologies. It shows that the gap between legal education and legal practice is growing, as is the demand for online legal education.
- This book reflects on the critical characteristics of legal education and how these should inform learning design for legal education. It focuses on the importance of adaptive cognitive skills and formulates, based on interviews with legal practitioners, seven essential legal skills. These include focusing on the factual nuances that matter, spotting critical legal issues, finding the relevant law, applying the law pertinent to legal problems, taking into account the context, identifying strengths and weaknesses of various positions, generating client-centric solutions, and effectively presenting those solutions.
- The development and evaluation of the online course demonstrate how asynchronous online learning can help to develop and strengthen highly specialised legal skills and knowledge. Running the online course successfully on a large scale at affordable prices suggests that it can meet demands of the labour market.

How can legal education be more effective through online learning?

- The coronavirus pandemic has accelerated the speed with which legal practice and educational institutions are introducing elements of online learning or entirely switching to it. This transition often happened without taking into account research-informed principles of learning design, such as the zone of proximal development, scaffolding, and the Conversational Framework for learning. For example, the Conversational Framework implies that the learning process involves interaction between the teacher and the learner, which the learning design should achieve using different types of learning.
- The book explains how to apply these and other educational theories in legal education. For example, it highlights the importance of enriching narratives with images (infographics, pictures, and logos) to make them more engaging and memorable, and to follow a clear structure with sub-headings highlighting the most important concepts. The developed design principles also include using trigger questions and other design elements in the context of legal education to help learners think about the correct answers.

What are the fundamental design principles for improving legal training through an online practice-oriented course for practitioners?

- The book introduces and develops the concepts of context-based learning and active learning. Context-based learning involves engaging experienced professionals who connect new knowledge to learners' practical context and existing knowledge. Active learning means creating goal-oriented exercises with feedback, helping learners to maintain learning focus and interest in presentational formats, and guiding learners to self-regulated learning. The book builds on the idea that learners should keep their knowledge flexible and responsive rather than rigid. Learning aimed at adaptive cognitive skills should elicit critical thinking, include activities aimed at a practical application of knowledge in different contexts, and focus on specific professional legal skills.
- The legal profession's needs, as identified by the book, are not met by conventional higher education in universities. It demonstrates how online learning can bridge the legal profession and legal education gap. To help develop legal skills, the book proposes specific approaches to learning design, including those related to greater engagement of practitioners, designing narratives (e.g., case studies and real-life scenarios), formulating answers (e.g., a letter to client), quiz questions, and other assignments.

- The book demonstrates the design of a contextualised and interactive learning environment by using quizzes, practical scenarios, reflective journals, and other learning tools. The evaluation of using these learning tools by learners shows the benefits of guided self-learning in gaining professionally relevant knowledge and skills.
- The online course developed and refined following the design-based research approach implements and tests key design principles. Participants' feedback demonstrates the effectiveness of learning design for a learning design model emphasising context-based active learning aimed at adaptive cognitive skills.
- In the online learning context, the case-based scenarios, practical exercises, and interviews with practitioners helped the learners to understand how the law works in the real world and to identify the relevant legal issues and facts in the context of international investment law. Reading materials were the most helpful for understanding different perspectives on the same issue.

How can course designers make online legal education more relevant and affordable?

- The book empirically demonstrates that creating an asynchronous online course requires significant time and resources, especially when it involves professionally made videos with infographics and interviews with practitioners. However, once the course launches, the running costs remain low while the revenues generated by the course increase, making it profitable.
- The cost-optimisation approaches taken in the course allow the creation of online professional legal training that fills the gaps in conventional legal education with more relevant and practice-oriented guidance. It does so in a more accessible and affordable manner than products already available on the market. The online course developed as part of this book proves that it is possible to deliver legal education on a large scale while making it affordable for educators to produce and for learners to access.

Part I

The Unique Features of Legal Education and Online Learning



1. The Unique Features of Legal Education

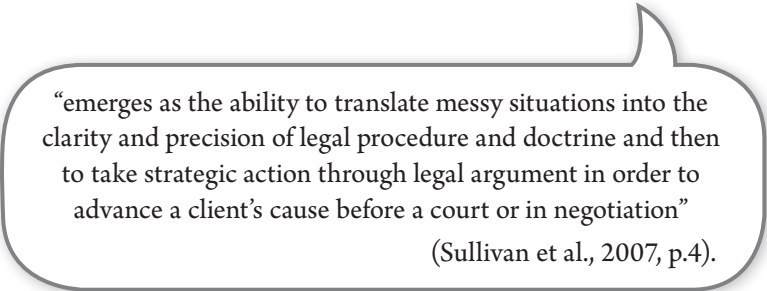
What Makes Legal Education Different from Other Disciplines?

To better teach law, we need to understand what makes legal education different from other disciplines.

Although teaching and learning patterns can travel across subject areas, discipline-specific pedagogies can offer solutions better tailored to a particular discipline (Shulman, 2005). The American Bar Association argues that professional legal education is a peculiar area of education that goes beyond learning history, facts or logic and involves active participation in a learning community to experience and develop specific skills (American Bar Association (Section of Legal Education and Admissions to the Bar), 1997).

The literature highlights a hybrid nature of legal education – combining craft, judgement, and public responsibility traditions with modern research universities (Sullivan et al., 2007). However, unlike, for example, medical education, where the initial years deal primarily with basic science and the later years focus on clinical instruction, students in legal education usually do not begin practical training until they have earned a law degree.

Legal education is supposed to teach how to think like lawyers, which, according to the Carnegie Foundation's report on legal education,



“emerges as the ability to translate messy situations into the clarity and precision of legal procedure and doctrine and then to take strategic action through legal argument in order to advance a client’s cause before a court or in negotiation”

(Sullivan et al., 2007, p.4).

Legal education primarily deals with finding, interpreting and applying the law (norms governing behaviour), which distinguishes it from other pro-

fessions. However, not all lawyers need the same skills – as they play different roles in society, and each role requires somewhat different skills.

According to Roscoe Pound, one of the most prominent American theorists of law, what law means depends on who is using it. From the judge's standpoint, the law is a ground for decisions; for legal advisers, it is a tool to predict the future decisions of courts; from the citizen's point of view, it is guidance on conduct; and from the teacher's perspective, it is a logical system (Pound, 1932). In other words, the user's purpose defines the concept of the law. The role of legal education is to equip lawyers with the right set of adaptive skills, allowing them to apply legal rules and principles flexibly to reflect their understanding of the practical context, which changes depending on their purpose.



Lawyers' competence is based on developing moral character, acquiring legal knowledge, and mastering professional skills. Drawing on the research on the professional competence of physicians (Stuckey et al., 2007), this competence serves several functions: a cognitive function – acquiring and using knowledge to solve real-life problems; an integrative function – using legal and factual data in legal reasoning; a relational function – communicating effectively with clients, colleagues, and others; and an affective/moral function – the willingness, patience, and emotional awareness to use these skills judiciously and humanely. In other words, the professional competence of lawyers integrates knowledge, skills, and values.

Various jurisdictions differ regarding admitting candidates to practise law. For example, the New York Bar exam includes the Multistate Essay Examination (MEE), which tests the ability to:

- Identify legal issues raised by a hypothetical factual situation
- Separate material which is relevant from that which is not
- Present a reasoned analysis of the pertinent issues of a clear, concise, and well-organized composition and
- Demonstrate an understanding of the fundamental legal principles pertinent to the probable solution of the issues raised by the factual situation

(National Conference of Bar Examiners, 2020a)

Those who want to practise law in New York or almost any other US state need to take the Multistate Professional Responsibility Examination (MPRE), which measures knowledge and understanding of lawyers' professional conduct standards. It helps in dealing with issues such as appearance in courts, representation of clients, professional privileges, disqualification, liability for malpractice, and other misconduct of lawyers acting in a professional capacity (National Conference of Bar Examiners, 2020b).

The United Kingdom has similar requirements for practising lawyers, combining knowledge, skills, and values. According to the UK's Solicitors Regulation Authority, to qualify as a solicitor, a candidate needs to demonstrate the the following outcomes:

- Acquire expertise in specialist areas of practice
- Develop the capacity to organise and manage appropriate to the level of responsibility in the business entity
- Keep up with changes in the law, procedure, and management issues
- Sustain a commitment to the rule of law, administration of justice, and ethical foundations of the profession
- Intellectual, analytical, and problem-solving skills

↓
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- Core knowledge and understanding of the law as applied in England and Wales
- Ability to complete legal transactions and resolve legal disputes
- Demonstrate a practical understanding of the values, behaviours, attitudes, and ethical requirements of a solicitor
- Demonstrate the professional, personal management, and client relationship skills required of solicitors

(The Solicitors Regulation Authority, 2007)

Lawyers typically apply rules or principles to facts and then present their analysis orally or in writing to others. In the United States, lawyers are particularly encouraged to consider carefully how they approach legal writing. The most common approach, which the author of this book was also encouraged to follow when he was taking the New York Bar exam, was the IRAC method (Issue, Rule, Application, Conclusion). According to this approach, legal essays should follow the IRAC structure for each legal problem by first identifying an “issue,” then an applicable “rule,” and its “application,” and formulating a “conclusion.”

Other similar legal reasoning models include: CREAC (Conclusion, Rule, Explanation of the law, Application, Conclusion); CIRAC (Conclusion, Issue, Rule, Application, Conclusion), CRAFADC (Conclusion, Rule, Authority, Facts, Analogue/Distinguish, Conclusion) and a variety of others (Lebovits, 2010).

The IRAC and other approaches illustrate the complexity of the required cognitive skills of lawyers, who need to be able to adapt, i.e., applying legal rules and principles through increased reflection on their existing knowledge and understanding of the practical context at every stage and various approaches lead to a permissible “correct” conclusion.

This brief review suggests that, at least in two leading common law jurisdictions, there is a consensus on the nature of legal education. The focus on law, its interpretation, and application set legal education apart from education for other professions. Legal education aims to give a core knowledge of legal norms and skills to apply them in various contexts while adhering to ethical and other professional practice requirements.

Another distinction of legal education is that it focuses not on universal knowledge (cf., medical education's focus on people's health) but on national law, which differs from country to country. The following subsection will discuss this aspect of legal education in more detail.

Differences between Jurisdictions and Legal Traditions

To understand how to teach lawyers, we need to understand whether the skills required for lawyers are the same across jurisdictions. Laws and morality differ from one country to another, from one period to another. For example, in Sparta, theft was not regarded as immoral because of its communist-style economy, which had no respect for private property. Those caught stealing from the table were punished, but those who managed to steal unnoticed were not punished even if their conduct later became known (Brown, 1930). In Tsarist Russia, the main purpose of education was to bring up an obedient subject or a loyal official (Vygotsky, 1991).

The national character of legal education makes it more challenging for educators working in an international context, because they need to identify shared pre-existing knowledge on which to build new knowledge and skills. The educators should also be aware of legal and cultural differences that could affect their teaching.



Common law and civil law traditions are the two most widespread legal traditions in the world, shaping how law is taught and learned. Broadly speaking, common law is prevalent in the English-speaking world, where courts and judicial decisions play a much more significant role than in the civil law tradition followed by most countries worldwide.

In common law jurisdictions (such as England, India and most states in the United States), law primarily consists of a series of precedents, decided by courts in the past. Students consequently focus on judgements and learning how to read and critique cases (Threedy & Dewald, 2015). Learning law becomes an empirical study to distil certain principles and the logic of judicial decisions, which help to predict future outcomes (Krause, 1999; Ogilvie, 2008).

In the 19th century, a former dean of Harvard Law School, Christopher Columbus Langdell, popularised the case law teaching method, which was inspired by the techniques of a chemistry laboratory. The idea was to extract parts of appellate court judgements and to question students using the “Socratic method.” Students were marked based on highly interactive class discussions and examinations, which gave a good indication of both their knowledge and the skills relevant to their future work (Sutherland, 1967).

The approach to practising and teaching law is somewhat different in civil law jurisdictions (e.g., all the countries of mainland Europe). Originally based on Roman Law, a statute rather than a court judgement is at the heart of the system (Merryman & Pérez-Perdomo, 2018). Legal education involves learning how to understand and interpret abstract principles, usually established by the legislator, and applying them to various factual situations. In this context, private lawyers do not create or change laws through litigation as happens in common law jurisdictions, at least not to the same extent, because no system is purely common law or civil law.

In civil law jurisdictions, legal training focuses on the interpretation of statutes and, occasionally, judgements. Students normally learn how to apply the law on the books to practical situations in tutorials (Threedy & Dewald, 2015). They focus on understanding the doctrinal aspects of a particular field of law, how cases are structured, and their hierarchy, among other sources of law, to appreciate the meaning of law.

Despite differences between national legal systems and common and civil law traditions, lawyers in all jurisdictions need to find, interpret, and apply legal rules and principles, whether originating from the judge or the legislator. Moreover, as the next section explains, domestic legal systems and their requirements have become increasingly homogeneous.

Construction of a Transnational Legal Profession

Although the laws of various countries differ, international legal practice and legal skills are becoming increasingly homogeneous. First, nearly all of the world's largest international law firms are headquartered in common law jurisdictions (mainly in the United States and the United Kingdom). These firms operate through a vast network of offices in different parts of the world (Legal500, 2016).

For example, one of the world's largest law firms, DLA Piper, has two headquarters in Chicago, United States and London, United Kingdom. The firm recently had over 80 offices with thousands of lawyers in more than 40 countries in Europe, North and South America, Asia, Africa, and Australia (DLA Piper, 2023). International law firms such as DLA Piper offer their services to the world's largest companies, shaping their corporate structure, contracts, and dispute resolution. They work in various sectors – from government contracting and energy, to tax, employment, and intellectual property.



The firms achieve this success at such a scale and coverage because they have accumulated significant experience and know-how in advising on transactional and dispute resolution work for cross-border and domestic legal practice. Large law firms and consultancy firms such as PWC and Deloitte shape the templates used by various companies and their attitudes to risk, conflict management, fees, and other aspects of doing business (Morgan & Quack, 2004; Faulconbridge & Muzio, 2008).

Getting a job at such firms can be difficult. In many countries, in addition to a domestic law degree, they typically expect fluent English and, ideally,

a Master of Laws (LLM) degree, preferably from an English-speaking country. Being admitted to practice in other jurisdictions (particularly New York and England) is also seen as an asset.

Doing an LLM in an English-speaking country typically carries additional prestige. Usually, it requires a significant time commitment and temporary relocation to another country, and admission to the top law schools can be extremely competitive. Tuition fees and living costs in countries such as the United States and the United Kingdom can be prohibitively expensive, particularly for students from developing countries, strengthening the stereotype that law is a profession for the privileged (a problem which Chapter 13 of this book discusses in more detail).

It is not only those who want to practise with large international law firms abroad that might be interested in topping up their domestic law degrees: legal services are increasingly outsourced to countries such as India, creating more jobs and opportunities for those who are suitably qualified (Daly & Silver, 2007). Outsourcing can become more prevalent in legal education because some tasks, such as marking and preparing slides, can be transferred to jurisdictions with cheaper labour so that academics can focus on other activities.

English has become the language of international business and law in many countries. Not surprisingly, one of the world's leading international arbitration institution, the International Court of Arbitration of the International Chamber of Commerce, reports that English law remains the most frequently used law selected by parties for disputes involving various countries' sectors taking place in different parts of the world (Tevendale & Waldek, 2014). In other words, more than any other law, English law serves as a common denominator for commercial transactions and dispute resolution between parties from different jurisdictions.

The growing role of the United States in the post-World War II world made its legal education particularly attractive to international students. The United States legal education system now attracts more followers than the English system. Countries such as China, India, Japan, South Korea, and Canada are tilting towards the US model, although some historically had strong links with the United Kingdom (Erie, 2009; Flood, 2011). Most recently, Japan and South Korea switched to the three-year graduate Juris Doctor model of legal education which is typical in the United States (Flood, 2011; Kim, 2012). Some countries are moving away from the apprenticeship model favoured in England (where future solicitors and barristers need to have a training period or a pupillage to qualify) towards the American model, which does not have such a requirement.

Another reason for a greater convergence of law and practice worldwide is the growing importance of intergovernmental organisations. These include not only organisations tasked explicitly with the harmonisation of law, such as the United Nations Commission on International Trade Law or the Hague Conference on International Private Law, but also international financial institutions.

International financial institutions such as the World Bank and the International Monetary Fund, headquartered in Washington, DC, significantly influence legal reforms. Regional development banks, such as the European Bank for Reconstruction and Development, the African Development Bank, and the Asian Development Bank, through their promotion of judicial reforms and the rule of law, stimulate greater harmonisation of different countries' domestic laws.

As a result of what has become known as the "Washington Consensus," various countries, particularly in the developing world, were encouraged to implement privatisation and deregulation and to simplify tax and property registration procedures, among other measures (Williamson, 2002). For many years, the World Bank annually published its *Doing Business* report, in which countries were encouraged to adopt more business-friendly regulations (The World Bank Group, 2016). Other regional initiatives include the efforts of the Council of European Bars to harmonise legal education in Europe (Council of the Bars and Law Societies of The European Union (CCBE), 1999).

Balancing the Taught and Practical Elements of Law

Although aspiring lawyers today need to get a university law degree, for a long time law was not a "taught profession." For example, in England, until the 1970s, there was no need to have a degree to become a lawyer (Flood, 2011). Lawyers qualified to practise through a training contract (solicitors) or a pupillage (barristers). The English legal education system still requires a training contract or a pupillage before one can become a qualified lawyer, which sets it apart from the United States and most other jurisdictions.

When it comes to joining legal academia in the United States and some other countries, a typical route to jobs in legal academia involves a period in private practice. Aspiring academics may prefer this route as a means of paying off student loans (Smith, 2012). In most other countries, however, legal academics go directly from their studies into teaching without knowing what legal practice is and how the law operates in real life. Although it is hard to

imagine someone becoming a professor of medicine without real interaction with patients, this route is possible in law.

Conventional legal education produces lawyers with theoretical knowledge about law and problem-solving capacity, but graduates often lack the right skills to do legal work with clients. Large law firms and price their services for clients according to their inputs (hourly rates) rather than their outputs (Wilkins & Gulati, 1998). It is, therefore, not surprising that the high hourly rates of law firms have been criticised for effectively making clients subsidise the training of junior lawyers (Susskind & Susskind, 2015).



Legal education is segregated from legal training in most jurisdictions, including the United States and the United Kingdom. In the United States, law graduates must take special, expensive bar revision courses such as those offered by BarBri to pass state-exams. Law schools typically do not offer preparation for bar exams. In the United Kingdom, law graduates must take a one-year Legal Practice course on top of their degree to obtain practical training on various aspects of law. In France, legal education, with its minimal interaction between students and academics, reportedly led to a proliferation of overcrowded private schools, helping students to pass state examinations (Wolff, 2006). In the United Kingdom, only in the last 30 to 40 years has legal education become more open to ideas such as clinical legal education, moving away from teaching law as a doctrine or rules and principles that must be learned and repeated (Flood, 2011).

To sum up, most jurisdictions still require additional exams or certifications before law graduates can practise law. In some jurisdictions, the legal profession has transitioned from being entirely based on apprenticeships to taught degrees, where academics who have no practical experience or who practised law long ago undertake the teaching. In jurisdictions such as the United States, students accumulate significant amounts of debt, even though their education does not guarantee that they will either pass the bar exam to be admitted to practice or subsequently find employment, which will help them pay off the accumulated debt (Matasar, 2004). Conventional legal education in common and civil law jurisdictions could do more to prepare lawyers for real-world practice.

Focus on Adaptive Cognitive Skills

The legal services market is rapidly changing. The reasons include the growing role of digital technologies and the greater use of flexible working arrangements, such as fixed-term contracts, temporary agency work, or offshoring legal tasks to countries with lower labour costs (Daly & Silver, 2006; Deloitte, 2017; Dzienkowski, 2014). In the post-industrial and post-COVID society, a much greater share of skilled specialists work from home (teleworking), do not have a permanent employment contract with fixed hours, and can have their employment terminated much more easily compared to the past industrial society (Kryvoi, 2007). Lawyers therefore have to adjust their knowledge and skills to the market's changing practices and demands.

Lawyers must be on top of laws, which are constantly changing, and unlike many other professions, lawyers are usually required to engage in continuing legal education. In the United Kingdom, the United States, and many other countries, the higher education sector plays only a modest role in providing such education, and law firms themselves often organise it instead (Westwood & Barton, 2016).

Ronald Dworkin, an influential philosopher of law, opined that the theory of law is an interpretative process, and the participants should understand the meaning of the law as it is derived from the legal context (Dworkin, 1986). Legal education aims to develop skills enabling learners to “adapt” to new circumstances. It is not enough simply to learn “black letter law” which changes more often than the essentials of many other disciplines. Adaptive cognitive skills would help learners to apply legal rules and principles more flexibly by reflecting on their existing knowledge and adapting it to their understanding of the practical context of each different application context.

Such an approach would put the learner into the role of a researcher who must find the relevant rules and how to apply them, initially guided by the educator and then, gradually, without such guidance as discussed in more detail in Part 2 of this book.

The need to develop adaptive skills is not peculiar to legal education. For example, in medical education, “adaptive expertise” means critical thinking that challenges existing assumptions, openness to reflect on practice, meta-reasoning that recognises shortcomings, and the ability to reconstruct a problem. In other words, learners should keep their knowledge active and flexible rather than automated (Lajoie & Gube, 2018). In management education, the concept of performance adaptation focuses on key elements of adaptive behaviour, specifically “cognitive, affective, motivational and behavioural modifications made in response to the demands of a new or changing environment, or situational demands” (Baard et al., 2014).

As with any reasoning, legal reasoning involves dealing with intellectual obstacles. Teaching is supposed to create such obstacles for the learner to learn how to overcome them (Vygotsky, 1991). An important goal of legal education is to strengthen the learners’ ability to observe and scrutinise their own legal reasoning, depending on the context. That includes the ability to self-observe their own learning progress in an objective and critical way. By applying the same legal rules in different factual contexts, the learners would come to contextualise new knowledge in practice, thus developing adaptive skills such as providing alternative explanations related to how a particular legal rule of principle works in practice. With time, such adaptive skills will become more automatic, strengthening the professional competence of the learners. Adaptive skills in the context of legal education may be defined as the capacity to apply legal rules and principles more adaptively through increased reflection on their existing knowledge and understanding of the practical context.

To sum up, this chapter has argued that legal education differs from education for other professions because of its focus on finding, interpreting, and applying law while following ethical and other professional practice requirements. Although domestic laws vary, the nature of knowledge and skills required for practising law remain very similar across jurisdictions. Moreover, domestic legal systems and requirements for lawyers have converged due to globalisation, the reach of international law firms, and international organisations’ harmonisation efforts. Lawyers need to adapt to the changing demands of the market, laws, and new facts and approaches to legal practice to succeed.

A discussed earlier, law degrees typically do not allow graduates to practise law successfully or even to attempt to qualify as lawyers. They need to sit additional exams (e.g., bar exams) and/or do apprenticeships (e.g., a training contract) and gain the knowledge and practical skills required for formal admission to practise law. This shows the detachment of legal education from legal practice. It is particularly worrying because law graduates must learn how to work in the world, dealing with the problems facing real people and businesses, potentially worsening their problems because of lack of legal experience, rather than in the safe classroom.

2. Online Technologies in Legal Education

How can online technologies help to overcome the separation between legal teaching and practice? This chapter shows that there is a great demand for “learning at scale” in legal education, and online technologies can address the problems of demand and inequality as well.

The Use of Online Technologies in Legal Education

Even before the COVID-19 crisis, which forced many educators to move online, legal education had been moving towards a greater use of technology. Progress, however, was slow.

Document management systems, time and expense management software, electronic systems for submitting and tracking court documents, and working with legal document templates – all these have become part of daily life in nearly all international legal practices. Lawyers increasingly use videos, diagrams, and specialised software to prepare presentations, submissions, and communicate with their clients and colleagues, all of which demands new approaches in the teaching of law (Sherwin et al., 2006).

Legal practice has been transformed dramatically by digital technologies. This has led to massive investments in the digitisation of the legal profession. For example, in the wake of the COVID-19 pandemic, the United Kingdom’s government allocated £1 billion to integrate technology into the justice system, extend the use of online services and remote hearing capability, reducing the need for people to visit sites in person to do their jobs, follow their cases, or file information online (HM Courts & Tribunal Services, 2021).

Lawyers are increasingly replacing paper documents with online versions of forms, and they are substituting registered mail with electronic submissions. In addition, lawyers have developed communities of practice, with multiple legal journals, online blogs, listservs, and events, which help them to make new contacts and remain up to date about the most recent developments in their fields of practice. However, despite these changes, legal education does not view technological proficiency as a critical learning outcome.

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