Experiential Legal Education in the United States
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The persistent use of experiential legal education in United States law schools is best understood as a constructive accommodation to the undeniable fact that our legal system B and perhaps all legal systems B must manage the contradictory demands of being stable and being creatively responsive to changing varieties of human and social needs. Legal scholars and practicing lawyers are engaged in an eternal struggle to honor precedent and logic and, at the same time to respond to human complexity and need. We want law to be certain and predictable, but it never is, for certainty and predictability are in creative tension with something else we want: responsiveness to social needs and to the justice claims of each new situation. Making, using, and enforcing law are, in important part, exercises in logic. But they are also exercises in the arts of solving problems and doing justice. And these arts are better understood, and more effectively practiced, by those who exploit the knowledge and intellectual tools of the social and human sciences to study *the experience of lawyering* as well as the rules of law. A selective review of the history of the American legal academy will show how we came to this belief and what implications it has had for teaching and scholarship. As I have explained more fully elsewhere, that history features two large-scale transformations.

The first transformation took legal education from the working world of legal practice to the academy. Our initial system for teaching people to practice law consisted of apprenticeship training that was informal, experiential and holistic. Legal education subsequently became university based and hence a more hospitable site for scholarship as an accompaniment to teaching, but a less hospitable site for experiential professional training. In the university setting legal training developed from a loose system within which students learned law by reading legal scholars= treatises to a Acase method@ that engaged students more actively, and more critically, by requiring them to analyze judicial reasoning as it appeared in judges= written decisions. At the same time, legal scholarship flourished, focusing less on the treatise and more on deeper and narrower critiques of evolving bodies of law and on theorizing about how legal doctrine should be established and followed.

In the last fifty years or so legal education in the United States has been in the throes of a new transformation. It remains university based, but experiential learning is regaining prominence, such that students= active work of interpreting and reconciling judicial opinions is supplemented by simulated and actual clinical practice. At the same time, the law school is more fully integrated into and more influenced by the university as a whole. Faculty and students remain focused on the logic of judicial reasoning, but attend also to politics, policy, social behavior and the nature of human judgment. In our scholarly writing and in our teaching, law professors continue to emphasize the logician=s skills, but we augment logical reasoning with the investigatory, analytic and clinical methods of the human and social sciences, and we draw knowledge from any, and nearly all, scholarly disciplines. We have thereby contextualized the study of legal rules, and, in doing so, we have begun to engage the political contexts, the policy

implications and the social and human determinants of lawyers= and judges= work. This engagement has, in turn, called our attention to the lawyer=s and the judge=s duties of social responsibility and mindful interaction.