

# TAKING ON THE ROLE OF LAWYER: TRANSACTIONAL SKILLS, TRANSNATIONAL ISSUES, AND COMMERCIAL LAW

Paolo Butturini and Susan L. DeJarnatt<sup>1</sup>

INTRODUCTION .....	226
I. THE NEED FOR GLOBALIZATION IN THE CONTEXT OF SKILLS EDUCATION .....	228
A. The United States Perspective .....	228
B. The Italian Perspective.....	229
1. <i>The need for internationalization of legal education in Italy</i> .....	230
2. <i>The need for skills pedagogy in Italian legal education</i> .....	231
II. HISTORY AND DESIGN OF TEMPLE’S INTRODUCTION TO TRANSACTIONAL SKILLS PROGRAM.....	234
A. History .....	234
B. Structure.....	235
III. BUILDING ON THE PEDAGOGY OF EXPERIENTIAL LEARNING IN ITALY: THE IMPORTANCE OF THE AMERICAN CONTRIBUTION.....	237
A. Preliminary remarks.....	237
B. The main transactional skills .....	239

---

<sup>1</sup> Susan L. DeJarnatt is a Professor of Law at Temple University’s Beasley School of Law where she has been on the faculty since 1996. She primarily teaches legal writing and has regularly taught in Temple’s Rome summer program and in the Introduction to Transactional Skills program. She has taught short courses on common law reasoning, brief writing, and short versions of Temple’s Introduction to Transactional Skills at the University of Verona, where she was a Visiting Professor in 2018. Paolo Butturini is an Assistant Professor of Business Law at the Department of Law at University of Verona where he has been a faculty member since 2008. He teaches Basis of Commercial Law; he also regularly gives company law lectures in advanced legal education contexts. He has been a Research Associate at the University of San Diego School of Law, a Visiting Scholar at The John Marshall Law School of Chicago, a Visiting Research Fellow at the Queen Mary University of London School of Law, and a Visiting Scholar at Temple University’s Beasley School of Law. Paolo is the author of Part I B, and Part III A, B, D, E, F; Susan is the author of the Introduction, Part I A, Part II, and Part III C, G. This article is related to the innovative teaching seminar given by Professor DeJarnatt in the Legal Clinic of the University of Verona Law School on May 4, 2018, in the context of the Excellence Project, Law, Changes, and Technologies of the Law Department of the University of Verona.

C. Contributions of the Introduction to Transactional Skills model....	245
D. Some other possible examples for skills classes.....	246
E. Transactional skills and substantive knowledge .....	249
F. Adapting the Introduction to Transactional Skills model to Italian and other legal systems.....	250
G. Introduction to Transactional Skills model: possible further developments .....	252

## INTRODUCTION

American law schools face an ever-growing call for more skills training and experiential learning as part of legal education.<sup>2</sup> The American Bar Association (ABA), employers, and students all call out for more thorough preparation for the practice of law beyond the traditional focus on doctrine and legal analysis.<sup>3</sup> This call is mirrored by a call for expansion of experiential learning and skills to include those beyond litigation-based writing.<sup>4</sup>

Italian law schools tend generally to adopt a traditional theoretical approach, offering curricular activities that rarely include skills classes or experiential learning.<sup>5</sup> However, some Italian law schools are starting to gradually move away from this traditional approach. Although Italian literature on the topic is not widespread at the moment, increased attention is being paid to the call for a more professionally-oriented legal education, as we will see in Part I, B, 2.

Lawyers today also need to see themselves as part of the international community, not just as individuals concerned only with their localities.<sup>6</sup> An international focus is necessary because the world is going to intrude on your

<sup>2</sup> Anthony Niedwiecki, *Law Schools and Learning Outcomes: Developing a Coherent, Cohesive, and Comprehensive Law School Curriculum*, 64 CLEV. ST. L. REV. 661, 662-74 (2016).

<sup>3</sup> *Id.* at 673-74 (noting that the ABA accreditation standards, adopted in 2014, focus more on learning outcomes and skills development than did the former standards that emphasized inputs rather than outcomes).

<sup>4</sup> Lisa Penland, *What A Transactional Lawyer Needs to Know: Identifying and Implementing Competencies for Transactional Lawyers*, 5 J. ASS'N LEGAL WRITING DIRECTORS 118 (2008); see also Tina L. Stark, *Transactional Skills Education: Mandated by the ABA Standards*, 20 TRANSACTIONS: TENN. J. BUS. L. 693 (2018).

<sup>5</sup> Vittoria Barsotti & Vincenzo Varano, *Legal Education in Italy*, 1 OPINIO JURIS IN COMPARATIONE 9 [OP. J.] 3 (2010), <http://ssrn.com/abstract=1578814>.

<sup>6</sup> Rosa Kim, *Globalizing the Law Curriculum for Twenty-First-Century Lawyering*, 67 J. LEGAL EDUC. 905, 908-12 (2018); see also Susan L. DeJarnatt & Mark C. Rahdert, *Preparing for Globalized Law Practice: The Need to Include International and Comparative Law in the Legal Writing Curriculum*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 3 (2011).

life and law practice no matter how domestic your focus. Are you practicing in a small town and generally taking on all clients who walk in the door? Are you an associate in a major international law firm in a metropolitan area? The country lawyer is not immune from clients whose legal issues cross international borders. Maybe you practice family law, including helping your clients become parents through artificial reproductive technology. Those issues cross borders in amazing and legally fascinating ways.<sup>7</sup> Do you represent consumers in bankruptcy? Expect that you will have to figure out how to cope with your client's ownership of land in another country.<sup>8</sup>

In this article, we encourage legal educators in the U.S., Italy, and elsewhere to recognize these needs and we offer suggestions for incorporating transactional skills with a cross border dimension to help meet them. We draw on our experiences as teachers in two very different systems of legal education and our work together in the U.S. and Italy to involve students in experiential learning of transactional skills. Although our experiences are based in the U.S. and Italy, we see this effort itself as global and a way to help U.S. law professors build relationships and expand teaching opportunities in other countries and in other legal systems.<sup>9</sup>

Part I summarizes the arguments for expanding legal education in the U.S. and in Italy to include transactional skills education within a global context. Part II offers a model for how schools can do this based on the design and pedagogy of the Introduction to Transactional Skills (ITS) program at

---

<sup>7</sup> Meagan Flynn, *One Twin Was a Citizen, the Other Undocumented. A Victory in Court for Their Same-Sex Parents Rebukes the State Department*, WASHINGTON POST (Feb. 22, 2019), [https://www.washingtonpost.com/nation/2019/02/22/one-twin-was-citizen-other-undocumented-victory-court-their-same-sex-parents-rebuked-state-dept/?utm\\_term=.8d772e94cc26](https://www.washingtonpost.com/nation/2019/02/22/one-twin-was-citizen-other-undocumented-victory-court-their-same-sex-parents-rebuked-state-dept/?utm_term=.8d772e94cc26). This article tells the story of a gay couple who had twins through a surrogate where each father provided one of the embryos resulting in the twins. When the family moved to California from Canada, the twins were subjected to DNA testing to prove a blood relationship to the father who was a U.S. citizen. The other father was an Israeli citizen. The twin who lacked a blood relationship with his U.S. father was initially denied U.S. citizenship even though his parents were married. Ultimately he was granted citizenship.

<sup>8</sup> A member of a consumer lawyer listserv recently posed the following question: "I have a Chapter 13 client w/ land in the Bahamas (he was born and raised there). The land is valued at around \$5k, BUT he doesn't have title. His attorney in the Bahamas says he will not move forward w/ paperwork to obtain title until \$975 attorneys fees are paid. Our valuation of the land is based off the two page invoice sent to the client from the attorney. . . . I'm thinking the question is whether my client has a right under Bahamian law to transfer the property? Any chance someone knows what the law is in the Bahamas?" On file with author DeJarnatt.

<sup>9</sup> The co-authors met through the annual Global Legal Skills conferences which bring together law professors from around the world who have an interest and background in skills pedagogy. The last two Global Legal Skills conferences, in Melbourne, Australia, and Monterrey, Mexico, included professors from Australia, Austria, Belgium, Bhutan, Canada, China, the Czech Republic, Estonia, Germany, Haiti, Hong Kong, Ireland, Italy, Mexico, the Netherlands, New Zealand, Poland, Qatar, Russia, Singapore, Switzerland, Turkey, Ukraine, the United Kingdom, the United States and Venezuela. Global Legal Skills Conference, <https://glsc.jmls.edu/2018/program/> (last visited December 6, 2019), Global Legal Skills Conference, <https://glsc.jmls.edu/2017/>, (last visited December 6, 2019). The University of Verona has hosted the GLS conference twice.

Temple.<sup>10</sup> Part III shows how the ITS pedagogical model can be adapted to other legal issues and the local needs of any country and can transfer to other cultures.

We conclude that the ITS model has the potential and flexibility to be adapted to different systems of education and to function as a bridge between cultures—both at the country level and at the level of a law school classroom. The ITS model is not a thorough solution but, as an introduction, it can play an effective role in helping law students become familiar with global issues while learning transactional skills.

## I. THE NEED FOR GLOBALIZATION IN THE CONTEXT OF SKILLS EDUCATION

### A. The United States Perspective

Rosa Kim, Carole Silver, and others have made the case for globalizing legal education in U.S. law schools.<sup>11</sup> A 2009 survey of members of the Philadelphia Bar Association demonstrated that lawyers of all stripes encounter legal issues and problems that cross borders and require them to research the laws of other jurisdictions as well as international conventions and law that impact these disputes.<sup>12</sup> The survey was used to support the call for incorporating some level of foreign and international research into the Legal Research and Writing (LRW) curriculum.<sup>13</sup> The question we address here is how to expand our students' toolkits to include some measure of cultural competency as well as in negotiating deals that cross borders.

The ABA is also placing ever more emphasis on experiential learning and formative assessment. U.S. law schools need to expand the traditional focus on end of semester summative assessment through final exams to include other assessments and ways of learning.<sup>14</sup>

Finally, there is growing recognition that law students need exposure to transactional skills as well as those skills more associated with litigation.<sup>15</sup> It

---

<sup>10</sup> Temple University Beasley School of Law.

<sup>11</sup> Kim, *supra* note 6; *see also* DeJarnatt & Rahdert, *supra* note 6; *see also* Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the United States*, 24 STAN. L. & POL'Y REV. 457, 461 (2013); *see also* Diane Penneys Edelman, *A Global Approach to Legal Writing and Legal Research: An Evolutionary Process*, 5 DREXEL L. REV. 497, 498 (2013).

<sup>12</sup> DeJarnatt & Rahdert, *supra* note 6 at 20-21 (noting that 67.5% of respondents answered yes to the question whether the respondent had ever "worked on a legal matter that required the respondent to know something about foreign . . . or international law").

<sup>13</sup> *Id.*

<sup>14</sup> AMERICAN BAR ASSOCIATION, PROGRAM OF LEGAL EDUCATION (2018), [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2017-2018ABAStandardsforApprovalOfLawSchools/2017\\_2018\\_standards\\_chapter3.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2017-2018ABAStandardsforApprovalOfLawSchools/2017_2018_standards_chapter3.authcheckdam.pdf) (last visited Dec. 6, 2019); *see also* Niedwiecki, *supra* note 2, at 665-74.

<sup>15</sup> Penland, *supra* note 4; *see also* Stark, *supra* note 4.

is vital that students understand the different contexts of these different kinds of lawyering.<sup>16</sup> Eric Gouvin and his co-authors aptly contrast the work of transactional lawyers as “look[ing] forward” in contrast to litigators who look backward and emphasize the impact these contrasting perspectives have on the ethical responsibility of the lawyer and the deference the lawyer must have for the client.<sup>17</sup> The litigator “bears no moral, ethical or legal responsibility for the past acts of the client . . . [b]ut the lawyer whose work looks forward is a partner with the client in creating the future and future facts.”<sup>18</sup> Litigation clients are “truly on the lawyer’s playing field and will normally defer to the lawyer’s judgment about how to play the litigation game.”<sup>19</sup> But a business client has more knowledge than the lawyer, typically, and more control over the lawyer’s work.<sup>20</sup> Students must grasp these distinctions to function effectively as transactional lawyers.

The key motives for the development of the ITS program were to meet the expanding ABA requirements for experiential learning and to put that experience in the transactional context, in contrast to the litigation focus of much of the first year.<sup>21</sup> Students need exposure to drafting, interviewing, negotiating, counseling, relationship building, and professionalism in the deal-making context as well as the adversarial context. We propose incorporating a cross border element also to include a focus on cultural competency as well.

### B. The Italian Perspective

The need for appreciation of other legal systems is also strong from the point of view of Italian lawyers and schools of law. It is well known, for example, that Italian companies increasingly have relationships with foreign companies and clients, not only in the European Union (EU), but also in other countries across the world. This makes it necessary to provide law students with adequate knowledge about such relationships. In more general terms, it has been highlighted that Italian legal professionals have to manage the increasing phenomena of internationalization due to economic developments and globalization.<sup>22</sup>

---

<sup>16</sup> Eric Gouvin et al., *Teaching Communications Skills in Transactional Simulations*, 20 TENN. J. BUS. L. 429 (2019).

<sup>17</sup> *Id.* at 430.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Experiential Courses*, TEMP. U., <https://www.law.temple.edu/academics/experiential/courses/#its> (last visited Dec. 6, 2019).

<sup>22</sup> GIOVANNI PASCUZZI, *VERSO L’AVVOCATURA E IL NOTARIATO*, IN *LA FORMAZIONE DEL GIURISTA. CONTRIBUTI A UNA RIFLESSIONE* 83 (Beatrice Pasciuta & Luca Loschiavo eds, Roma TrE-Press

From a teaching perspective, these developments also must be viewed in the light of the opportunity to expand learning-by-doing opportunities for law students. There is indeed a possible link between these two aspects, since exploring other legal systems can become a chance to adopt different models of teaching law, and, in more general terms, using transnational issues in the context of skills courses can be a way to simultaneously reach both of these goals.

1. *The need for internationalization of legal education in Italy*

Italian law schools should provide students at least with a basic knowledge about international and transnational issues in curricular courses. International and comparative law courses are indeed required courses.<sup>23</sup> It has been correctly underscored that studying comparative law improves not only international understanding, but also helps build an in-depth knowledge of the student's own legal system.<sup>24</sup>

Further tools aim to allow students and professors to experience the value of collaboration across borders. Many Italian law students are involved in the Erasmus Project,<sup>25</sup> which enables them to spend several months in another EU country, taking exams which will take the place of corresponding exams in Italy, and consequently receiving credit towards their degree. Professors can briefly travel abroad to teach in other universities through the Erasmus Teaching Project.<sup>26</sup> There are additional options that allow students and professors to go beyond EU countries.<sup>27</sup>

---

2018); *see also* FRANCESCO GALGANO, LA GLOBALIZZAZIONE NELLO SPECCHIO DEL DIRITTO, (Il Mulino 2005).

<sup>23</sup> *See* THE DECREE OF THE UNIVERSITY MINISTRY OF ITALY (Nov. 25, 2005), [https://www.unipd.it/sites/unipd.it/files/DM\\_Giurisprudenza.pdf](https://www.unipd.it/sites/unipd.it/files/DM_Giurisprudenza.pdf). The presence of international law in civil law countries' law school curricula is underscored also as potential weakness of the American legal education system, in which international law is in general less common. *See* Adam G. Todd, *Writing Lessons from Abroad: A Comparative Perspective on the Teaching of Legal Writing*, 53 WASHBURN L.J. 295, 324 (2014) (highlighting that "[i]n an increasingly globalized legal practice, such an omission by U.S. law schools underprepares their students for the practice of law.").

<sup>24</sup> Todd, *supra* note 23, at 297 (noting the shortcomings of comparative process).

<sup>25</sup> Barsotti & Varano, *supra* note 5, at 3 (defining as "important" the "trend towards the internationalization of legal education through Erasmus programs within Europe and exchange programs with non-European legal institutions," regarding Italy and Europe in general). The importance of the field of social sciences and law is clear considering statistics about students participating in the Erasmus Project. *See also* EUROPEAN COMMISSION, ERASMUS: FACTS, FIGURES, & TRENDS (2014), [http://ec.europa.eu/assets/eac/education/library/statistics/erasmus-plus-facts-figures\\_en.pdf](http://ec.europa.eu/assets/eac/education/library/statistics/erasmus-plus-facts-figures_en.pdf).

<sup>26</sup> *International Programmes*, U. OF VERONA, <https://www.univr.it/en/our-services/inter-national-relations/international-programmes-and-projects/international-programmes> (last visited Sept. 23, 2019) (promoting the internationalization of teaching and research).

<sup>27</sup> *International*, U. OF VERONA, <https://www.univr.it/en/international> (last visited Sept. 23, 2019); *Map of International Agreements*, U. OF VERONA, <https://www.univr.it/en/mappa-degli-accordi>.

In the continuing legal education context, the need for a deeper understanding of and appreciation for differences in legal frameworks is quite clear, as is the need for collaborative understanding. The following anecdotal data reveals such needs. In Verona when we proposed seminars about legal writing on issues regarding American law,<sup>28</sup> the reaction of professionals was positive. Many lawyers and account experts participated in the seminars and were genuinely interested in the methodology adopted as well as in the proposed topics. Verona is a relatively large city by Italian standards, but one where transnational issues in legal practice are not frequent, but also are not rare.<sup>29</sup>

Several Italian lawyers also participated in the editions of the Global Legal Skills Conferences held in Verona in 2014 and 2016.<sup>30</sup> Academically these conferences offered many opportunities for interaction and collaborative understanding between academic colleagues from different countries and systems, for example with presentations comparing civil law and common law approaches.<sup>31</sup>

## 2. *The need for skills pedagogy in Italian legal education*

Turning to the second aspect, the learn-by-doing pedagogy method, the traditional Italian legal education model generally lacks a practice-oriented approach.<sup>32</sup> The gap between theory and practice can be easily demonstrated:

internazionali (last visited Sept. 23, 2019) (understanding the scope of the international agreement of University of Verona is clear from the map); *Programmi di mobilità studentesca internazionale*, U. OF VERONA, [https://docs.univr.it/documenti/Avviso\\_Serv/all/all560705.pdf](https://docs.univr.it/documenti/Avviso_Serv/all/all560705.pdf) (last visited Sept. 23, 2019).

<sup>28</sup> Seminar, *Persuasive Legal Writing in US Commercial Law Disputes* (2018); see also Seminar, *The Relationship Between US Statutes and Judicial Interpretations: Some Commercial Law Cases* (2015).

<sup>29</sup> Verona shares these characteristics with Philadelphia. DeJarnatt & Rahdert, *supra* note 6, at 19.

<sup>30</sup> *Join Us in Verona*, GLOBAL SKILLS CONFERENCE, <https://glsc.jmls.edu/2014/>, <https://glsc.jmls.edu/2016/> (last visited Dec. 6, 2019).

<sup>31</sup> For example, the 2014 Global Legal Skills (GLS) conference included the panel *Judicial Discretion in Civil-Law and Common-Law Practice*, comprising Prof. Stefano Troiano, University of Verona Faculty of Law (Verona, Italy), Prof. Marco Torsello, University of Verona Faculty of Law (Verona, Italy), Prof. Sammy M. Mansour, Michigan State University College of Law (Michigan, USA), and Prof. Daphne O'Regan, Michigan State University College of Law (Michigan, USA); the 2016 GLS conference included the lecture *Teaching the Art of Navigation Between Common and Civil Law Traditions: Challenges and Lessons Learned*, presented by Dr. Amrita Bahri, Law Department, Instituto Tecnológico Autónomo de México (Mexico) and Dean Lauren Fielder, The University of Texas School of Law.

<sup>32</sup> The role of the caselaw approach has been judged as “marginal.” See Ernesto Fabiani, *L'insegnamento del diritto processuale civile fra tradizione e innovazione*, 127 FORO ITALIANO, part V, col. 111, 113 (2012). Some have criticized the idea of applying the American model to Italian law schools. See VINCENZO ZENO-ZENCOVICH, *UNA DIVERSA IDEA DEL CORSO DI LAUREA IN GIURISPRUDENZA*, IN *LA FORMAZIONE DEL GIURISTA. CONTRIBUTI A UNA RIFLESSIONE* 182 (asserting that a small percentage of Italian law students embrace a traditional legal career, and consequently, improving practically oriented activities would only satisfy these students' needs). In

a cursory review of the courses normally taught in Italian law schools makes the substantial absence of writing and researching courses clear.<sup>33</sup> The traditional theoretical approach can still be considered as the largely dominant one,<sup>34</sup> even with some exceptions to this rule.<sup>35</sup>

There are some trends towards a more professionally oriented education, particularly through work experiences that students are sometimes encouraged to gain, but they are considered “very limited.”<sup>36</sup> Then, a further question arises: does a professionally oriented education comprehend internships or stages? These work experiences are definitely useful; but, at the same time, they probably must be distinguished from professionally oriented education, which should be provided by law professors consisting of something beyond just work experience.<sup>37</sup>

Internationalization of students’ experiences, sometimes deemed to be a possible tool of emphasizing a practical approach,<sup>38</sup> while being very important in order to emphasize students’ knowledge about different systems, does not actually seem always designed to expose students to practical activities. We cannot take for granted the existence of an actual relationship between internationalization and conversion of the theoretical approach in an operational one. The teaching approach in many European countries seems to be very similar to the Italian one, with the emphasis on lecture and theory. Even if a foreign law school could encompass practical courses within its curricular activities, an Italian student would probably not be keen on enrolling in them, since it could become difficult to have those

---

this article, we are not proposing a wholesale transplant: we are examining whether and how to give the students opportunities to develop further skills, which could be useful for students interested in non-law careers. The substantial lack of legal writing instruction in civil law countries’ law schools has also been highlighted in more general terms. Todd, *supra* note 23 at 302 (when legal writing is taught in civil law countries, the approach adopted consists of a professor asking his students to draft legal documents).

<sup>33</sup> For example, see the courses listed for the combined bachelors and master’s degree in law at the University of Verona. *Combined Bachelor’s + Master’s Degree in Law*, U. OF VERONA, <http://www.dsg.univr.it/?ent=pd&cs=274> (last visited Dec. 6, 2019).

<sup>34</sup> There is a rooted tradition of teaching law as a cultural issue; some studies of the 60’s focused on this tradition. See Barsotti & Varano, *supra* note 5, at 2, fn. 2.

<sup>35</sup> There are some practice-oriented courses, for example at the University of Trento, where legal skills are taught, as well as private law through a problem-based learning methodology. See *Unitrento Digital University*, U. OF TRENTO, <https://webapps.unitn.it/du/it/Persona/PER0004391/Didattica> (last visited Sept. 23, 2019).

<sup>36</sup> Barsotti & Varano, *supra* note 5, at 2, 10 (noting that where the percentage of students gaining practical experiences — stages and internships — is estimated about 20%).

<sup>37</sup> The literature of clinical teaching emphasizes the critical importance of student reflection on their clinical experience. See, e.g., Susan Bryant & Elliott S. Milstein, *Rounds: A “Signature Pedagogy” for Clinical Education?*, 14 CLINICAL L. REV. 195, 213 (2007).

<sup>38</sup> Barsotti & Varano, *supra* note 5, at 7 (referring to Erasmus programs within European countries and other programs involving further legal institutions).



credits transferred to an Italian law school.<sup>39</sup> A different evaluation can be made about courses which adopt a case-law methodology, frequent in some countries,<sup>40</sup> and still consistent with a traditional approach, even if representing an important step forward in improving students' practical skills. Of course, everything can change when considering experiences outside the EU.

Recent innovations within Italy aim at improving the chances for students to be exposed to practice-focused activities. These are, of course, to be welcomed, as "theory and practice inform each other,"<sup>41</sup> and the separation between them, even if understandable in the light of the civil law system's peculiarities, can impede students from full development of their potential skills.

Legal clinics are a recent phenomenon in Italy,<sup>42</sup> though rapidly evolving and tending to increase in number.<sup>43</sup> The Department of Law of Verona University has its own clinic.<sup>44</sup> It is worth highlighting that the legal clinic involves students in practical activities, but at the same time, aims to give free legal assistance to people who cannot afford a lawyer.<sup>45</sup> In light of this goal, teaching legal skills through the clinic can be difficult, at least where the client's need for getting the service in a relatively short time could obstruct the educational goal.<sup>46</sup>

---

<sup>39</sup> The recognition of credits acquired during the exchange through the European Credit Transfer System (ECTS) is possible when there is a substantial correspondence between subjects and programs of foreign and Italian activities.

<sup>40</sup> This seems to be the case of Germany. Ernesto Fabiani looks at the examples of Germany and Anglo-American countries, noting that German doctrine has long considered how to make a connection between theory and practice. Fabiani, *supra* note 32, at 114 (citing LEVIN GOLDSCHMIDT, RECHTSSTUDIUM UND PRÜFUNGSORDNUNG, EIN BEITRAG ZUR PREUSSISCHEN UND DEUTSCHEN RECHTSGESCHICHTE 262 (Enke 1887)).

<sup>41</sup> Todd, *supra* note 23, at 317 ("Indeed, the Carnegie and MacCrate reports set the integration of theory and practice as a key goal for the American legal education system.").

<sup>42</sup> Fabiani, *supra* note 32, at 114.

<sup>43</sup> The state of legal clinics in Italy is "a state of affairs in ferment." Clelia Bartoli, *The Italian Legal Clinics Movement: Data and Prospects*, 22 INT'L J. CLINICAL LEGAL EDUC. 1 (2015); *see also* ZENO-ZENCOVICH, *supra* note 32, at 185 (quoting legal clinics as "several examples of good practices.").

<sup>44</sup> *See* CLAUDIA ONNIBONI, LA CLINICA LEGALE DEL DIPARTIMENTO DI SCIENZE GIURIDICHE DELL'UNIVERSITÀ DI VERONA, IN *TEORIE E PRATICHE NELLE CLINICHE LEGALI* 279 (Angelo Maestroni, Paola Brambilla and Matteo Carrer eds., Giappichelli 2018).

<sup>45</sup> For example, the legal clinic of the Verona University Law Department is described in ONNIBONI, *supra* note 44, at 281; *see generally* ANGELO MAESTRONI, LE CLINICHE LEGALI ITALIANE TRA OFFERTA FORMATIVA E SERVIZIO ALLA COMUNITÀ, IN *TEORIE E PRATICHE NELLE CLINICHE LEGALI* 6, 12.

<sup>46</sup> Serge Martinez, *Teaching Transactional Skills in a Clinic*, 2009 TRANSACTIONS: TENN. J. BUS. L. 203, 209 (2009) (referring to the fact that "in the clinical environment we have to draft complete client-ready documents usually within a relatively short time-frame").

Moot court competitions and mock trials are also becoming common in some Italian law schools;<sup>47</sup> these too give involved students a chance to experience practical activities. The Department of Law of Verona University is also extensively planning new activities regarding innovative teaching methodologies through several laboratories which will soon start to operate.<sup>48</sup>

These developments within the Italian legal community and system of legal education are creating fruitful opportunities for collaboration with U.S. law professors who are interested in exploring teaching within a civil law system and helping to develop learn-by-doing pedagogies in Italy. We offer the example of our use of the ITS program as a method for introducing these skills' pedagogies.

## II. HISTORY AND DESIGN OF TEMPLE'S INTRODUCTION TO TRANSACTIONAL SKILLS PROGRAM

### A. History

The Introduction to Transactional Skills program at Temple was created by Eleanor Myers, Ed Ellers, and David Hoffman, from the vision of the Ad Hoc Business Faculty Committee.<sup>49</sup> Temple experimented with several ways to introduce first year students<sup>50</sup> to law beyond litigation, but those earlier efforts did not sufficiently engage students.<sup>51</sup> ITS gets the students into the role of a transactional lawyer early in their academic careers. It opens their eyes to a world of lawyering beyond the litigation-focused casebook and

---

<sup>47</sup> See Fabiani, *supra* note 32, at 112 (stating that these experiences, as well as legal clinical experiences, aim to provide students with practical skills). *Jessup Moot Court*, U. OF VERONA, <http://www.dsg.univr.it/?ent=iniziativa&id=7079> (last visited Sept. 23, 2019) (describing the participation of the University of Verona Department of Law at the Jessup Moot Court Competition).

<sup>48</sup> Because these innovations are just beginning, it is not possible to go into greater depth as to how they are functioning. For one example, I am involved in one laboratory. In November of 2019, I will teach a class about crowdfunding for fashion companies, which will in part take place in a computer room in order to expose the students to the practical activities needed to launch a crowdfunding campaign through the web.

<sup>49</sup> Interview with Eleanor Myers, Associate Professor of Law, Temple University Beasley School of Law, in Philadelphia, PA. (Mar. 12, 2019).

<sup>50</sup> Temple's Integrated Transactional Program is a highly popular option for upper level students and incorporates a significant amount of experiential learning in the transactional context. Eleanor W. Myers, *Teaching Good and Teaching Well: Integrating Values with Theory and Practice*, 47 J. LEGAL EDUC. 401 (1997), <https://www.law.temple.edu/academics/experiential/integrated-programs/>.

<sup>51</sup> For many years, these concepts were included, at least to some extent, in an introductory course called Legal Decision Making. When that course was discontinued, Temple instituted two courses for entering students, Litigation Basics and Business Basics. The Litigation Basics course has worked well, but the Business Basics course suffered from being too basic for students with a business background and too challenging for those who didn't. Interview with Eleanor Myers, *supra* note 49.

LRW courses that dominate the 1L curriculum.<sup>52</sup> As the ITS website states, “ITS is an intensive simulation designed to expose students to transactional lawyering through a mix of substantive lectures and small-class skill workshops, organized around issues that confront a small business.”<sup>53</sup>

## B. Structure

The ITS scenario is the negotiation of a deal to start a restaurant. Each small section of students represents either the chef or the financier. The chef and financier are friends and want to make this deal happen. The goal, then, is to get to yes.

The entire 1L day-class participates in the ITS program over a two-week intensive period during their second month of school.<sup>54</sup> Each student is paired with a partner and each team is in a small group of six teams who all represent one side in the transaction. The teams negotiate with the same pair throughout the ITS program, which facilitates the students learning from each other’s styles and gives them the opportunity to adapt their own styles to work more effectively with the other team. It also drives home the importance of reputation and civility in a system where you will be working with the same lawyers in the future. Opposing teams do not react positively when a team takes liberties with the facts or is demanding to the point of crushing the deal. Given the point is to reach an agreement, the on-going relationship challenges the students to focus on reaching their clients’ goals rather than “winning” at the expense of not reaching a deal at all.

The program kicks off with a lecture by the administrator to the entire 1L class, explaining the program’s goals and structure. The administrator emphasizes the importance of professionalism and that the clients here want to reach an agreement. After this one lecture to the whole 1L class, the students meet in their small group sessions, which are taught by full-time faculty who volunteer to take this on, including the Dean of the law school. Half of the small groups represent the chef and the other half represent the financier. The small groups focus on development of the skills the students will be using: interviewing, client communication, negotiation, and drafting. All of the students have access to the ITS website which has basic background information on both clients and to the course site on Canvas which includes materials on interviewing, negotiation, and drafting.<sup>55</sup>

---

<sup>52</sup> See Gouvin, *supra* note 16, at 431-32.

<sup>53</sup> *Introduction to Transactional Skills*, TEMPLE UNIVERSITY: BEASLEY SCHOOL OF LAW, <https://www2.law.temple.edu/its/> (last visited Sept. 27, 2019).

<sup>54</sup> Evening division students have ITS in the spring semester.

<sup>55</sup> *Introduction to Transactional Skills*, *supra* note 53. Myers described the architecture of the related Canvas website, allowing submission of the documents by the teams, essential to the operation of the program. Interview with Eleanor Myers, *supra* note 49.

The director of the ITS program<sup>56</sup> recruits upper level students to serve as teaching assistants (TA). Each small group has a TA whose responsibilities include role playing the client, mentoring, and providing feedback on the work product of the teams. During the small group sessions, the students interview their client in order to prepare for the initial negotiation of a term sheet, which will outline the parties' agreement on certain key aspects of the deal. To keep the learning experience focused and manageable, the negotiation is framed around a limited number of specific items, including the investment amount, the ownership percentages for each party, the name of the restaurant, and how control of the chef's recipes will be shared. The students have a template term sheet to work from.

The individual professors decide how to set up the interview to allow participation by all class members. Some limit each team to a short time frame while others limit the number of questions each team can ask in the initial round. The TA's enthusiasm for role playing is key to the success of the interview. The TA must be sure that it is not too easy for the students to extract the information they need, but the TA must also make sure that the students do end up with the essential information.

After the interview, each team drafts a letter to the client confirming the client's goals for the deal. The small group professors and TAs provide feedback on the letters. Common weaknesses of the letters include ambiguity, incorrectly stating the clients' desires, and inappropriate tone. But some of the letters are really excellent. Often, professors will have the TA respond to the letter in his or her role as the client and react the way the client would likely react to the letter.<sup>57</sup>

The teams then engage in their first negotiation. They must complete the negotiation within two days and the two teams together submit the term sheet containing the provisions resulting from the negotiation.<sup>58</sup> Again, the small group professors and TAs provide feedback on the term sheets. Common problems include use of ambiguous terms, agreements that exceed the client's authorization, and omission of required elements. Some of the term sheets reflect creative solutions to meeting both clients' needs.<sup>59</sup>

The next stage involves another client interview, this time in preparation for negotiation of the employment agreement. The students must ascertain the client's desires and limitations on compensation, job duties, and limitations on outside activities by the chef. They are also given the opportunity to renegotiate over the two parties' use and control of the recipes.

---

<sup>56</sup> Following Eleanor Myer's retirement and Dave Hoffman's departure to the University of Pennsylvania, Professor Andrea Monroe stepped into the Director role.

<sup>57</sup> If you would like representative letters with comments from the TA and the professors, please contact Professor DeJarnatt.

<sup>58</sup> The Temple IT staff created a computerized filing system for the documents.

<sup>59</sup> If you would like to see representative samples, please contact Professor DeJarnatt.

Again, the teams negotiate with the same counterparts and submit one agreement for both sides. The teams have a day and a half to complete this negotiation. Faculty and TAs must provide quick turnaround on feedback.

The final day of ITS involves alumni. The scenario is advanced two years to a point where the parties are both unsatisfied by aspects of their relationship. The students are given the new facts and forty-five minutes to prepare for a final negotiation to resolve the clients' new issues. This final negotiation is observed by Temple alumni who then provide feedback to the teams.

ITS is graded as a pass-fail course with the option of giving outstanding students a grade of Satisfactory +. Formative assessment is built in through the feedback students receive on their client letters and the term sheet.<sup>60</sup> In addition to the formal grade, the students and faculty of each small group vote to honor one member of the group with a professionalism award.

The ITS program presents challenges: the logistics of finding classroom space for the small groups, matching the students into teams, and pairing teams is daunting. The program depends on the willingness of faculty to teach the small groups and on the enthusiasm of upper-level students to contribute as TAs. But the brilliance of the program is that it is intensive, which keeps the momentum up, keeps the students engaged, and makes it easier for upper-level students and faculty to participate. Having alumni participate is also key. The students' experience ends on a high note, where they use their newly-developed negotiation skills to work out a deal under the eye of practicing attorneys. The students get invaluable feedback from the attorneys, and the attorneys are quite impressed by the students. The overall feedback from both groups is very positive.

### III. BUILDING ON THE PEDAGOGY OF EXPERIENTIAL LEARNING IN ITALY: THE IMPORTANCE OF THE AMERICAN CONTRIBUTION

#### A. Preliminary remarks

Looking to the future, improving students' opportunities to enroll in skills courses or, more generally, to be exposed to practice-oriented activities, is an important goal for Italian and U.S. law schools. Using skills courses with transnational issues can strengthen the students' appreciation of other legal systems.

---

<sup>60</sup> Formative assessment is now required by the ABA Standards. See Niedwiecki, *supra* note 2, at 677; see also Olympia Duhart, *The 'F' Word: The Top Five Complaints (and Solutions) About Formative Assessment*, 67 J. LEGAL ED. 531 (2018).

In Italy, the recent operationally focused experiences, already mentioned, are an excellent starting point. In light of their specific goals, these operational efforts could ideally be combined with further practical activities. This is particularly true with legal clinics, as they also serve other public interests and are usually focused on litigation.<sup>61</sup> They are actually considered to represent a part of a wider phenomenon, significantly named as “the emergence of a new wave in academia.”<sup>62</sup>

The need for building bridges connecting theory to practice and skills learning has been well conceptualized by American doctrine.<sup>63</sup> Such a need can be considered as one of the main points of this new wave, even if there are differences between Italian and American legal educational and professional systems.

In this Part, I will analyze how to adopt a transactional skills-based approach to teaching commercial law drafting and negotiation skills, highlighting transnational issues. Of course, this is not the only topic that can be paired with this approach. This method could be adapted, for example, to employment law issues.<sup>64</sup> But corporate law is a good field in which to teach transactional skills<sup>65</sup> given that tasks such as drafting corporate resolutions and articles of organization<sup>66</sup> are a regular part of many business deals.<sup>67</sup> This is consistent with the prescriptive character of transactional drafting, which is related to planning parties’ behaviors and to considering what could

---

<sup>61</sup> For example, ONNIBONI, *supra* note 44, at 282 (mentioning the possibility of including Alternative Dispute Resolution (ADR) in clinical activities).

<sup>62</sup> Bartoli, *supra* note 43, at 2.

<sup>63</sup> See Sue Payne, *The First Year: Integrating Transactional Skills*, 14 TRANSACTIONS: TENN. J. BUS. L. 403 (2013). See also Jean Whitney et al., *Across the Curriculum: Integrating Transactional Skills Instruction*, 14 TRANSACTIONS: TENN. J. BUS. L. 383, 386 (2013) (stressing the opportunity for students to “synthesize subject matter knowledge they have previously obtained and connect theory into a skills-oriented setting”).

<sup>64</sup> Rachel Arnow-Richman et al., *Teaching Transactional Skills in Upper-Level Doctrinal Courses: Three Exemplars*, 10 TRANSACTIONS: TENN. J. BUS. L. 367, 369 (2009) [hereafter Arnow-Richman et al. *Three Exemplars*] (affirming the possibility of “incorporating transactional skills into a basic employment law course”). Though corporate law is a primary field for transactional skills teaching, it is not the only option, since “transactional skills are broader and more diverse than simply facilitating a deal.” Lynnise Pantin, *Deals or No Deals: Integrating Transactional Skills in the First Year Curriculum*, 41 OHIO N.U. L. REV. 61, 66 (2014).

<sup>65</sup> Lynnise E. Pantin, *The First Year: Integrating Transactional Skills*, 15 TRANSACTIONS: TENN. J. BUS. L. 137 (2013).

<sup>66</sup> Whitney et al., *supra* note 63, at 384; Pantin, *Deals or No Deals*, *supra* note 64, at 79.

<sup>67</sup> Douglas Godfrey et al., *Transactional Skills Training: All About Due Diligence*, 10 TRANSACTIONS: TENN. J. BUS. L. 357, 358 (2009); Pantin, *Deals or No Deals*, *supra* note 64, at 63; Carl J. Circo, *Teaching Transactional Skills in Partnership with the Bar*, 9 BERKELEY BUS. L.J. 187, 227 (2012) (in the light of the “activities that commercial law firms commonly assign to entry-level transactional attorneys.”) Arnow-Richman et al., *Three Exemplars*, *supra* note 64, at 379 (noting the example of venture capital as “a perfect course to teach transactional skills”).

happen in the future.<sup>68</sup> Again, these goals are typical in many business transactions.

I will also identify the main skills involved, primarily referring to American literature on the topic, which can be deemed relevant to the Italian system as well. In fact, such skills basically refer to methodological issues and to generally relevant questions about business transactions. Furthermore, Italian literature on this point is, at the moment, quite rare.<sup>69</sup> This is not surprising, given the peculiarities of the Italian legal education and profession.

These skills will be considered in light of when and how they can be developed during apprenticeship, which is mandatory in Italy for access to the bar, and in some cases initially improved during advanced legal education courses, or sometimes even in curricular courses. Remarks about the role of apprenticeship in improving these skills will necessarily be general, as the kind of activities carried out during this period depend on many circumstances, such as the law firm in which it is spent and the relationships between the lawyers and the apprentice.

#### B. The main transactional skills

The first skill is client interviewing and counseling.<sup>70</sup> Client interviewing also consists of establishing an empathic relationship with the client, which will help in the following steps, like identification of the client's problems and goals.<sup>71</sup> Apprenticeship rarely gives the novice the chance to interview clients. Generally, the partner of a firm or the solo practitioner will rarely make it possible for the apprentice to interact directly with clients. Of course, there can be exceptions. As to client counseling, even a first stage apprentice can be asked to write simple opinion letters or do simple legal research which will be useful in counseling the client. But if we refer to this skill together with client interviewing, similar limitations are probable.<sup>72</sup>

---

<sup>68</sup> Carol Goforth, *Transactional Skills Training Across the Curriculum*, 66 J. LEGAL EDUC. 904, 905, 911 (2017) (highlighting the material difference between prescriptive writing and "other kinds of legal writing").

<sup>69</sup> See GIOVANNI PASCUZZI, *GIURISTI SI DIVENTA: COME RICONOSCERE E APPRENDERE LE ABILITÀ PROPRIE DELLE PROFESSIONI LEGALI* (Il Mulino 2008). It is worth noting that the author of this book is also the teacher of the skills course at Trento University mentioned above.

<sup>70</sup> Pantin, *Deals or No Deals*, *supra* note 64, at 66, 80 ("Both litigation and transactional contexts are effective ways to teach client interviewing and counseling skills."); for practical examples of issues faced in client counseling, see Pantin, *The First Year*, *supra* note 65, at 141 (referring to a covenant not to compete and to a force majeure clause). In Italian literature, see Giovanni Pascuzzi, *Come comunicare correttamente l'immagine dell'avvocato*, 129 FORO IT., V, col. 125, 128 (2014) (stressing the importance of achieving information needed to solve the client's problem).

<sup>71</sup> PASCUZZI, *GIURISTI SI DIVENTA* *supra* note 69, at 193.

<sup>72</sup> In other civil law countries, client counseling is normally developed during apprenticeship. See Todd, *supra* note 23, at 311 (referring to the German legal education system).

Communicating with the client might be considered the second skill. Although apparently simple, this skill is actually quite complex, and includes clear communication which avoids legalese and explains, in simple terms, difficult legal concepts;<sup>73</sup> being conscious of the real possibility of sharing information with the client;<sup>74</sup> and appropriateness of tone.<sup>75</sup> During apprenticeship, there is normally the chance to develop these skills. In terms of curricular activities, at the beginning of my course I try to make students aware of how to write an email, pointing their attention to the very basic fact that everything that has been written remains forever, and on the tone they should use while interacting with a professor. This is definitely different from teaching how to interact via email with clients, but some of the suggestions can still be useful regardless of the specific reader of the email. Understanding that tone and expressions used in an email depend on the reader can be a first step to achieve further specific skills of correctly communicating via email with clients.

The third necessary skill is managing documents and information, including both being able to close the deal even if the perfect documents are not available and distinguishing which information is important and which is not.<sup>76</sup> Apprenticeship normally gives the opportunity to do this. Within the usual tasks for an apprentice is some responsibility for the folder containing documents relating to litigation or counseling cases. This task tends to expose the young lawyer to the complexity of documents and, at least potentially, also to the possibility that some of these documents are not really useful or that some important documents are actually missing.

It is also possible to give a taste of this skill to students participating in advanced legal education courses. For example, this happens when we teach future lawyers or account experts or apprentices who follow courses aimed at preparing them for the bar admission or for the admission to the accountant register. In such contexts, a practical approach is usually adopted in lectures, and students are required to solve cases and discuss them.

---

<sup>73</sup> Pantin, *The First Year*, *supra* note 65, at 143; Godfrey, *supra* note 67, at 364.

<sup>74</sup> Lenne Espenscheid & Bruce G. Luna, *More on Doctrinal Courses: Integrating Transactional Skills*, 14 *TRANSACTIONS: TENN. J. BUS. L.* 535, 552 (2013) (mentioning “issues with what kind of information should people be emailing”).

<sup>75</sup> Espenscheid & Luna, *supra* note 74, at 552. *See also*, Pantin, *Deals or No Deals*, *supra* note 64, at 66, 79; W. David East et al., *Teaching Transactional Skills and Tasks Other than Contract Drafting*, 12 *TRANSACTIONS: TENN. J. BUS. L.* 217, 224 (2011).

<sup>76</sup> The first skill is highlighted by East et al., *supra* note 75, at 222 (“We will never close a deal with perfect documents. We will close it with the documents we have.”). The second skill is described by Arnow-Richman et al., *Three Exemplars*, *supra* note 64, at 373 (mentioning that in real life, the client could not be aware of the importance of information from a legal perspective, “which is why the lawyer has to use his or her knowledge proactively”) and 385-86 (referring to the need to make students practice information prioritizing and synthesizing, since “[n]obody tells you what information is important or identifies issues for you—you have to figure it out on your own”).



In order to achieve the goal of making students aware of the potential complexity of documents and information given by the client, a simple trick can be providing them with cases that include both useful and useless information. This mirrors what really happens when the client, who is not always aware of the relevance of facts and documents, describes his issues to the lawyer or the consultant, or provides him with documents.

A fourth skill is thinking from clients' perspective, which means understanding the parties' goals and interests,<sup>77</sup> as well as their market industry,<sup>78</sup> and helping the client in balancing such goals.<sup>79</sup> This also involves a number of sub-tasks. The first is switching the main attention to the client's needs from student-focused issues like grades and exams.<sup>80</sup> The second is learning to ask the client appropriate questions in order to better understand his goals.<sup>81</sup> The third is adding value as lawyers to the business idea of the client translated into a contract.<sup>82</sup> In conclusion, the "need to listen like lawyers and talk like business people"<sup>83</sup> is sometimes presented as an explanatory concept of how a lawyer should interact with a business client. It is difficult to state if such a skill can be improved during apprenticeship, since this possibility depends on the type of activities carried out in this context.

The fifth skill consists of risk managing and planning: helping the client to minimize risks and to identify avoidable risks,<sup>84</sup> thinking as a planner,<sup>85</sup>

---

<sup>77</sup> Rachel Arnow-Richman et al., *Integrating Transactional Skills Training into the Doctrinal Curriculum*, 18 *TRANSACTIONS: TENN. J. BUS. L.* 439, 441 (2016) (hereafter Arnow-Richman et al., *Integrating Transactional Skills*); David V. Snyder, *Closing the Deal in Contracts - Introducing Transactional Skills in the First Year*, 34 *U. TOL. L. REV.* 689, 690 (2003); Pantin, *Deals or No Deals*, *supra* note 64, at 81 (stressing that this understanding aims at facilitating the deal); East et al., *supra* note 75, at 230, 237 (giving examples of typical questions, including "What is the business deal? What is your client trying to attain?" and warning of the need to identify any possible "deal stopper").

<sup>78</sup> Espenscheid & Luna, *supra* note 74, at 549 (more generally, referring to the need for "understanding business transactions"); Louis F. Del Duca, *Keep It Simple, Smarty: Tips for Transactional Training Programs*, 48 *UCC L. J. Art. 1, 2* (2018).

<sup>79</sup> Goforth, *supra* note 68, at 915, fn. 42; Pascuzzi, *Come comunicare correttamente l'immagine dell'avvocato*, *supra* note 70, at 128.

<sup>80</sup> Whitney et al., *supra* note 63, at 392. This would probably not be an actual point in Italy, since students are unlikely to encounter transactional skills activities in their main curricular activities, subject to grades and exams. Rather, such experiences are more probable in an elective option.

<sup>81</sup> East et al., *supra* note 75, at 235 (listing examples of questions, including: "Is money involved? Is risk involved? Is control involved? Are standards part of what we are dealing with here? And what is the endgame for what the clients may want to happen?"). See also PASCUZZI, *GIURISTI SI DIVENTA*, *supra* note 69, at 193-194.

East et al., *supra* note 75, at 230.

<sup>83</sup> Espenscheid & Luna, *supra* note 74, at 543.

<sup>84</sup> Snyder, *supra* note 71, at 694; Pantin, *Deals or No Deals*, *supra* note 64, at 71; Arnow-Richman et al., *Three Exemplars*, *supra* note 64, at 372 (stressing that "the impossibility of fully eliminating risk" is an important "learning point").

<sup>85</sup> Pantin, *Deals or No Deals*, *supra* note 59, at 69, 81 (underscoring that anticipating future happenings is important in order to "enable clients to avoid litigation"); Del Duca, *supra* note 78,

and trying to address future technological developments.<sup>86</sup> This skill seems to be peculiar to transactional skills learning, since a student is unlikely to get the chance to improve it during curricular activities or even in advanced legal education courses. As to the possible role of apprenticeship in this case, the answer seems to be similar to the last skill. Taken into consideration, everything depends on the type of activities carried out.

The sixth skill can be identified as problem solving.<sup>87</sup> Apprenticeship should give opportunities to improve this skill. Some curricular courses try to provide students with a similar skill: solving questions in an abstract context. In advanced legal education, this becomes different and more practice-oriented. I regularly teach about Legislative Decree 231/01, which is the Italian regulation of compliance models. In this context I use a problem involving an article in the Decree that allows the manager to be in charge of compliance if the entity is small, without actually defining the term “small entity.”

The problem is focused on the death of the majority member of a company, who is also its manager. In light of his technical background, he was substantially appropriate to oversee compliance. His relatives, after inheriting his interest in the company, ask the consultant for an opinion about how to deal with compliance, since they do not have any specific knowledge about risks involved in the activity. In a nebulous legal framework, depending on the absence of a clear definition of “small entity,” the student, acting as a consultant, has two different goals. He is required not only to deepen his knowledge of the issues related to the case, but also to give a practical opinion, solving the problem of the client. In order to do this, different options must be explored, considering the need of preventing risks and, at the same time, the costs related to each option. Students often do a good job, paying close attention to the real needs of the client and offering appropriate solutions to protect them. In particular, the students are often capable of balancing the interest to comply with laws and the interest not to

---

at 5 (including among the learning goals the abilities to “consider the many things that can go wrong” and to “avoid these losses or minimize them if bad things to come to pass”).

<sup>86</sup> Espenscheid & Luna, *supra* note 74, at 545.

<sup>87</sup> Whitney et al., *supra* note 63, at 397; Martinez, *supra* note 46, at 217; Snyder, *supra* note 71, at 693. In Italian literature see PASCUZZI, GIURISTI SI DIVENTA, *supra* note 69, at 109, which argues the existence of a circularity in problem solving. After identifying the case to solve, the need to identify the applicable rule arises and then the application of the rule is due. During the application process, a more specific identification of the case could become necessary as well as more specific research of the applicable rule. From this perspective, the civil and common law systems seem substantially similar, as in common law reasoning legal research is considered a recursive process. See Ellie Margolis & Susan L. DeJarnatt, *Moving Beyond Product to Process: Building a Better LRW Program*, 46 SANTA CLARA L. REV. 93, 109-116 (2005); Ellie Margolis & Kristen Murray, *Using Information Literacy to Prepare Practice-Ready Graduates*, 39 U. HAW. L. REV. 1, 29 (2016).

opt for an oversized compliance system, whose costs would not be affordable.

The seventh skill is critical thinking.<sup>88</sup> Apprenticeship should provide opportunities to develop this skill, though it requires adequate curricular knowledge.<sup>89</sup> It is possible to emphasize it during advanced legal education courses by proposing parts of practical cases as potentially misleading. For example, I often use a case concerning liability of audit committee members for not criticizing a distribution of profits arising from extraordinary events, which should have been more cautiously preserved. The students are asked to describe possible liabilities of the audit committee members, as well as of the account expert, who did not make any comment in his report about this distribution. The point is that no comment in the account expert report would be necessary in a similar case. A comment is actually required by law in different cases: it will be due when there are possible issues about the content of the financial statement.

Only a few students normally understand this misleading suggestion, correctly stating that there is no case of account expert liability. Most of them tend, on the contrary, to face the question, giving various answers about it, without asking themselves, first of all, if the question makes sense. A situation like this mirrors reality: clients often provide the lawyer or the consultant with facts only apparently relevant. Critical thinking is a fundamental skill that enables students, first of all, to distinguish what is relevant and what is not. As we mentioned before, a specific skill concerns the distinction between relevant and irrelevant documents. Critical thinking is something more and different, because it implies a conscious application of what students have learned through their career.

The eighth skill identified is negotiation,<sup>90</sup> which consists of adopting a non-adversarial perspective<sup>91</sup> and avoiding, at least in a first step, those provisions that could destroy negotiability.<sup>92</sup> Some specific tips have been provided by an Italian professor. For example, tips include not taking for granted the concessions made by the other party, and focusing on how to execute the deal, not on whether a deal should be reached at all. Another tip is to describe the advantages as the best ever possible, not as the only ones

---

<sup>88</sup> Arnow-Richman et al., *Three Exemplars*, *supra* note 64, at 372.

<sup>89</sup> The Socratic method favored by U.S. legal education prioritizes development of critical thinking.

<sup>90</sup> Pantin, *Deals or No Deals*, *supra* note 64, at 66; Snyder, *supra* note 71, at 690. Italian literature also takes in account some specific rules that aim to enlarge the application of ADR tools. *See* PASCUZZI, *VERSO L'AVVOCATURA*, *supra* note 22, at 88; ZENO-ZENCOVICH, *supra* note 32, at 185.

<sup>91</sup> Pantin, *The First Year*, *supra* note 65, at 145 (describing a real experience in a course and the evolution of students' attitudes). *See also* PASCUZZI, *GIURISTI SI DIVENTA*, *supra* note 69, at 170 (underscoring the common goal of satisfying both parties' interests).

<sup>92</sup> Del Duca, *supra* note 78, at 11 (referring to "conditions or additional undertakings").

possible in the case.<sup>93</sup> During apprenticeship, negotiating is not frequent, at least in general terms; this actually depends on the way the lawyer works.<sup>94</sup>

The ninth skill is drafting. Drafting includes both translating a business deal into a contract<sup>95</sup> and using precise language. This requires avoiding ambiguities and poor drafting in order to decrease as much as possible the risk of future litigation.<sup>96</sup> On the premise that writing is the key factor in order to dominate a concept, consider the adage, “You don't know what you know unless you write it.”<sup>97</sup> It has to be underscored that drafting contracts can be a quite commonly exercised skill during apprenticeship, of course depending on the field in which the experience is carried out. The call for precision is actually stressed starting at the curricular level. For example, I often remind my students that in law, words are like scalpels. They can save lives or kill, depending on how properly they are used. But having the students drafting contracts is not really common across curricular courses, or during advanced legal education activities, since the model most frequently used while adopting a practice-oriented approach is the opinion letter.

Finally, there are further skills,<sup>98</sup> including teambuilding,<sup>99</sup> which are definitely interesting to include when considering in detail how future lawyers will often work. However, at the same time, these skills do not seem to be particularly related to law, and consequently they are not analyzed here.

---

<sup>93</sup> PASCUZZI, GIURISTI SI DIVENTA, *supra* note 69, at 171.

<sup>94</sup> In other civil law countries, negotiation is usually practiced during apprenticeship. *See* Todd *supra* note 23, at 312 (concluding that “in the German legal educational system, much of the topics covered in legal writing courses and clinics are provided during this apprentice stage”).

<sup>95</sup> Payne, *supra* note 63, at 409; Pantin, *Deals or No Deals*, *supra* note 64, at 70. In Italian literature, *see* PASCUZZI, GIURISTI SI DIVENTA, *supra* note 69, at 139 (underscoring that contract drafting should aim to enable the parties to reach their goal).

<sup>96</sup> The need for precision in writing is clearly stated by Pantin, *The First Year*, *supra* note 65, at 142 (“[E]very word of every sentence of every paragraph has to have a purpose.”). *See also* Snyder, *supra* note 71, at 690. In Italian literature, *see* PASCUZZI, GIURISTI SI DIVENTA, *supra* note 69, at 132. Other transactional scholars emphasize the need to avoid ambiguity and poor drafting. *See* Whitney et al., *supra* note 63, at 388; Goforth, *supra* note 68, at 917 (reporting data showing how poor drafting is related to contract litigation); Del Duca, *supra* note 78, at 10 (discussing “the danger of the passive voice”).

<sup>97</sup> Snyder, *supra* note 71, at 690.

<sup>98</sup> Arnow-Richman et al., *Integrating Transactional Skills*, *supra* note 77, at 447 (including “how to present oneself as an attorney, how to put a client at ease, how to take notes and make records”); Snyder, *supra* note 71, at 689 (mentioning the skills of documenting and closing the deal); Circo, *supra* note 67, at 231, n. 264 (noting different approaches to teaching transactional skills go beyond drafting). In Italian literature *see* Pascuzzi, *Come comunicare correttamente l'immagine dell'avvocato*, *supra* note 70, at 127 (suggesting to provide in advanced legal education and in continuing legal education context some courses aiming at improving the relationship with clients).

<sup>99</sup> Martinez, *supra* note 46, at 210 (referring to time management); Whitney et al., *supra* note 63, at 387 (referring to the link between grading group work and the real world of transactional practice, given that frequently lawyers work in teams). The conditions that must be fulfilled in order to convert a group of professionals into a team are described by Pascuzzi, *Giuristi si diventa*, *supra* note 69, at 181.

### C. Contributions of the Introduction to Transactional Skills model

These important transactional skills can only be partially reached through curricular or apprenticeship activities, which can come late in a student's academic career. Thus, it is important for Italian and American law students to have exposure to, and experience with, these skills as early as possible within their legal studies and continue that exposure throughout their studies. The contribution of the ITS model is fundamental from this perspective.

The ITS model, or similar learn-by-doing pedagogies, can primarily function to introduce students to these necessary transactional skills early in their studies. The ITS model can contribute to teaching most, if not all, of the above identified skills, at least as an introduction to them. ITS offers participants a first taste of client interviewing in a simulation that avoids the risks inherent in letting a novice take on interviewing a real client.

ITS gives the students an opportunity for client communication. The students in the ITS program draft a letter to the "client" and receive feedback from the TA acting in the client role. Even if ITS does not prominently feature managing documents and information separate from the interviewing process, the interview does require the students to sift through the client's story for the relevant facts.

As to thinking from a client's perspective, the ITS scenario helps the students see that their job is to understand and to meet the client's needs. Some students need encouragement to remember that the client wants this deal to happen; the lawyer's job is to make the deal, not to defeat the opponent. Having this experience early on helps the students better understand the importance of prioritizing the client's needs.

With regard to managing risk and planning, ITS can help here too. The students must anticipate the client's future needs and plan for them, especially when negotiating over a non-compete clause and over restrictions on the chef's outside activities.

The ITS pedagogy usefully exposes students to problem solving skills, involving the students taking on the role of lawyer as they work through solutions. They must think critically about how to meet their client's needs as they approach the negotiation.

As to negotiation skills, the heart of the ITS scenario is the negotiation of the term sheet and the employment agreement so it gives the students a real introduction to this important skill.

With regard to drafting skills, adopting an ITS model would give the participants an early exposure to drafting specific and precise contract terms.

Finally, ITS encompasses some further skills, including team building as the students work in pairs and share responsibility for planning their

negotiations, doing the actual negotiating, and drafting the letters and terms together.

The ITS style of pedagogy, learn-by-doing, can be adapted to other scenarios and topics, as we describe below.

#### D. Other possible examples for skills classes

Other topics can be an effective basis for transactional skills classes with a transnational focus. One useful topic could be the creation of a Limited Liability Company (LLC) operating agreement, which is substantially common to U.S. and Italian law, where the LLC is named “società a responsabilità limitata,” (which is essentially a literal translation of LLC).

The preliminary skill, relevant to both the Italian and U.S. company models, is client counseling, in particular helping the client to identify his essential goals while negotiating. This includes adequate questioning of the client in order to better understand how he wants to set the operating agreement in light of the large number of options allowed by both the mentioned disciplines, options whose legal consequences have to be exactly known by the lawyer. Adequate questioning includes identifying the typically conflicting interests whose regulation in the operating agreement will be proposed by the lawyer after considering the specific client’s needs.

Starting from this common framework, it is possible to identify conflicting interests and correlated questions common to both the two legal systems and those particular to one of them.

A common issue is whether the operating agreement should make it easy or difficult to become a member. The discipline of this aspect involves two conflicting interests, which are checking who is becoming a member and possible future needs of selling the interest or a part of it. A clause which limits the chances for transferring the interest obviously makes it difficult for the member to sell it. So, a typical question to the client could concern his possible need to sell the interest in the future, which will depend on his financial means.

An issue particular to Italian LLCs concerns pros and cons in establishing a long duration for the company. This can be meaningful for creditors and third parties in general, since it could be a way to show the willingness of carrying on the business through the company for a long time. But each member’s right of withdrawal could arise from an excessive duration of the company. Despite that article 2473 of the Italian Civil Code provides such a right only where a time limit is missing in the contract, it is often argued that the same right should arise from a very long duration of the

company.<sup>100</sup> Questions related to this issue could be exemplified as follows: do we need to show that we are going to continue the business for a long time? And do we prefer to incur costs arising from modifications of the articles of organization aimed at increasing duration or risks depending on members' withdrawal? This second question also relates to the managing risk skills. It tends to make the client aware of future expenses and risks, and tries to help him in making the right choice.

An issue particular to American LLCs is the analysis of pros and cons in establishing reasonable restrictions of the right to information of members,<sup>101</sup> which generally consists in inspection and copying of records maintained by the company regarding the company's activities. Such restrictions could allow avoiding the risk of abuse of such a right, making it easier for managers to run the business. But, at the same time, they could make it difficult to sell interests, as the potential purchaser could dislike a company in which the information right is limited. It is possible to provide some examples of questions the client should answer, such as: is the member sure he will never need to exercise the information right, and is the member sure these limitations will not make it difficult to sell interests?

After the client counseling activity, the next step and legal skill is the drafting of the operating agreement. This requires an in-depth knowledge of the juridical consequences arising from its contents. This topic can be broken up into different exercises, each exposing the students to different skills.

The first example concerns rules about how to become members, which are often included in the operating agreement, varying the discipline of this crucial point. A deep analysis of legal regulation of this topic in Italian and American company law is beyond the scope of this paper. Nevertheless, it is worthy to underscore the wide differences between these two systems about this topic, which have to be kept in due consideration by the lawyer asked to draft a clause about it. An exercise in a class on company formation could include an ITS-style scenario that requires the students to negotiate over these differences to develop an operating agreement.

In Italian law, the default rule allows the transferee of the interest to become a member.<sup>102</sup> Such a rule is rarely applied, given that limitations for the transferee to become a member are extremely frequent. However, while drafting a limitation, the lawyer must be extremely careful. A withdrawal right arises not just from forbidding the transfer of interest, but also when the

---

<sup>100</sup> *Cassazione civ.*, 22nd April 2013, n. 9662, 41 *GIUR. COMM.*, II, 802 (2014). A critical analysis of the topic and more references about it can be found in Paolo Butturini, *Società di capitali con termine (particolarmente) lungo e diritto di recesso ad nutum*, 32 *CONTRATTO E IMPRESA* 909 ff. (2016).

<sup>101</sup> Some examples of these restrictions are provided by LARRY E. RIBSTEIN & ROBERT R. KEATING, *RIBSTEIN AND KEATING ON LIMITED LIABILITY COMPANIES*, §9.5 n. 44 (2004).

<sup>102</sup> Art. 2469 C.c.

transfer is just difficult, since the transferee could become a member only if the other members or the manager consent to it, without following specific and objective criteria.<sup>103</sup>

In American law, considering in particular the Uniform Limited Liability Company Act as a sample legislation, the default rule is stricter than the Italian one, since normally a person becomes a member with the affirmative vote or consent of all the members.<sup>104</sup> But the operating agreement can vary by the discipline, for example reducing the quantum of consent necessary or shifting the consent right to a manager.<sup>105</sup> And, what is really worthy to highlight, there are no counterbalances like a withdrawal right if the operating agreement makes it more difficult for the transferee to become a member. A lawyer asked to draft a limitation provision is working in this case in a very different framework.

The second example is about reasonable restrictions of the right to information of members in American company law. It is useful to try to define what is a reasonable or unreasonable restriction. This term was criticized as “inherently unclear,” and it has been held that its use could frustrate parties’ will to prevent potential litigation by introducing a further question, that is whether their agreement to restrict the information right meets the requirement of reasonableness.<sup>106</sup> The lawyer should consequently pay due attention to this issue, trying to reduce the chances of possible future litigation when adapting this concept to an operating agreement.

The Uniform Limited Liability Company Act can help explain the concept of a reasonable standard. It allows standards concerning confidentiality of information, like designating particular information and imposing obligations of non-disclosure and safeguarding on the recipient.<sup>107</sup> This may protect the company from the danger of disclosure of confidential information to third parties, particularly to competing companies.<sup>108</sup> Where the Act is applicable, the lawyer can rely on these standards in drafting the operating agreement.

These are just a few examples of issues which can be used for a transactional and transnational focused activity. Nevertheless, they can give the reader an initial idea of how it would be possible to simultaneously reach

---

<sup>103</sup> Art. 2473 C.c.

<sup>104</sup> See ULLCA, § 401 (c)(3).

<sup>105</sup> See ULLCA, § 401 & Comment Subsection (c)(3).

<sup>106</sup> See Larry E. Ribstein, *A Critique of the Uniform Limited Liability Company Act*, 25 STETSON L. REV. 312, 358 (1995-1996) (observing that “it is not clear why the parties cannot make any agreement they want on this issue, subject to usual good faith rules of construction”). A wider critique of ULLCA, founded on the observation that uniform lawmaking is not useful for the LLC, is in Larry E. Ribstein, *An Analysis of the Revised ULLCA*, 3 VAL. & BUS. REV. 35, 79 (2008).

<sup>107</sup> See ULLCA § 410.

<sup>108</sup> Paolo Butturini, *Diritto di informazione del socio e interessi pubblici nella s.r.l. e nelle Limited Liability Companies statunitensi*, in 6 RDS - RIVISTA DI DIRITTO SOCIETARIO 44, 56-57 (2012).



the two goals mentioned in the premise of this article. Adapting transactional skills to national and transnational commercial issues can be a very effective way to meet the need for deeper understanding of foreign law while improving practice-oriented experiences.

#### E. Transactional skills and substantive knowledge

As has been underscored, in transactional skills courses it is worth avoiding very complex facts.<sup>109</sup> The above examples regarding LLC operating agreement clauses provide an appropriate level of complexity. Even if some of the rules involved can be quite complicated, the client's needs are indeed basic in this scenario. They refer to simple issues like company duration or how to become a member, which should permit the students to focus on the specific skills taught. These issues therefore are apt for use even in the beginning of a transactional skills course. Further topics could then gradually include more complex examples, in order to develop the skills related to document management and problem solving.

In general terms, transactional skills development will require a substantive knowledge of the involved issues.<sup>110</sup> Nevertheless, when substantive concepts can be quite easily and quickly provided while teaching transactional skills, the students can start experiencing some skills early on. The best option would definitely be interacting with students already aware of substantive law. In this way, it should be easier to expose them to a wider number of practical skills.

A last point is relevant with regard to transnational topics. At least in the Italian context, these can refer to rules uncommonly applied. Facing rules about American LLCs might not be a common experience for an Italian lawyer; nevertheless, analyzing foreign law subjects is always useful in order to appreciate similarities and differences between different systems and to develop methodological skills which are becoming more and more globalized.

---

<sup>109</sup> Del Duca, *supra* note 78, at 6.

<sup>110</sup> Pantin, *Deals or No Deals*, *supra* note 64, at 88; Circo, *supra* note 67, at 210; Goforth, *supra* note 68, at 913, 915 (warning that it is hard “to limit the scope of legal knowledge required, because transactions so often involve multiple diverse aspects of law”); Espenscheid & Luna, *supra* note 68, at 539; East et al., *supra* note 75, at 231; Arnow-Richman et al., *Three Exemplars*, *supra* note 64, at 381. This need has been highlighted also with regard to the adoption of the case-law method. See Ernesto Fabiani, *supra* note 32, at 112 (suggesting that this method could support theoretical method, not cover for it).

#### F. Adapting the Introduction to Transactional Skills model to Italian and other legal systems

Even though students may have some chance of developing some of the necessary transactional skills during apprenticeship, advanced legal education activities or even in curricular activities, they need more and earlier experiences. A well-structured learning-by-doing focused course would be extremely useful. It would allow students to better “digest” what they have learned before and to focus specifically on such skills. It would also allow them to better understand the connection between theory and practice,<sup>111</sup> and to deepen their theoretical knowledge<sup>112</sup> without rigidly distinguishing the first as a matter of law school and the second as a matter of the apprenticeship.

There are huge differences between common and civil law systems, and consequent differences between teaching methodologies commonly adopted in such systems.<sup>113</sup> Nevertheless, clients’ and law students’ needs are substantially similar across the world. Every law school goal could be indeed identified in training skilled lawyers.<sup>114</sup> The point then becomes to identify which differences between Italian and U.S. legal education systems could matter while adapting the ITS model to the Italian context.

It is well known that in the U.S. an apprenticeship period is not required in order to access the bar, and presumably legal writing courses started aiming in particular at providing students with knowledge elsewhere acquired during practical training periods.<sup>115</sup> In contrast, in many civil law countries, there are two stages of legal education: the undergraduate law studies, focused on training students for legal careers, followed by practical training.<sup>116</sup> This has to be taken in due consideration while planning to transplant to another system some practice-oriented activities. But, the presence of the apprenticeship cannot be deemed in itself as a reason to exclude the utility of practice-oriented activities within the legal education curriculum.

---

<sup>111</sup> Todd, *supra* note 23, at 317.

<sup>112</sup> *Id.* at 319 (“[P]ractical writing, which is connected to the academic subjects being studied, enhances a ‘deeper’ learning of those subjects.”).

<sup>113</sup> *Id.* at 313 (“The emphasis of substance over process in many of the civil law educational systems is consistent with the ontological differences between the common and civil law systems.”). Given the predominance of an inductive reasoning, based on specific issues, whose analysis brings to the understanding of general principles, such a different background has been underscored as a possible basis for their earlier development in common law systems. See MARZIA BARBERA, *IL MOVIMENTO DELLE CLINICHE LEGALI E LE SUE RAGIONI*, IN *TEORIE E PRATICHE NELLE CLINICHE LEGALI*, XXII.

<sup>114</sup> Todd, *supra* note 23, at 296, 316.

<sup>115</sup> Kim, *supra* note 6; Todd, *supra* note 23, at 295; Clark D. Cunningham, *Should American Law Schools Continue to Graduate Lawyers Whom Clients Consider Worthless?*, 70 MD. L. REV. 499, 504 (2011).

<sup>116</sup> Todd, *supra* note 23, at 310.

Organizational issues can be considered as more relevant. Providing for a curricular transactional skill course will face several obstacles, since modifications of curricula are always very complex issues. Introduction of skills courses could affect enrollment in and the continuation of existing courses. The bureaucratic procedures needed could be complicated. Even in the U.S., it is difficult to provide for substantial instruction in transactional skills. A tendency to inertia, as well as budget issues, make it difficult to manage delivery of experiential education.<sup>117</sup>

Organizational issues are less relevant if we consider providing transactional skills activities as electives or in the advanced, post graduate studies.<sup>118</sup> There is indeed much more flexibility when the curricular activities are not going to be changed, but just more courses are offered to students on an elective basis. This is what seems to happen often in the U.S., with many law schools offering these kinds of activities as upper-level and elective ones.<sup>119</sup> An interesting alternative could also be teaching transactional skills within normal courses;<sup>120</sup> this basically should not raise any particular organizational issue. But, at the same time, it would impact time management for each teacher because investing time in useful practice-oriented activities would certainly imply having less time to teach more traditional subjects.

Finally, it is worth briefly mentioning the ITS experiment in the Verona Legal Clinic held in 2018. We tried to reproduce a very short edition of the ITS course in a clinic lesson, as better described in the next section of this article. This gave just a very first taste of it to students involved in the clinic. In particular, issues which are typical when transactional skills are taught in a clinic<sup>121</sup> did not have the chance to arise. The experiment was interesting though, and it deserves to be repeated more extensively, in order to widen

---

<sup>117</sup> Goforth, *supra* note 68, at 920, 921 (mentioning inertia and shrinking budgets); Arnov-Richman et al., *Integrating Transactional Skills*, *supra* note 77, at 440 (highlighting how law schools must at the same time “produce practice-ready lawyers” and “reduce costs” even though practice-oriented education is expensive).

<sup>118</sup> The number of students it is possible to involve in practical activities definitely matters. See ZENOVICH, *supra* note 32, at 188, (referring to a limited number of 25-35 students in order to improve their participation in practical activities). See also Barsotti & Varano, *supra* note 5, at 15 (stating that, despite “some injections of few elements of practice,” “the basic legal education will tend to remain . . . similar to what is today”). Todd discusses these concerns in the context of Germany, but covers issues that can be relevant to the Italian system. See Todd, *supra* note 23, at 312 (arguing that it would be difficult to incorporate practice-oriented activities in the undergraduate stage).

<sup>119</sup> Pantin, *Deals or No Deals*, *supra* note 64, at 64; Goforth, *supra* note 68, at 928 (highlighting how this is “the least radical change for law schools”).

<sup>120</sup> Goforth, *supra* note 68, at 927 (mentioning the examples of “domestic and international commercial and business-related courses”); Arnov-Richman et al., *Three Exemplars*, *supra* note 64, at 369 (referring to “a basic employment law course”).

<sup>121</sup> For example, we did not have to deliver client-ready documents in a short time, which can be a challenge. See Martinez, *supra* note 46, at 209.

the number of students exposed to these opportunities. So far, and in general terms, practice-oriented activities are available for just a limited number of students. Trying to make these experiences available for more students should become an important goal while trying to give them adequate legal skills training.

#### G. Introduction to the Transactional Skills model: possible further developments

As currently taught at Temple, ITS does not have a cross-border focus. But it could. What if the chef is not from the U.S.?<sup>122</sup> Or what if there is another investor from another country? Those complications might be too much for a two-week introductory course, but the entire scenario could be expanded to include resolution of the financier's support for the chef's immigration needs or to include a supply issue with a cross-border aspect.

ITS, even in its current form, can work well to introduce non-U.S. students to transactional skills. In 2018, Susan was a visiting professor at the University of Verona, facilitated by Paolo who is on the Verona faculty. Susan taught two-hour versions of the first part of ITS to a group of University of Verona law students, a group of graduate students, and faculty from the University of Brescia. With all groups, Susan role-played the client for the interview and had the participants draft client letters. Even this short introductory version was well-received, demonstrating that there is an audience and an appetite for such skills pedagogy in these Italian law schools.

Last but not least, these curricular innovations provide new opportunities for cross cultural teaching. U.S. law professors, particularly those who teach skills, or who are ahead of the curve in incorporating experiential learning into their doctrinal classes, are well-positioned to help their international colleagues develop ways to include these kinds of skills courses in universities with more traditional approaches.

In short, ITS provides a useful model that can be adapted to other issues and other legal education systems to build the repertoire of experiential learning for law students everywhere.

---

<sup>122</sup> A recent real-life scenario has useful facts. For fifteen years, the owner of a trattoria in Manhattan had been relying on his Italian mother to fly into New York every few months to make tortellini for the restaurant. Without explanation, she was denied the necessary employment visa in 2017. "It was like a stab in the heart," says Galeano. "My mother loves working in this country; I think she cried when she found out." Rob Patronite & Robin Raisfeld, *Is Trump to Blame for the West Village's Tortellini Shortage?* GRUB STREET (Jan. 16, 2018), <http://www.grubstreet.com/2018/01/is-trump-to-blame-for-the-villages-tortellini-shortage.html>.