EXPERIENTIAL EDUCATION IN THE LECTURE HALL

Jessica Erickson

ABSTRACT

The move to reform legal education cannot happen without engaging doctrinal faculty as well as skill-based educators. Thus far, experiential education has not made much headway among doctrinal faculty. Many doctrinal faculty members see their role as teaching legal doctrine and believe that experiential methods are unnecessary to teach this doctrine. Curricular innovation requires dismantling this belief. Experiential learning is not just appropriate for the relatively few skills courses in law schools. It is the best way to teach all material in law schools, including doctrine. This Essay argues that the push for experiential education in law schools is really a push for better teaching. Framing experiential education in this way can help break down the barriers to curricular innovation and ensure that experiential methods are used in ways that promote the learning goals in legal education today.

*Associate Professor, University of Richmond School of Law. B.A., Amherst College; J.D., Harvard Law School.
# Table of Contents

## Introduction

II. Experimental Education as Good Teaching

   A. Focusing on Student Learning
   B. Teaching Doctrine
   C. Teaching Higher-Order Skills and Understanding

II. Bringing Experimental Education into the Lecture Hall

   A. Determining Learning Objectives
   B. Developing Assessments
   C. Creating Learning Activities

III. Encouraging Doctrinal Faculty to Incorporate Experimental Learning Methods

   A. Teacher Training
   B. Fostering a Community of Teachers
   C. Experiential Course Materials
   D. Re-examining Class Sizes
   E. Reduced Scholarship Loads
   F. Sabbaticals in Practice
EXPERIENTIAL EDUCATION IN THE LECTURE HALL

INTRODUCTION

Legal education today is composed of two separate worlds. The first world includes clinical faculty, law skills faculty, and other related faculty. These faculty members have long embraced experiential education, and they organize and attend conferences like this one. The other world includes people like me—doctrinal faculty members who are still largely teaching the way we always have. As we see it, our role is to teach doctrine and legal analysis, leaving skills training and other experiential teaching to others. Experiential education is simply not a part of our professional conversation.

It is only a slight exaggeration to say that these two worlds never meet. They speak in the hallways and they sit in the same faculty meetings, but they rarely meet as educators to discuss their collective ideas on how to teach their students. As a result, while different models of experiential education have been debated, studied and critiqued by one group of legal educators, it is largely ignored by the other.

This divide matters when it comes to educating our students. Doctrinal faculty members still comprise a majority of the full-time faculty at most law schools. They also still teach a majority of the credit hours at most law schools. And, through sheer numbers if nothing else, they still control the curriculum at most law schools. The move to reform legal education cannot happen without engaging doctrinal faculty.

Experiential education has not made more headway among doctrinal faculty for at least two reasons. First, many doctrinal faculty members see their role as teaching doctrine, not teaching a broader array of skills. Professors already cannot cover all of the important doctrinal rules in their courses, so they are loathe to sacrifice doctrine to promote other learning goals. Second, many doctrinal faculty believe that there is no need to use experiential methods to teach doctrine. The case method is the norm, and we are rarely pressed to think about other teaching methods.

Curricular innovation requires dismantling both of these beliefs. Experiential learning is not just appropriate for the relatively few skills courses in law schools. It is the best way to teach all material in law schools, including doctrine. To have a deep understanding of the law, students must be able to use the law to craft legal arguments, draft legal documents, and shape legal strategy. A student who has memorized the rules but who cannot apply it in these ways does not know the law in any satisfactory way. Yet students do not acquire this deep understanding of the law through passive methods of instruction. Students learn by experiencing, and doctrine is no exception.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

Framing experiential education as good teaching can help increase its appeal for many doctrinal professors. Many doctrinal professors have a hard time understanding why they should bother with experiential learning methods. Without the proper context, these methods can feel gimmicky, raising a concern that professors are sacrificing intellectual rigor for classroom amusement. Encouraging professors to think instead about good teaching may break down some of the mental barriers to experiential methods.

This Essay argues that the push for experiential education in law schools is really a push for better teaching. Part I explains the relationship between experiential education and student learning. Part II explores different ways to use experiential education in traditional doctrinal courses. Part III examines ways to foster a culture of experiential education among doctrinal faculty.

I. EXPERIENTIAL EDUCATION AS GOOD TEACHING

Doctrinal professors remain skeptical of experiential learning methods because they have accepted a well-rehearsed narrative. According to this narrative, experiential learning methods are designed to teach skills, not doctrine. We all know that classroom time is precious, so if we teach skills, we sacrifice opportunities to teach doctrine. This trade-off hurts our students because they can learn skills on the job, but law school is their only chance to learn doctrine. As a result, doctrinal professors should focus on teaching doctrine and leave experiential methods to the educational fringes of the curriculum.

This Part dismantles this narrative through three related points. First, the debate about experiential education is really a debate about student learning. Second, students learn doctrine better when professors use experiential teaching methods. Third, to the extent that doctrinal professors want their students to leave law school with other higher-order proficiencies, students can only acquire these proficiencies through experiential learning methods.

A. Focusing on Student Learning

The current model in legal education is teacher-oriented. We focus primarily on the content of our courses. The more content we cover, and the more rigorous our content is, the better we can assume our classes to be. This focus is not surprising. After all, we are experts in the content—all of our training and research has focused on content. In contrast, we generally know little or nothing about teaching and learning. Perhaps we have gone to a few workshops on pedagogy, but our knowledge in this area still pales in comparison to our knowledge of content. As a result, when we think about our teaching, we generally think about content.

This focus misses the real goal of education. At the end of the day, we do not want simply to cover the material. Instead we want to ensure that students are learning the material.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

If they evaluate themselves honestly, most professors would probably admit that their students are not learning as much as the professors had hoped. Professors often talk with disappointment about their students’ exam answers or contributions in class. Yet, we are not sure how to improve this situation, so we just vow to teach the doctrine more thoroughly the next time around. This strategy never answers the crucial question—if we are quite sure that we taught the material, why don’t the students seem to be learning it?

To really improve legal education, we need to focus more directly on student learning. What do we really want students to learn in law school? And, just as importantly, how can we ensure that they are actually learning what we want them to learn? In other words, if the goal of teaching is to facilitate learning, we have to spend as much time (or more) thinking about how we teach as we do thinking about what we teach.

B. Teaching Doctrine

Even if the only goal of doctrinal courses is to teach doctrine, how can we best accomplish this goal? There are few empirical studies of the effectiveness of different teaching methods in legal education. Research from other disciplines, however, sheds considerable light on this question.

Cognitive scientists have proven that students learn best when they are actively engaged in the material.¹ The human brain can’t store everything—we simply see and experience too many things in our everyday lives to store everything in our long-term memory.² Given this limitation, our brains assume that, if something is important, we will spend time thinking about it. As a result, information gets into our long-term memory only if we spend time thinking about and processing the information.³ In other words, memory is not a product of what students want to remember or even what they try to remember. Instead, students remember what they think about.

This observation explains a common frustration of professors. We often wonder why our students fail to remember material that we know we covered in class. The answer is likely that the information never made it into the students’ long-term memory. The students did not have to

² See Daniel T. Willingham, WHY DON’T STUDENTS LIKE SCHOOL: A COGNITIVE SCIENTIST ANSWERS QUESTIONS ABOUT HOW THE MIND WORKS AND WHAT IT MEANS FOR THE CLASSROOM 61-63 (Jossey-Bass 2009);
³ See id.
think deeply about the information, so as a result, their brain did not think the information was important enough to store in long-term memory.

This research explains why active learning methods are so successful. When we ask students to apply course material in a problem or case study, we are really asking them to think about the material. This process of intellectual engagement is more likely to get the information into students’ long-term memory. Accordingly, even if our only goal is to have students remember doctrinal rules, active learning methods are preferable because they force the brain to engage with the material.

The research backs up this conclusion. Again, I am not aware of large-scale studies from legal education on this topic, but academics in other disciplines have repeatedly proven the benefits of active learning methods. In 2011, for example, Nobel scientist Carl Wieman and two other researchers studied two sections of an introductory physics class for engineering students.4 These sections, which each included more than 250 students, were originally taught using a traditional lecture format. During one week of the course, however, the researchers arranged for one section to learn through a method of “deliberate practice,” in which they asked students to apply their learning and puzzle out problems during class. The study found that student engagement in the experimental section nearly doubled and attendance increased by twenty percent. Even more importantly, the students in the experimental section did more than twice as well on the test compared to those in the control section. The results prompted one of the researchers to note that, “learning only happens when you have this intense engagement . . . It seems to be a property of the human brain.”5

Researchers have reached similar conclusions through research on educational assessments. The traditional view is that students learn by studying, and that the role of testing is simply to measure this learning. Yet, a wealth of studies demonstrating that testing itself enhances student learning.6 The process of retrieving information that occurs during assessments often produces greater learning and long-term retention than studying alone. In other words, testing and other forms of active learning force the brain to engage with the material, leading to deeper learning than studying alone. This research suggests that we cannot simply cover the material in class, relying on students’ out-of-class studying to ensure learning.

---

4 Louis Deslauriers, Ellen Schelew, Carl Wieman, Improved Learning in a Large-Enrollment Physics Class, SCIENCE MAGAZINE (May 13, 2011).
EXPERIENTIAL LEARNING IN THE LECTURE HALL

The standard response from doctrinal professors is that the Socratic Method is itself an active learning method. In its ideal form, maybe it is. The Socratic Method is designed to prompt students to assess the strength of legal arguments through a series of back-and-forth exchanges between the students and the professor. Even students who are not directly on the hot seat must participate in the event that they are the next target of the professor’s questioning. When done perfectly, the Socratic Method may well be able to teach complex legal reasoning to a large class of students.

As many scholars have noted, however, this ideal bears little resemblance to the methods used in most doctrinal courses today. The Socratic classroom has turned into a “soft Socratic” space. Professor Stephen Bainbridge describes this style in commenting on the teaching of one of his colleagues, “He started today’s session by picking up the thread of a discussion from yesterday. After reviewing the material by lecture, he started the new material. As before, he relied on volunteers. He got some participation, but it wasn’t particularly interactive. Students made a comment, he made a comment, and went on...” This approach demands far less of the students than the traditional Socratic approach.

Moreover, professors may have a romanticized notion of what is going on in their students’ heads during a typical class. From the professor’s perspective, the class feels engaging. They are asking questions, students are responding, and, for the professor, the whole process is a great deal of fun. They may therefore assume that their students are actively engaged in the material, answering the professor’s questions in their heads even if they are not the focus of the professor’s attention. The reality often does not match this idealized hope. In most classes, students can passively listen to the exchange, waiting for the professor to repeat the correct answer or summarize the most salient points. In between these moments of typing, students can let their attention drift. If the professor asks them a question, most students can stumble through a passable response without provoking the professor’s ire.

---

7 See, e.g., Lon L. Fuller, On Teaching Law, 3 STAN. L. REV. 35, 40 (1950) (“If the instructor has laid the foundation for this kind of question, and if his students believe that he genuinely wants their help in solving these problems, the whole atmosphere of the discussion changes. It is as if an electric current had passed through the classroom.”); Gary Shaw, A Heretical View of Teaching: A Contrarian Looks at Teaching, the Carnegie Report, and Best Practices, 28 Touro L. Review 1239 (2012).

8 The Socratic method may still have other costs. For example, Professors Lani Guinier, Michelle Fine, and Jane Balin have argued that the Socratic method is partially responsible for the relative underperformance of female law students. See, e.g., Lani Guinier et al., Becoming Gentlemen: Women’s Experiences at One Ivy League Law School, 143 U. PA. L. REV. 1, 46, 94 (1994).

EXPERIENTIAL LEARNING IN THE LECTURE HALL

The Socratic Method may also move too quickly to produce meaningful learning.\(^{10}\) The rapid-fire questions and answers make it difficult for students to absorb the information in any meaningful way. Students may be so busy trying to follow the dialogue and type the key points into their notes that that they do not have time for the mental processing that true learning requires.\(^{11}\)

In short, even if our only goal is to teach doctrine, we need to think about ways to force our students to engage with the doctrine so that it gets into their long-term memory. The Socratic Method may lead to this engagement, but it is also relatively easy for students to become passive participants in a Socratic class, especially if the class is the soft-Socratic style more common today. The next question is whether doctrinal professors should have broader goals for our students beyond simply understanding and remembering the doctrine.

C. Teaching Higher-Order Skills and Understanding

Most doctrinal professors would probably say that they do not aim to produce students who can simply recite the rules. Instead, they want their students to be able to use the doctrine in the same ways that lawyers and policymakers use the doctrine—to solve problems, make decisions, and critically evaluate the world. As Dean Edward Rubin has stated, “educational theory has come to the realization that skills are not only central to the process, but it’s how you understand theoretical material. . . . You don’t have that on the ground understanding [without putting the theory into action].”\(^{12}\)

Even within doctrinal learning, there are different levels of knowledge. A student who can use the doctrine in a sophisticated way has a higher-level of understanding than a student who can simply recite the doctrine. These levels of knowledge are reflected in Bloom’s taxonomy,\(^{13}\) which provides a framework for understanding educational goals:

---

\(^{10}\) As learning experts have noted, the opportunity for reflection is a key part of the learning process. See, e.g., Boud, D. et al (eds.) (1985) Reflection. Turning experience into learning, London: Kogan Page.

\(^{11}\) Professor Gerald Hess suggests that professors can ameliorate this problem by incorporating opportunities for student reflection into the Socratic dialogue. For example, the professor may “ask the entire class to silently formulate a response in thirty seconds, or to write a brief response in one minute, or to turn to the next person and discuss the question for two minutes.” Gerald F. Hess, Principle 3: Good Practice Encourages Active Learning, 49 J. LEGAL EDUC. 401, 407 (1999).


EXPERIENTIAL LEARNING IN THE LECTURE HALL

As this diagram demonstrates, students encounter and work with knowledge using a range of cognitive processes, ranging from the relatively easy task of remembering information to the much more complex task of being able to create new information.

Most doctrinal professors want their students to be at the higher end of Bloom’s taxonomy, but this deeper learning does not come easily. The challenge of learning to recite legal rules is significantly different than the challenge of learning to solve a problem with those rules. The former involves shallow learning of the doctrine, while the latter involves a much deeper form of learning.

So how can professors ensure that their students leave with deep learning rather than shallow learning? Again, cognitive science emphasizes the importance of active or experiential learning. If we want students to demonstrate higher-order thinking, we have to shape our classes around activities that require this type of thinking. In other words, if you want your students to have a deep understanding of the material, you cannot teach your class in a way that emphasizes a more shallow understanding of the rules. Instead, as scientist Daniel Willingham has stated, “experience helps students to see deep structure,” even in doctrinal material.15

This research has direct implications for doctrinal professors. If we want students to know how to analyze new information, we must devote class time to this analysis. If we want students to be able to evaluate the law, we must develop learning activities devoted to this

14 See, e.g., David A. Sousa, HOW THE BRAIN LEARNS 266 (4th ed. Corwin 2011) (“Our students would make a quantum leap to higher-order thinking if every teacher in every classroom correctly and regularly used a model such as Bloom’s revised taxonomy.”).

EXPERIENTIAL LEARNING IN THE LECTURE HALL

evaluation. We cannot spend class time lecturing on the minute intricacies of agency law and then magically expect students to be able to use or apply this law.

This understanding of learning also forces professors to think more deeply about the goals for their courses. If we do not want students simply to be able to parrot back the law, we have to think about what we do want them to be able to do. How do we expect them to be able to use their knowledge? The answer should then shape our course design. If I want my students to be able to use agency law to advise clients on how to structure their businesses, then I need to ensure that my students practice applying the law in this context. This is not experiential learning for its own sake. Instead, it is experiential learning for the sake of accomplishing the specific learning objectives for the course.

This understanding of learning also challenges the traditional divide between doctrinal teaching and skills teaching. Doctrine is not more important than skills or vice versa. Instead, if we want students to acquire a higher-order understanding of legal doctrine, we must give them plenty of opportunities to practice using the doctrine in these higher-order ways. If we want students to have a deep understanding of the pleading rules applicable in federal court, we should have them draft a complaint that complies with these rules. If we want them to have a deep understanding of the profit sharing rules in partnerships, we should have them draft provisions of a partnership agreement that relate to these rules. In other words, skills and doctrine are not a zero-sum game. They reinforce each other, together leading to deeper learning for students.

II. BRINGING EXPERIENTIAL EDUCATION INTO THE LECTURE HALL

It is one thing to say that doctrinal professors should promote deeper learning in their courses by incorporating experiential learning methods. It is quite another thing to incorporate these methods effectively. If we want doctrinal professors to adopt these methods, we must teach them how to do so in a way that is consistent with their broader teaching objectives. This Part presents experiential learning methods as part of a larger discussion about course design. Rather than incorporating experiential opportunities into their courses on an ad hoc basis, professors should think carefully about what they want their students to learn and what teaching methods will best lead to this learning.

A. Determining Learning Objectives

Experiential education is not an end unto itself. Nor do active learning exercises ensure that students will become good lawyers. The key is to link experiential education with the professor’s learning objectives for the course. The first step in course design therefore is to identify these learning objectives.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

Many professors have never thought explicitly about their learning objectives. As a result, they often default to the doctrinal subjects in their course books. These course books typically use the case method, even in courses where the subject area would lend itself to a different approach.\textsuperscript{16} As a result, if professors do not make a conscious decision to determine their learning objectives, they will likely find themselves spending most of their class time marching through doctrinal material.

Yet, as discussed above, most professors have broader learning goals for their students. They may want their students to improve their critical thinking skills and learn how to dissect statutes. They want them to be able to translate their learning into actual lawyerly tasks like drafting contracts, writing motions, and making evidentiary objections. And they may want their students to think about the social, economic, or political impact of the law. Most professors, if pressed, have grand hopes for their students and for their teaching.

These broader goals relate back to Bloom’s taxonomy described above. Using this taxonomy, professors can start to identify what they want their students to get out of their courses. In some areas of their courses, professors may be happy with shallow knowledge (remembering or understanding on the taxonomy). In other areas, they may want to devote the time necessary to produce deeper learning (applying, analyzing, or evaluating).

Professors should also use this opportunity to think about whether their goals extend beyond learning the doctrine. In his book entitled \textit{Creating Significant Learning Experiences}, Dee Fink explains how any courses can support multiple kinds of learning objectives.\textsuperscript{17} He breaks down possible learning objectives into the following categories:

\begin{itemize}
  \item \textit{Foundational Knowledge:} knowledge about the phenomena associated with the subject and the conceptual ideas associated with those phenomena
  \item \textit{Application:} an ability to use and think about the new knowledge in multiple ways, as well as the opportunity to develop important skills
  \item \textit{Integration:} The ability to connect one body of knowledge with other ideas and bodies of knowledge
  \item \textit{Human Dimension:} discovering how to interact more effectively with oneself and with others
\end{itemize}

\textsuperscript{16} For example, as a business law professor, I am always surprised that Business Associations course books are typically based around cases, rather than contracts, transactions, and management decisions.

\textsuperscript{17} L. Dee Fink, \textit{Creating Significant Learning Experiences: An Integrated Approach to Designing College Courses} 74 (Jossey-Bass 2003).
EXPERIENTIAL LEARNING IN THE LECTURE HALL

Caring: the development of new interests, feelings, and values

Learning how to learn: developing the knowledge, skills, and strategies for continuing one’s learning after the course is over.

These categories are similar to Bloom’s taxonomy, but they support a broader set of learning objectives. And while doctrinal professors may be hesitant to incorporate the teaching of interpersonal and related skills into their courses, it is clear that employers value these skills.  

In determining their learning objectives, professors should resist the urge to simply copy the doctrinal topics traditionally covered in the course. Instead they should ask themselves, “A year (or more) after this course is over, what do I want my students to still remember, think, and/or be able to do?” In other words, what will separate a student who has taken this course from a student who has not? Consider objectives that incorporate critical thinking, problem-solving, and learning how to learn.

Identifying learning objectives gives structure to the process of incorporating active learning methods into doctrinal courses. Doctrinal professors are often skeptical about experiential education because they think it will result in a scattershot approach to teaching in which experiential exercises are sprinkled throughout the course without a clear benefit to the students. If experiential methods are matched to the professor’s learning objectives, however, they will complement the course, leading to deeper learning for the students.

B. Developing Assessments

The next step is to figure out how to measure whether students are meeting the learning objectives. This step may require many doctrinal professors to rethink their approach to assessments. We typically think of assessments as summative—a way to evaluate and sort our students. We use final exams, for example, to determine what our students know so that we can assign them a grade. With learning-oriented teaching, however, the purpose of assessments is first and foremost to aid student learning. In other words, assessments should be formative, helping students to assess their own progress in meeting the learning objectives of the course.

---


19 This is harder than it sounds. The first time I sat down to figure out the course objectives for my Business Associations course, it took me considerable time to think of any learning objectives beyond “Understand Partnership Law” and “Understand Fiduciary Duties.”
EXPERIENTIAL LEARNING IN THE LECTURE HALL

Formative assessments have a natural connection to experiential education. If the course has broad and ambitious learning objectives, the assessments themselves must be broad and ambitious, often with an experiential component. For example, one of the learning objectives in my Business Associations course is for the students to learn how to evaluate and draft contractual provisions and other business-related documents. Students cannot measure their progress on this objective unless they are frequently evaluating and drafting contractual provisions and related documents. If I really want my students to meet this goal, I have to devote class time to drafting exercises, giving my students feedback on these exercises.

The prospect of adding assessments often scares doctrinal faculty. In classes with large enrollments, faculty members are simply limited in how much individualized feedback they can give their students. As a result, many faculty members do not give much thought to assessment techniques, relying on a single end-of-semester exam. Yet assessments can take many forms, not all of which must involve individualized feedback by the professor. As long as the purpose is to aid student learning, rather than simply to assign a grade, professors have more flexibility in designing their assessments.

Assessments come in at least three types: instructor assessments, self-assessments, and peer assessments.

In deciding between these three types, professors should think about what types of assessments will best achieve the learning objectives for their courses.\footnote{In their book Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam, Professors Michael Hunter Schwartz, Sophie Sparrow, and Gerald Hess provide a number of different assessment techniques. \textit{See Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam} 135-164 (Carolina Academic Press 2009). There are also a multitude of websites from other disciplines that discuss}


EXPERIENTIAL LEARNING IN THE LECTURE HALL

Instructor Assessments: As noted above, doctrinal professors are often limited in the amount of individualized feedback they can give their students. A professor teaching ninety students cannot offer weekly writing assignments. This fact, however, does not mean that professors are necessarily limited to a single final exam—there are a range of options between weekly writing assignments and a single exam. Professors can offer one or two graded assignments during the semester. They also can spot-check assignments or provide global feedback to the class.

Self-Assessment. Professors can also encourage students to assess their own learning. Professors can distribute a rubric to allow students to assess their own work. They can also give students a short amount of time to complete an assignment in class and then review it as a class or distribute model answers, encouraging students to compare their answers to the model.

Peer Assessment. Professors can also use peer assessment techniques. Students can work in teams in class to solve a challenging problem. They can also work on assignments individually outside of class and then compare their answers with their classmates in class.

Professors can also use a combination of these methods. I am experimenting with requiring the ninety students in my Business Associations course to keep Google Docs. These web-based documents are accessible to me and the individual students, so I can view and make comments on all ninety Google Docs. Approximately once a week, my students have to complete a short written assignment in their Google Doc. For example, when we study corporate indemnification, my students have to read the corporate charter and bylaws of a public company, find the indemnification provision, compare it to the relevant Delaware statute, and determine if the provision goes to the full extent of the law. At other points during the semester, the students draft contractual provisions, write client e-mails, and create flow charts to dissect complicated statutes.

Despite the frequency of these assignments, I spend relatively little time providing individualized feedback. These assignments are not graded, although students will lose points if they do not complete the assignments and I do check to make sure that the students completed the assignments. I also spend approximately an hour prior to class making short comments in a random selection of the Google Docs. Then, in class, I have the students work in pairs to compare their analyses. Where they disagree, I tell them to use the case or statute to resolve the disagreement. I then provide my own analysis of the assignment. This format gives students regular instructor assessment, peer assessment, and self-assessment despite the large size of the class.

EXPERIENTIAL LEARNING IN THE LECTURE HALL

The key point is that these assessments must be tied to the learning objectives for the course. We cannot say that we want our students to have a deep applied understanding of the law and then create assessments that only require a shallow understanding. Formative assessments should be an opportunity for students to practice the higher-order proficiencies described in Part I.

C. Creating Learning Activities

The final step in the course design process is to determine the learning activities for the course. These learning activities should again be closely tied to the learning objectives and assessments outlined above. Indeed, the three steps—defining objectives, developing assessments, and creating learning activities—should all be tightly intertwined, such that each class period has students actively engaged in activities that will allow them to assess their progress in meeting the learning activities.

Doctrinal professors have little training in active learning methods. We may devote class time to problem sets or occasionally ask our students to work in groups, but we do not have a full repertoire of different teaching methods. The following is a short summary of a few methods that are commonly used across disciplines:

*Think-Pair-Share:* This exercise asks students to think about a problem for a short amount of time on their own. They then discuss the problem and compare their answer with the student sitting next to them. Finally, the class discusses the problem as a whole.

*Concept Mapping:* This exercise asks students to create visual maps of doctrine, allowing them to see the relationships between different types of legal rules.

*Collaborative Learning Groups:* Professors break the class into groups of four to six students to solve tasks. These groups can work on one task in a single class period or they can be assigned to work together throughout the semester on long-term projects.21

*Case Studies:* This approach is based on the business school method of teaching with case studies. These case studies give students detailed factual summary about a given problem. The students then work in teams or as a class to think about how to work through the problem.

21 For a helpful discussion of the use of teams in the classroom, see Larry K. Michaelsen, Arlette Bauman Knight, & L. Dee Fink, TEAM BASED-LEARNING: A TRANSFORMATIVE USE OF SMALL GROUPS IN COLLEGE TEACHING (Stylus Publishing 2004).
EXPERIENTIAL LEARNING IN THE LECTURE HALL

There is a wealth of resources available to professors who are interested in learning about additional active learning methods.22

Doctrinal professors should look for opportunities to have students use their learning in realistic ways. A Civil Procedure class that is learning about personal jurisdiction can work in teams to interview a mock witness in a personal injury case. A Business Associations class that is learning about fiduciary duties can draft memos to mock clients advising them on how to structure a business decision to comply with their fiduciary obligations. Law professors have a broad repertoire of teaching methods available to them because they want to train their students to use their learning in specific ways out in practice.

Professors can also involve real clients in their learning activities. One of my colleagues teaches a Non-Profit Organizations course that works with local non-profits on governance issues. A Public Policy Research & Drafting course at my law school pairs teams of students with local government agencies to draft white papers on legal issues of concern to the agencies. At the University of Oregon School of Law, students can choose add-on lab courses that allow them to work with real clients in a given area of the law.

These opportunities again highlight the connection between good teaching and experiential education. Deep learning does not occur through passive instructional methods. Instead, we must get students actively engaged in their learning—thinking, analyzing, evaluating, and doing—so that what they learn becomes part of their long-term memory. In other words, the focus in all of these efforts is to use experiential education in ways that improve student learning. Professors should not incorporate experiential education into their courses because it is a popular trend in legal education. Instead, they should think deeply about their learning objectives and use experiential learning methods to help their students to meet these objectives.

III. ENCOURAGING DOCTRINAL FACULTY TO INCORPORATE EXPERIENTIAL LEARNING METHODS

If we want professors to reshape their pedagogy, we have to give them the tools to do so. This Part explores several different options including: (i) training teachers in experiential learning methods, (ii) fostering a community of teachers, (iii) creating experiential course materials, (iv) reducing class sizes, (v) reducing scholarship loads, and (vi) offering professors the opportunity to take sabbaticals in practice.

EXPERIENTIAL LEARNING IN THE LECTURE HALL

A. Teacher Training

Many professors want to improve their teaching, but they do not know how to do so. The good news is that there are far more resources on law teaching than there used to be. The bad news is that most teachers still get no training whatsoever in how to teach.

The legal academy should make teacher training a top priority. The New Law Teachers’ Conference sponsored by the American Association of Law Schools (AALS) is a good start, but professors need continued training in teaching throughout their careers. There are a few organizations that offer such training now, but the opportunities remain limited.

The AALS should serve as a leader in this area, making teacher training one of its core missions. For example, it could sponsor an annual conference where professors spend two or three days engaged in focused training on a broad instructional topic. Examples might include course design, assessments, or active learning methods. These conferences could bring together pedagogy experts with professors from a variety of legal areas to discuss how to improve law school teaching.

Law schools should also offer their own training. Many universities have centers devoted to teaching, but these centers rarely make inroads at the law school. Law schools should take greater advantage of these resources. Deans should arrange for intensive workshops in pedagogy and course design for their faculty. These workshops could be aimed at junior faculty members specifically, creating an opportunity for new faculty members to develop and improve their teaching skills, or they could be geared to the law faculty as a whole. Schools should also develop greater opportunities for evaluation and feedback, perhaps by organizing small groups of professors to sit in on each other’s classes and offer feedback. Law schools could even offer reading groups on new instructional texts to spark discussions about pedagogy.

As part of this effort, law schools should consider devoting extra attention to teaching course design principles to their new faculty members. Many faculty members do not know how to design a new course other than to peruse the bestselling case books and then choose the doctrinal subjects they want to cover. Given this starting point, it is not surprising that so many law school courses focus almost exclusively on the doctrine.

The irony of this approach is that there is a wealth of information available on course design. There are books addressing course design as a whole and books written about specific

23 For example, the Institute for Law Teaching and Learning offers an annual conference. Recent topics have included the use of technology in teaching, student assessment, and teaching law practice skills. See Institute for Law Teaching and Learning, at http://lawteaching.org/conferences/index.php.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

steps in the course design process. There is even a book written about course design in law schools specifically. There are also universities that hold intensive trainings on this subject and speakers who can come to law schools to conduct this training. In other words, if law schools want their professors to think more deeply about their course design, they are plenty of resources these schools can use.

B. Fostering a Community of Teachers

Law schools should also work to foster communities of teachers in the same way that they foster communities of scholars. Most law schools have robust programs to encourage faculty scholarship—travel stipends to allow faculty to attend conferences, outside speaker series, half-baked workshops to allow faculty to present early paper ideas, and financial support to hire student research assistants, among others. Many schools also encourage professors to work together to critique scholarly arguments and edit drafts. These efforts combine to create a community of scholars at law schools who are used to working together in a collaborative way.

In contrast, any sharing of ideas about teaching tends to be ad hoc and haphazard. Teaching in many law schools is a fairly isolated enterprise. Professors do not sit in on each other’s classes unless they are reviewing a colleague’s teaching for promotion purposes. Professors seldom meet in groups to listen to outside speakers on teaching or to discuss their own teaching. In short, there are rarely opportunities for professors to work together on teaching in the same way that they work together on scholarship.

Law schools should devote attention and resources to creating a community of teachers. For example, law schools can create Faculty Learning Communities that meet in small groups regularly to discuss a discrete teaching topic. Schools can also bring in outside speakers to work with the faculty on various teaching-related subjects. In addition, they should encourage professors to observe each other’s classes and offer feedback. These efforts would encourage professors to collaborate on their teaching and explore different teaching methods.

EXPERIENTIAL LEARNING IN THE LECTURE HALL

C. Experiential Course Materials

Doctrinal faculty also need better course materials that include more opportunities for active learning. Publishers are starting to respond to this need, but for the most part, these materials are separate from the course books themselves. As a result, if I want to use experiential materials in my Business Associations course, my students must buy the traditional case book and statute book, plus the experiential add-on—an expensive set of requirements for students. It also means that I have to assign the traditional cases, plus the experiential exercises, if I want students to understand the doctrine before trying the exercises. Limited class time makes it difficult to give sufficient attention to either. A more integrated set of course materials would provide a better balance for students’ wallets and schedules.

There are a few course books that offer this integration, but the offerings are still few and far between. Professors who are interested in basing their courses around experiential learning opportunities should encourage publishers to offer a course books based on this learning. There are many doctrinal areas, especially in the upper-level curriculum, where the learning does not have to revolve around the case method. Instead the primary materials in these areas could include fewer cases and more opportunities for experiential learning.

D. Re-examining Class Sizes

Law schools should also consider reducing class sizes to promote more intensive teaching methods. Large class sizes do not make it impossible to incorporate experiential learning, but they do make it more difficult. In a semester of smaller classes, I can assign more frequent writing assignments and give detailed feedback. I can have the students work in teams on case studies, and I can monitor the teams’ progress. I can also keep tabs on the learning of individual students, working one-on-one with students who are falling behind.

In semesters in which I am teaching more students, the classes feel more like an assembly line. I still use active learning exercises where I can, but I cannot give nearly as much individual feedback. Nor can I monitor students’ learning as closely. As a result, if individual students are floundering, I may not know it. The exercises also feel more chaotic. When a class of fifty students breaks into teams to work on a challenging project, the classroom comes alive with the energy of student learning. When a class of ninety works in teams on the same project, the noise level can overwhelm the room.

If law schools are committed to innovative education, they need to re-examine the class sizes of large doctrinal courses. Not all classes can be limited to twenty students, but large classes in stadium-style classrooms pose real barriers to experiential learning. Schools could

27 For example, LexisNexis now offers the Skills & Values series in a number of legal areas. See Skills & Values Series, LexisNexis Store, at http://www.lexisnexis.com/store/catalog/catalog.jsp?id=cat80154.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

experiment with a quid pro quo arrangement: The school will reduce the class size of the largest doctrinal courses to a more manageable number (say forty or fewer students) if the professor agrees in exchange to incorporate more active learning methods into the teaching of the course. This proposal requires supervision by the law school administration, but it gives professors the classroom space to try new teaching methods. A professor who does not want to make these changes will not get the reduced class size. 28

E. Reduced Scholarship Loads

Schools should also consider offering doctrinal faculty members reduced scholarship loads to overhaul their courses. Experiential courses put a much greater demand on professors’ time than more traditional courses. If professors stick to a traditional approach, they can use a standard casebook and find plenty of model syllabi. Redesigning an experiential course, however, is much more time-consuming, especially given the lack of available materials in many areas. Given all of the other things on a professor’s plate, it is easy to forego an experiential redesign, sticking instead to the tried and true (but inadequate) teaching methods.

A professor’s scholarly obligations add to this temptation. Most law schools expect their faculty to publish roughly one article per year, and they give faulty members summer stipends and other financial benefits to support these scholarly efforts. A professor who does not meet the school’s publishing efforts will likely find themselves penalized in some way, often through a lower salary. To the extent that a professor’s time is zero sum, there are many financial and other incentives encouraging professors to write another article rather than redesign one of their courses.

Law schools can support professors who want to redesign their courses by temporarily reducing their scholarship obligations. Schools could, for example, allow professors to spend one summer every four or five years redesigning a course, rather than writing another article. Such policies would reflect the fact that professors will only feel free to spend the necessary time redesigning their courses if they will not be penalized, either through their salary or otherwise, for failing to spend this time working on their scholarship.

Schools will have to police these efforts. A professor should not be able to take advantage of a reduced scholarship load simply because they are teaching a new doctrinal course or switching to a new casebook. Instead, the reduced load should be contingent on a course redesign that goes above and beyond a professor’s normal teaching obligations, recognizing that we teach new courses or switch casebooks as part of our normal job responsibilities. Instead, the

28 I recognize that this proposal raises real financial costs. Reducing the number of students in traditionally large doctrinal courses may require hiring additional faculty members. At a time when legal education is already under strain, many law schools will simply be unable or unwilling to take this route.
EXPERIENTIAL LEARNING IN THE LECTURE HALL

school should tie these reduced loads to innovative and time-intensive efforts in the classroom that are designed to enhance student learning.

F. Sabbaticals in Practice

One final (but ambitious) proposal is to offer professors the opportunity to spend one or two semesters in practice. If we want our students to get hands-on experience in doctrinal courses, we have to give our professors the chance to keep their own practice skills current. Law schools already pay for sabbaticals that support scholarship. Teaching, like scholarship, is a core mission of law schools. It is not radical therefore to suggest that law schools should also consider funding sabbaticals that support teaching.

CONCLUSION

Reform in legal education must include doctrinal professors. As long as these professors view experiential teaching as something that other people do, there will not be true reform. This Article argues that the push for experiential education in law schools is really a push for better teaching. Once we re-frame the debate to focus on teaching, we can start to promote real innovation in legal education.