Law Professors' Conceptualization and Use of Students' Prior Knowledge and Experience in Developing Subject-Matter Understanding

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Abstract

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This study was an attempt to better understand how law faculty search for and create *linkages between subject matter being taught* and *law students' existing (that is, prior) knowledge and experience*. For faculty who do search for and create these linkages, the study can help them understand, and potentially give them access to, specific practices and resources that can support their teaching in this manner, while also helping them understand this approach to teaching.

The study was informed and guided by three conceptual frames: pedagogical content knowledge, culturally framed theories of teaching and learning, and convergent teaching. The study included 14 faculty teaching first-year required classes at one of four law schools: two elite and two broad-access (two to four faculty members per campus). I collected data via a combination of interview, observation, and document analysis methods.

The study's findings are summarized as follows: First, a significant amount of participating faculty members' first-year doctrinal teaching drew on students' prior knowledge to support students in making connections to course material. It is possible, then, that teaching from students' prior knowledge is common, at least in certain law schools, yet it is not acknowledged as such. Second, study participants described significant barriers to or stated concerns about the possibility of teaching in this way, including: hesitation to engage in sensitive or controversial discussions, limited instructional time, large class sizes, and a large amount of material to cover in a course. Third, teaching with attention to students' prior knowledge is likely to be particularly

challenging in subject matter areas that are distant from students' everyday lives (though law school faculty can develop strategies for overcoming this challenge). Fourth, in study participants' views, their institutions offered virtually no formal support for this kind of teaching to faculty wishing to engage in it. Fifth, virtually all participating faculty members identified as deeply committed to teaching in a way that draws on students' prior knowledge worked at broad-access (non-elite) law schools, suggesting that these sites may be particularly amenable to such teaching. These faculty members also had certain characteristics in common—for example, possessing significant prior experience in full-time legal practice, being inclined to care for students and being attentive to their well-being, and having been educated themselves in non-elite law schools.

The study concluded with discussion of the implications of these findings for law school institutional policy and leadership, faculty practice and professional development, future research, and theory. There was a particular focus on: (a) factors that encourage this type of teaching at broad access law schools and position such institutions as important leaders in this regard; and (b) the possibility that such teaching may help to democratize legal education in broad-access and elite institutions.

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Dedication

For Lisa, Danya and Micah

Chapter 1: Introduction to the Study

Introduction

This study is an attempt to better understand how law faculty search for and create *linkages between subject matter being taught and law students' existing (that is, prior) knowledge*. For faculty who do search for and create these linkages, this study will help us understand the things that promote or support their teaching in this manner and their reasons for doing so. There is considerable evidence, primarily in the K-12 educational literature, that teaching in a manner that connects carefully selected subject-matter ideas (or ways of thinking that are unique to particular subjects) to students' pre-existing knowledge and experience leads to better opportunities for student learning (Bransford et al., 2000). Some scholars have examined these ideas in the undergraduate context, where they have yielded significant insights about faculty development and approaches to teaching (Neumann, 2014; Pallas & Neumann, 2019).

As I discuss below and elaborate on in Chapter 2, similar ideas have not been significantly explored in the context of law school teaching and learning, including whether and how they may apply to the teaching of law. Through this study, I seek to do so in order that that we might come to better understand and use approaches to supporting law students' learning, and in ways that promise to align with what these students know and hold to already about themselves and their communities, as well as what they strive for. It is my hope that doing so will enhance students' educational and professional outcomes, especially so in law schools attracting historically underrepresented student populations.

Presentation of the Problem and the Perspective of This Study

Through this study, I sought to develop knowledge that will support ongoing efforts to improve students' learning in American law school classrooms (and, hopefully, as a result, improve their rates of passage on the bar examination and, ultimately, their prospects for professional success and fulfillment). I have a particular interest in supporting these efforts in ways that would benefit underserved populations. As an Associate Dean at a law school that serves as an engine of social and economic mobility for many students (a significant number of whom are students of color, first-generation students, and/or students from low-income backgrounds), I am extremely interested in supporting, and investing in, such efforts. In my role, I have observed faculty members work to connect students' prior knowledge and experience to classroom subject matter to create better opportunities for learning. Moreover, as a law school instructor, I have made my own attempts to do so. But these efforts are often made more difficult by the dominant law school pedagogical approaches discussed elsewhere in this paper.

As I discuss in more detail below and in Chapter 2, my fear is that the tendency of the field of legal education, through its use of particular pedagogical methods, to abstract subject matter from personal experience may devalue students' pre-law school experiences, knowledge, and identities. This is contrary to major literature in the learning sciences that suggests that serious engagement with students' own knowledge and experience (legal, cultural, and personal) in the classroom can provide significant educational benefits. As a lawyer and legal educator who is also engaged in this area of the learning sciences, I feel an additional obligation to consider some of the (very promising) ways that the learning sciences might inform new efforts in the practice of legal pedagogy and faculty professional development in that area.

There are, of course, many ways to go about improving law students' learning, and much of this, in the law school literature, has focused on enhancing students' opportunities to learn through organizational adjustments to resources available to them. Much scholarly attention in this area is focused, for example, on pre-law school academic preparation programs, academic support programs, bar preparation programs, financial aid policies, and other interventions that could improve academic outcomes for students. Many of these efforts involve infusing new institutional resources—or re-directing existing resources—to improve students' chances of academic success. To be sure, there is also significant existing scholarship addressing teaching improvement and faculty professional development in law schools (Barron, 2011; Beckman & Temblay, 2012; Franklin, 2016). But very little of that literature explicitly addresses the *knowledge and experience that students bring with them* to law school with *attention to how faculty members might use such knowledge and experience* to further students' subject matter understanding. That was the aim of this study.

To begin, it is important to appreciate that law students start their studies with a diverse array of accumulated knowledge and experience. Like all students, they bring learning from their personal and cultural lives, and their prior academic learning in schools and colleges, to the law school classroom (Bransford et al., 2000). Such knowledge is critical because it informs how students engage with and understand new subject matter. Indeed, one scholar, in the course of describing qualities of a successful teacher, noted that "…the heads of students are full, are rich, are variegated. And that teaching involves connecting not with their ignorance, but with their prior knowledge" (Shulman, 2004a, p. 131). Thus, to create subject matter understanding for students, teachers ought to try to ascertain what their students already know and believe and then

work to find ways to build on that existing foundation—as opposed to assuming that their students present a "blank slate" for receiving new knowledge.[1]

Despite the importance of this prior knowledge, much of the teaching in contemporary American law schools does not appear to fully consider it (Sullivan et al., 2007; Welch, 2007). In my experience, such teaching certainly does occur. However, it seems somewhat limited. Indeed, creating such linkages between the subject matter of teaching and students' prior knowledge and experience is difficult in the law school context for at least two major reasons.

First, contemporary law students are an extraordinarily diverse group and are likely to have vastly different knowledge and experiences than many of their faculty. This is especially true at broad-access institutions,[2] which tend to enroll students of color and students from lower socioeconomic statuses at higher rates than more selective law schools.

Consider the demographic and educational characteristics of law school faculty members. In addition to inherent age differences between law school faculty and their students, most law school faculty attended the nation's most elite colleges and law schools (Gordon, 2009). During the 2007-08 academic year, 15 law schools provided 52.9% of the American law school faculty. Two law schools, Harvard and Yale, provided over 20% of the law professors in the United States during the same year (Gordon, 2009, pp. 17-18). According to the Association of American Law Schools (and others), "most [American law] students have almost exclusively

[1] I note here that prior knowledge can be "productive" or "unproductive." That is, not all prior knowledge helps to advance subject matter understanding. For example, it has been shown that some students may bring mistaken assumptions to the classroom (Brod, 2021). Indeed, a long-held belief about some element of the subject matter at issue could actually be detrimental to a student's academic development. However, in this study, I use the term *prior knowledge* to refer to the "productive" type of prior knowledge. Such knowledge can serve as a foundation on which to build and enhance understanding of a particular element of the law.

[2] For the most part, references in this study to institutions mean law schools. When I mean higher education institutions more broadly, I use *higher education institution*, *postsecondary institution*, or other similar terms.

white male professors during the first year, with a few females and perhaps one professor of color" (Deo et al., 2010, p. 8).

American law *students*, however, are, in general, a more diverse group and the law student population continues to grow more diverse nearly each year. For context, law students attend one of 205 American Bar Association-Accredited law schools (or one of an additional 30 or so unaccredited institutions) ranging from elite Ivy League institutions to broad-access commuter schools that primarily serve local communities (American Bar Association [ABA], 2020). Minority student enrollments in Juris Doctor (JD) programs nationally was 6% in 1970-71 and rose to 27% in 2013-14 and 31% in 2018 (again, this is in contrast with faculty members, for whom minority representation stands at about 15% nationally) (ABA, 2020).

Creating linkages between subject matter and students' prior knowledge and experience requires that faculty have an in-depth understanding of their students and be deeply familiar with their lives, knowledge, and experiences (Pallas & Neumann, 2019). Teaching in this way requires in-depth knowledge of students' lived experiences (Rose, 1989). Such deep familiarity with students and their prior knowledge, however, might be difficult to achieve in law schools because of the significant differences between law school faculties and their students. Indeed, differences between faculty members and students in race, ethnicity, age, socioeconomic status, educational credentials, and other factors might make it difficult for faculty members to understand their students' thinking, including the prior knowledge they bring to class, in ways that permit them to support their learning.

Any discussion of law school diversity in this context, though, is incomplete without appropriate consideration of how that diversity is manifest uniquely in institutions that prepare future lawyers, in contrast to those preparing other professionals such as doctors. It is critical to

appreciate that the very nature of law school admissions concentrates certain students in certain types of institutions. Graduate school admissions practices in certain fields, like medicine, play a gate-keeping role by limiting the number of matriculants each year. Law schools, on the other hand, are (at least in the collective sense) almost open access; there are many available seats at a host of broad-access institutions—though, of course, the more elite an institution, the more difficult it is to be admitted. Applicants of lower socioeconomic statuses, which include many people of color, are, on average, more likely to score lower on the Law School Admissions Test (LSAT) than their peers. As a result, law schools' use of this exam has the effect of sorting "students into schools not just by score, but by race and class" (Curtis, 2019, p. 307). Indeed, broad-access law schools accept and enroll students of color and students from lower socioeconomic backgrounds at higher rates than do more elite institutions.[3]

Law schools are highly stratified institutions. The above-described law school sorting dynamic, and its resulting effect of concentrating students of color and lower socioeconomic status students in broad-access (understood as "less selective") institutions, is critical to understanding the aim and significance of this study. First, it means that students at these institutions may have distinctive backgrounds, knowledge, and experiences, and that their knowledge and experiences may be significantly different than those of their faculty. Any attempt to create linkages between their knowledge and experiences and the law school subject matter must take this dynamic and its implications into account. Second, it suggests that broad-access institutions merit particular attention in a study whose ultimate concern is good teaching

[3] There are related dynamics at play in higher education more broadly, with broad-access 2-year institutions enrolling disproportionate numbers of Black and Hispanic students. According to a U.S. Department of Education (USDOE, 2016) Report, "[f]ewer Hispanic and black high school graduates enroll in four-year colleges than white and Asian high school graduates, but two-year college is a common pathway for Hispanic students… [c]onsiderable variation also appears across institution types (public, for-profit, private non-profit). White students enroll in private, non-profit institutions more than their black and Hispanic counterparts…."

and student learning, given the student diversity that increasingly these institutions reflect. In brief, good teaching is likely to matter greatly at these institutions. Third, broad-access law schools are likely to admit students who have performed worse than others on traditional measures of academic achievement and/or standardized tests like the LSAT. Again, this means that efforts to improve students' opportunities for learning at such institutions are especially critical (perhaps more so than in other fields with gate-keeping admissions systems).

Second, most legal doctrine is taught in a way that tends to consider subject matter without attending to its context. The resulting knowledge base—thus, subjects taught in law schools—systematically devalues students' knowledge and experiences. Certain empirical studies, as well as theoretical literature, show that Langdellian methods, which use appellate court cases in Socratic classroom settings to teach students to reason "like a lawyer," tend to strip legal problems of personal and social context (Hyland & Kilcommins, 2009).[4] Such abstraction has important consequences for students. In particular, it seems to devalue students' pre-law school experiences and identities (or can make particular students' law school experiences disorienting to them). Additionally, it de-emphasizes important considerations relating to morality and justice within the law school classroom—considerations that may be informed by students' own experiences and that may be important to them.

[4] This statement, discussed by some observers of law school teaching (Mertz, 2007) refers especially to doctrinal classrooms. Other kinds of law school classes (including, among others, clinics, externships, simulations, and various first-year skills programs) strive to help students learn a different kind of content, for example, in developing skills central to lawyers' day-to-day work (e.g., interviewing clients, or guiding them through trials). Instructors teaching such classes may indeed be tuned in to students' prior knowledge, and it is important to point out that some doctrinal faculty may as well (a point I pursue in this study). As such, the critiques that follow are less applicable (or not applicable at all) to this set of classes (e.g., skills classes) and instructors than to doctrinal classes and instructors. Nonetheless, the case method, central to doctrinal classes, remains dominant in American legal education, and this method—and concomitantly, doctrinal knowledge—define a significant portion of American law students' academic experiences. This is why I have focused my discussion on teaching in doctrinal courses, raising the question of whether and how doctrinal course instructors use it to enhance law students' opportunities to learn.

Even as early as the mid-20th century, prominent scholars observed that the Langdellian approach, with its focus on appellate court cases and a particular type of classroom dialogue, repudiates the wisdom of actual legal practice in a way that disserves law students and their future clients (Frank, 1947). One scholar noted that the positioning of appellate court decisions as the base of legal knowledge, including that which constitutes the law school curriculum, is odd, considering that real client matters are resolved in a wide variety of different settings and mostly in trial (as opposed to appellate) courts (Frank, 1947). It is important to note here that this critique is by no means unanimous. Indeed, LaPiana's (1994) thorough study of the origins of modern American legal education argues both that Langdell was "deeply immersed in practice," and that Langdellian case method instructors did not focus on skills instructions because they assumed their students would spend time as clerks learning directly from practicing lawyers (pp. 169-170).

A number of major reports relating to law school and the legal profession have continued to level serious critiques of the dominant legal pedagogical methods and their shortcomings. The 2007 *Carnegie Foundation Report on Legal Education* (Sullivan et al., 2007), the most prominent of such reports, observed that the case method has serious limitations. The case method's use of a single appellate court decision to exemplify principles of the law abstracts "...the legally relevant aspects of situations and persons from their everyday contexts" (p. 55). Students are taught to view legal questions in isolation without taking into account their own prior knowledge of life as they have experienced it.

To be sure, the case method and related modes of instructions are enormously useful in certain ways, and there are good reasons for their being cast as reflecting the "signature pedagogies" of the profession (Hyland & Kilcommins, 2009; Sullivan et al., 2007). Among other

benefits, these approaches provide law students with common foundational experiences and, in some cases, can be an effective way to teach to legal language and reasoning (Sullivan et al., 2007). I would like to suggest, though, that this approach may both pose risks for the way that students understand and use the law in their own careers and may be harmful to some (perhaps, many) students' sense of self and identity.

Legal and educational reports aside, at least one researcher, an anthropologist of the law, echoes this view. In her study of first-year contracts courses, Mertz (2007) found that dominant law school pedagogical methods systematically exclude social context in a way that limits students' intellectual inquiries into the material being taught (p. 212). These methods of instruction, which are often limited to analysis of excerpts of appellate court decisions, may not fully consider the social contexts surrounding the origin of the subject matter at issue; nor do they generally consider the biases and privileges inherent in related laws and rules. This method—and especially its tendencies to abstract the law from social context—has the effect of creating an appearance that the law is neutral (or applies equally to everyone, regardless of their background experiences, cultural origins, and contextually-grounded identities). This approach can "obscure very real social differences that are pertinent to making just decisions; it can also create an appearance of neutrality that hides the fact that U.S. law continues to enact social inequities and injustices" (p. 5).

Second, the dominant law school pedagogical approach can fail to prepare students for the actual practice of law, which generally involves counseling actual people involved in real-world situations. The backgrounds, experiences, and perspectives of all those involved in actual lawyering are highly relevant in legal matters and are likely to influence a lawyer's strategy on any particular matter. In other words, actual lawyering is messy—it is practiced on behalf of

people with their own particular knowledge and experiences, and requires that lawyers understand and appreciate the relevant context to solve problems and serve as effective advocates on behalf of their clients. I take the position that students should understand that this is how actual lawyering unfolds, and law schools should prepare them to do it successfully.[5]

Third, the case method risks harm to students' sense of their identities. In many instances, the case method's systematic abstraction of personal and social context asks students to separate themselves from the legal principles they are being taught. Indeed, their own views might be explicitly excluded from the classroom for fear of introducing bias. As the *Carnegie Report* in 1992 noted, "…the tacit message can be that for legal professionals, matters of justice are secondary to formal correctness" (Sullivan et al., 2007, p. 58). I would like to suggest that this is potentially harmful in that it communicates to students that their own knowledge and experience are unimportant—instead, they are taught that what *is* important is only the text (usually excerpted) of the case at issue, the correct analysis of that case, and the doctrine that the ruling creates. This issue is of particular concern for students who are members of historically marginalized communities who have been excluded from or underrepresented in the profession. Discounting their knowledge and experiences, especially the cultural and personal, seems to risk further creating a feeling of exclusion—precisely the opposite of what law schools and the profession ought to be doing to encourage diversity, equity, and inclusion.

Fourth, in excluding students' own knowledge and experiences about the world, the traditional case method fails to take advantage of a valuable source of potential wisdom and insight. For example, students' own notions about justice and morality, their personal

[5] I once again note here LaPiana's (1994) argument that Langdellian teaching was once carried out under the assumption that students would receive extensive skills training in apprenticeships and, as a result, skills training was not necessary in the classroom (pp. 169-170). In my view, the fact that most law students no longer engage in such apprenticeships (certain clinical experiences notwithstanding) supports the concerns I have raised here.

experiences with law enforcement or the legal system, or their experiences navigating the issues surrounding the death of a family member, or other such life events, might all prove useful in considering the subject matter of a class they are taking. I deal more extensively with this issue elsewhere in this chapter.

In recognition of the serious drawbacks of a pedagogical approach that abstracts legal principles from students' prior knowledge, and for other reasons, law schools have wrestled with the implications of the *Carnegie Report* and implemented various reforms like redesigning law school curricula to provide students with increased access to clinical and experiential education. These types of offerings are more focused on providing students with "real-world" educational experiences and tend to consider social context more fully (Beckman & Tremblay, 2012; Cooper Davis, 2010). To be sure, law schools have made many attempts, both before and after the publication of the *Carnegie Report*, to introduce students to the realities of practice (Barron, 2011; Eisinger, 2004; Katz, 2016; Katz & Scherr, 2010; Quigley, 1995). Nonetheless, the divorcing of legal principles from students' prior knowledge and experiences (including their ethical and moral principles) remains a fundamental part of the dominant pedagogical approach at most American law schools (Mertz, 2007).

The *Carnegie Report* led to a flood of legal scholarship and institutional reforms, most of which were focused on the importance of practical training for future lawyers, especially through clinical coursework (Maranville et al., 2011). It also spurred legal educators to consider its implications in a variety of other areas ranging from externship design (Barron, 2011; Maranville et al., 2011) to reliance on communities of practice—groups that share experiences and practices, often in a workplace environment (Wenger, 1999)—in the law school classroom (Holmquist, 2011). Despite such reforms, the report may not have led most legal educators and administrators

to engage seriously enough with issues of students' prior knowledge and experiences toward reframing law school teaching and devising teaching improvement policies and programs.

Drawing on the preceding points, I offer the possibility that teaching that draws purposefully on law students' prior knowledge (be it academic, or cultural or personal), when added in to current approaches (which, I believe, are here to stay) offer the possibility of ameliorating certain risks, to students' own identities, that traditional legal teaching, by itself, may pose. One might wonder what stands in the way of changing law school teaching toward more full inclusion of students' prior knowledge—or at least toward experimenting with this approach—toward improving their academic experiences. In addition to the significant differences in faculty and student backgrounds described above, I would like to suggest that one of the most serious of these obstacles is that a pedagogical approach that takes seriously full inclusion of students' prior knowledge is, arguably, at odds with some of the traditional foundational tenets of American legal education: neutrality and objectivity. This is an approach, after all, that might require recognizing inherent biases in seemingly neutral systems and elevating students' notions of justice in classroom discussions from which students' own views are generally excluded. Unfortunately, this sort of approach is contrary to the signature pedagogy of legal education.

My own experience, and that of many other law school professors with whom I have spoken, and with whom I have worked, indicates that teaching that draws on learners' prior knowledge may well feel new to some law school professors. Yet many others use it—perhaps without realizing its distinctive status in educational research as a field apart from their own, and perhaps in ways that are unique to the legal content being taught and the students in their classrooms. This study takes this assumption as its starting point.

Significance of the Study

A better understanding of how certain law school faculty members seek to create linkages between the subject matters of their teaching and their students' existing knowledge, experiences, and values—as well as of how these faculty members learn to do so and why they think creating such linkages is important—could be important in efforts to improve educational and professional outcomes for law students. For example, the findings of such inquiry could point toward needed changes in faculty professional development programming and other practices as well as institutional policies. Such changes are particularly significant for broad-access law schools that serve disproportionate numbers of students from historically marginalized populations, including low-income students and students of color.

At many law schools, students struggle to understand sophisticated legal doctrine and, as importantly, to pass the bar exam. This is of particular concern at broad-access law schools that typically enroll students from lower socioeconomic backgrounds at higher rates than more selective schools. For students at these broad-access institutions, who tend to take on high levels of debt to finance their education, attaining a quality education and passing the bar exam are critical to professional success. Those who do not succeed in class, pass the bar exam, and find legal employment may suffer lasting and significant personal, professional, and financial harm. Additionally, students at these broad-access institutions tend to be grounded in their local communities, and their careers are more likely to be spent doing legal work that advances the interests of these communities (and, arguably, the broader public interest). As a result, increasing these students' opportunities to learn and supporting their professional success are critical for them and for their communities.

Research Questions

To guide my inquiry into what doctrinal teaching that draws on law students' prior knowledge looks like—how it unfolds—as well as what may support such teaching, I formulated the following research questions:

1. In their teaching, how do full-time doctrinal law faculty search for, and sometimes create, linkages between the subject matter they teach and their students' existing knowledge, experiences, and values in ways that support the students' learning of the subject matter?
2. How do full-time doctrinal law faculty who search for, and sometimes create, such linkages describe their reasons for so doing?
3. What do full-time doctrinal law faculty who search for, and sometimes create, such linkages identify as factors that support or promote their so doing?

In this study, I refer to law school students' prior knowing and to other prior elements of their knowing and experiencing—including feeling, believing, and valuing as the prior "stuff" of people's minds and lives that can shape their learning. I often summarize these with the term "prior knowledge," though I seek to capture them all. This is, in my view, consistent with the approach taken in leading texts in this area, such as *How People Learn* (Bransford et al., 2000).

Having presented the problem at issue, described its significance, and laid out my research questions, I now turn to a review of current literature in related areas and conceptual frames through which to consider the study.

Chapter 2: Literature Review and Conceptual Framework

Introduction

As I described in Chapter 1, this study is an attempt to better understand how law faculty search for and create *linkages between the subject matter being taught and law students' existing (that is, prior) knowledge, values, and experiences*. For faculty who do search for and create these linkages, this study can help us understand the things that promote or support their teaching in this manner and their reasons for doing so.

There is considerable evidence, primarily in the K-12 educational literature, that teaching in a manner that connects carefully selected subject-matter ideas (or ways of thinking that are unique to particular subjects) to students' pre-existing knowledge and experiences leads to better opportunities for student learning (Bransford et al., 2000). Creating linkages between subject matter and students' prior knowledge and experiences requires that faculty have a "deep and flexible knowledge of the subject matters they teach and knowledge of their students, as well as a desire and will to inquire into how students think as their learning unfolds" (Pallas & Neumann, 2019, p. 99).

To understand how such teaching might take place, as well as potential obstacles to such an approach, in contemporary legal education, it is necessary to consider the context, culture, and practices that currently exist in American law schools. I begin this chapter, then, with an overview of contemporary American legal education, as well as a review of relevant literature pertaining to law school teaching and learning. In part, this section presents some of the shortcomings of dominant law school pedagogical approaches when it comes to faculty consideration of students' prior knowledge and experiences. This description is based on available literature and reports and informed by my own experience as an Associate Dean at an

accredited law school. As will become evident, the dominant law school pedagogical methods tend to *exclude* students' prior knowledge and experiences.

In addition to the areas of law school teaching and learning, there is much in the K-12 and *non-law school* higher education literature that can help illuminate the kind of teaching that connects students' prior knowledge and experiences with classroom subject matter. As described above, literature in this area has the potential to help us to consider the potential linkages between subject matter ideas and student knowledge and experiences in the law school classroom. Below, I review these areas of the K-12 and higher education literature in some detail. Once I discuss these areas of K-12, higher education, and law school literature, I propose three conceptual frames for the study as well as the associated strengths and weakness of each.

Literature Review Process

To address the problems of practice regarding linkages between law school subject matter and student knowledge and experiences, I conducted a thorough review of the relevant literature. The goal of this review was to understand more fully both the current pedagogical methods employed in American law schools and their historical evolution, as well as areas that deviate from the dominant approach which tends to abstract legal principles from students' prior knowledge. To do so, I used various databases to identify existing educational and legal scholarship relating to the use of students' prior knowledge and experiences. First, to identify pertinent studies in the field of education, I used online databases including, but not limited to, Education Full Text, ERIC, JSTOR, and Digital Dissertations. I used key search terms and permutations, including, but not limited to: Prior knowledge (including experience, culture, and closely related terms); teaching (including pedagogy, pedagogical content knowledge, subject matter, and closely related terms); and learning (including subject matter learning, active

learning, experiential learning, reflective practice, communities of practice, and closely related terms). I used the LexisNexis database of American law reviews and journals to identify legal scholarship on prior knowledge and experience in law school classrooms (including discussion of various specialized pedagogical methods), experiential teaching and learning, clinical teaching and learning, and the history of legal education as it relates to these areas. I also searched this database using the same search terms noted above.

Finally, I consulted key books and major reports on legal education and the legal profession (descriptions of these appear below). The various sources helped to illuminate aspects of the dominant law school pedagogical methods that seem to undermine attempts to use students' prior knowledge and experiences in the classroom. Additionally, the review helped to establish certain areas (like clinical pedagogy) that better embrace such approaches.

Understanding Contemporary Legal Education

As noted above and in Chapter 1, the purpose of this study is to better understand how law faculty search for and create *linkages between the subject matter being taught and law students' existing (that is, prior) knowledge, values, and experiences*. For faculty who do search for and create these linkages, the findings may help us understand what promotes or supports their teaching in this manner and their reasons for doing so. To understand how such teaching might take place, and likely barriers to it, it is necessary to consider the context, culture, and practices that currently exist in American law schools. To provide this context, we begin with an overview of law schools.

About 200 American law schools are fully or partially accredited, or licensed, meaning that students at such schools can generally sit for the bar examination in any state when they graduate, have access to government aid, and enjoy other benefits. The American Bar

Association (ABA) is the accrediting body for these schools. Most law students earn Juris Doctor (JD) degrees, though Master of Laws (LLM) degrees are often offered, particularly to international students with prior legal training or those seeking to specialize in certain fields like taxation (some law schools offer additional advanced degrees). The JD degree is the foundational law degree and by far the most common. Some JD students may have a specialty area of study during law school, but the degree is general in nature and includes preparation in a wide variety of legal areas. LLM degrees are typically more focused on a particular area of the law (for example, tax is a common area for LLM study because of its highly complex nature). The JD degree typically takes 3 years to complete (or 4 years for evening and other part-time students). Degree completion plus passage of a bar examination is generally required to practice law, though some states, like California, do allow prospective lawyers to complete a practice-based apprenticeship. First-year law students and classes are often referred to as "1L," an abbreviation I use periodically.

American law schools follow relatively similar curricula. As one report noted, "[t]ypically, in the first year and a half, students take a set of core courses: constitutional law, contracts, criminal law, property law, torts, civil procedure and legal writing. After that, they choose among courses in particular areas of the law, such as tax, labor or corporate law" (Sullivan et al., 2007, p. 4). With the exception of legal writing, these types of classes are generally known as doctrinal classes. The term *doctrinal* is used to describe courses that aim to teach students a set of legal rules relating to a particular area of the law. As described in much greater detail below, doctrinal courses are often taught using the case method, in which students are taught legal principles through the close examination and discussion of court cases. Collectively, the rules or principles that are articulated in such court cases describe the state of

the law in a particular area. This method dates back at least to the appointment of Langdell as Dean of Harvard Law School in 1870. Langdell and his colleagues, while not the first to engage in such methods, are widely acknowledged to have transformed legal education by bringing the scientific study of law through the case method to Harvard (LaPiana, 1994).

Doctrinal teaching is often accomplished by using some form of the "Socratic method," where students are called on (often without advance notice) to recite facts from an assigned case and engage in dialogue with the faculty member about it. This method often causes student anxiety, and most popular portrayals of legal education in motion pictures, books, and elsewhere are inspired by this type of Socratic teaching.

In addition to doctrinal classes, law schools also offer courses on legal research, writing, legal advocacy, and other skills. These courses often include instruction on modes of legal analysis (like, for example, the somewhat well-known IRAC heuristic, which is a particular way to lay out a legal argument: Issue, Rule, Application, and Conclusion (see, for example, Columbia Law School Writing Center, 2021) and foundational principles of legal research, writing, and other skills.

Once law students progress past the first year or so of law school, they can generally choose from a variety of more specialized courses. Such courses are taught in a variety of ways ranging from more traditional Socratic-method delivery to lectures to seminar-style, discussion-oriented sessions, and vary widely in subject matter. Upper-year students can also take advantage of experiential learning opportunities (indeed, some states now require prospective lawyers to complete a certain number of experiential learning credits).

Experiential learning (or "learning by doing") in law schools typically takes the form of a simulation, clinic, or field placement. Each provides a varying level of "real-world" lawyering

experience, and clinics and externships often involve contact with actual clients and experienced attorneys. Clinical education, as discussed below, is notable for its often social justice-oriented approach to lawyering.

The *Carnegie Report* (2007) noted that, "[l]ike other professional schools, law schools are hybrid institutions. One [historical] parent is the historic community of practitioners [namely lawyers], for centuries deeply immersed in the common law and carrying on traditions of craft, judgment and public responsibility. The other heritage is that of the modern research university." In contemporary times, though, the legacy of the modern research university has largely won out over a model that might have better emphasized more practical approaches (Lopez, 2017). In other words, law is firmly established as an academic subject with associated scholarship produced by full-time faculty members in a traditional classroom environment. Indeed, despite reform efforts, the "scientific" case method remains the dominant pedagogical approach, and experiential learning and other approaches (like problem-based learning), while on the rise at certain institutions, can often seem secondary. That is, traditional modes of academic scholarship and learning comprise the core of the student law school experience, while experiential learning, skills-training, and other "deviant" areas that make a lawyer "practice-ready" are, to some degree, curricular add-ons.

Having provided some context regarding contemporary American legal education, I next consider the pedagogical methods in place at these institutions. The section below traces the evolution of American law school pedagogy and identifies important features of contemporary legal education. In this section, I also discuss important pedagogical features of the law school experience that relate specifically to this study. Specifically, aspects of the dominant approach to

law school teaching and learning seem to establish barriers to creating linkages between subject matter and students' prior knowledge and experiences. I highlight these below.

Providing Historical Context on Law School Pedagogy

I now move to a discussion of the dominant methods of law school instruction and their development. Much scholarly attention is focused on tracing the history of legal education from the origin of Langdell's case method at Harvard in the late 1800s to the subsequent addition of more practice-focused classes, experiential learning courses, and clinics (Baker, 1994; LaPiana, 1994). Langdell, perhaps the most influential figure in American legal education, established a system that, in most contexts, remains the dominant way that legal pedagogy unfolds in law schools (Hyland & Kilcommins, 2009). For Langdell, "[t]he experience of the lawyer in his office, with clients, and in the court-room with judges and juries were…improper materials for the teacher and his students" (Frank, 1947, pp. 1303-1304). His view was that the law must be approached as a science and that the study of law should occur through careful study of books or texts—as opposed to through practice (Chase, 1979; LaPiana, 1994). What this means is that Harvard Law School, and the other law schools following this approach, would focus largely on law as academic subject matter as opposed to centering on the actual experiences of practicing lawyers. As noted above, the classroom portion of this type of instruction relies on the case method, where (often excerpted) appellate court cases are used to identify legal rules and principles. Collectively, such rules and principles form and describe the state of the law in a particular subject matter area. Such case method teaching is usually accomplished through the "Socratic method," which involves dialogue about a case between a faculty member and one or more students. The purpose of the dialogue is to help the students learn to describe the facts of the case, identify the relevant legal issue, and articulate a general rule about a particular legal

area (Frank, 1947, p. 1304). This ability to distill the "rule" from a set of cases is important in legal practice and can help practitioners to determine the state of the law in any particular subject matter and jurisdiction.

The scientific approach to the study of law (and the case method) remains the dominant approach well over a century later—though it is not without controversy. Some scholars defend the approach, noting that the careful reasoning occurring in a case method-based, Socratic classroom is akin to, say, a clinical setting for medical students where students learn analytical reasoning by actively working through a set of facts to arrive at a rule (Chase, 1979, p. 342). Others note that Langdell's methods are actually somewhat consistent with active and experiential learning principles (Cooper Davis, 2010). One scholar, for example, describes the transition from pre-Langdellian lectures to a Socratic-style case method approach as elevating a pedagogical approach that embraces active learning (or learning that involves active participation through simulation, discussions, and the like) through intense classroom engagement. In other words, student/teacher dialogue and the need for students to stay closely engaged in the "back and forth" of a Socratic classroom might provide an active learning experience. This scholar argues that Langdell's techniques are consistent with those championed by major reformers in the K-12 educational context, perhaps most notably Maria Montessori (Cooper Davis, 2010, p. 1277).

Other scholars, though, are more skeptical of the case method and Socratic teaching (Sturm & Guinier, 2007). Even as early as the mid-20th century, prominent legal thinkers observed that the Langdellian approach, with its focus on appellate court cases and a particular type of classroom dialogue, repudiates the wisdom of actual legal practice in a way that disserves law students and their future clients (Frank, 1947). Indeed, as noted elsewhere in this study, one

scholar notes that the use of appellate court decisions is odd, considering that real client matters are resolved in a wide variety of different settings and mostly in trial (as opposed to appellate) courts (Frank, 1947). Others argue that law students ought to be encouraged to come into direct contact with court rooms and other aspects of actual legal practice. Some even suggest that a significant percentage of law faculty should be individuals with significant lawyering experience—which would mark a significant departure from the norm at certain law schools (Deo et al., 2010; Frank, 1947).

Regardless of the varying views on the case method approach, there is a general consensus that it continues to be the dominant pedagogical approach in American law schools (Sullivan et al., 2007; Weaver, 1991). Given the centrality of this pedagogical approach to American legal education, it is important to consider its implications for the treatment of students' own knowledge and experiences, notably what educational researchers refer to as learners' prior knowledge. The following section begins such an analysis.

Tendency of Legal Education to Abstract Legal Principles from Social Context and Student Experiences

For the purposes of this study, it is critical to consider the implications of various pedagogical models, commonly used in law schools, as they relate to the use of students' knowledge and experiences in the classroom. To allow for this analysis, I turn to a discussion of the implications of the dominant pedagogical approaches for the type of teaching and learning at issue in this study—namely, that which takes seriously students' own knowledge and experiences.

Some empirical studies, as well as theoretical literature, show that Langdellian methods, which use appellate court cases in Socratic classroom settings to teach students to reason "like a lawyer," tend to strip legal problems of social context. As I discuss below, a number of studies

have shown that such abstraction has important consequences. In particular, it seems to devalue students' pre-law school experiences and identities (or makes certain students' law school experiences disorienting). Additionally, it de-emphasizes important considerations relating to morality and justice within the law school classroom—considerations that may be informed by students' own experiences.

In his landmark text *Persons and Masks of the Law*, Noonan (1975) argues that individuals and their particular social circumstances are largely ignored in legal education, which tends to focus on abstract rules. Noonan acknowledges the importance of generalizable rules in the legal system but is also adamant that the individual circumstances of the people involved in legal disputes should not be neglected. Indeed, he warns of legal constructs that serve to conceal the humanity of the people involved in the legal process and revisits landmark cases to illustrate how the identities of, and circumstances affecting, individual litigants were ignored in the name of impartiality.

Elkins (1978) also uses the "mask" as a metaphor. Elkins is interested in the term from a psychological perspective—that is, how it can serve to obscure one's actual self. More specifically, Elkins describes how lawyers' personal identity and professional role can come into conflict as they adopt the mask, or persona, of a lawyer—a socialization process that begins during law school. While lawyers may enter law school seeking to "further social justice" (p. 748), this goal can come into conflict with their financial (or other) interests. For Elkins, resolving this and other tensions that implicate the lawyer's values are a core challenge for those in the legal profession. He suggests that legal education has an important role to play in providing aspiring lawyers with the tools to resolve personal and professional conflicts in ways that preserve their values.

Other studies have offered empirical support for the notion that legal education can systematically exclude students' prior knowledge and experiences. Mertz's (2007) *The Language of Law School* was a major empirical study that used linguistic methods to examine the ways in which legal education systematically moves students away from moral and ethical thinking about conflicts. Mertz presents a hypothetical (but research-anchored) vignette in which a student, fully steeped in the language of law school that seeks to exclude social context, reflects on her law school experience:

> [s]ometimes you may feel pleased that your thinking now allows you to overcome initial passionate, but perhaps misguided, reactions. At other times, you wonder if, trapped in the maze of 'ifs' and 'thens' and 'maybes,' you've lost touch with some fundamental aspects of what brought you to law school in the first place: concerns with justice, fairness, or helping people. (p. 11)

The thinking reflected in this vignette is demonstrative of a pedagogical approach that can fail to seriously engage with students' prior knowledge and experiences because of a narrow focus on the "rational" study of court decisions and hypothetical legal scenarios that, for the most part, do not allow for the introduction of personal experiences, culture, ethics, or morality.

Daicoff's (1997) work supports Mertz's findings, as well as other key insights discussed above, and suggests that reform efforts may face obstacles. Daicoff reviewed empirical research on attorneys and law students and concluded that there are "personality traits, attributes, characteristics, goals, motivations, attitudes, psychological needs, and decision-making styles which are unique to lawyers and law students" (Abstract). For example, lawyers may differ from the general population in the rational, logical way in which they approach problems and make decisions, in what they value, and in what motivates them. Some of these traits seem to exist prior to law school for some aspiring lawyers. Law school populations have changed a great deal in recent years (ABA, 2020), so it is unclear whether the implications of Daicoff's work may

have changed for contemporary law students. But the fact that certain traits may predispose law students to particularly rational, logical thought might complicate efforts to encourage them to draw on their own experiences—especially in the environments where such teaching is not the norm. In other words, it is important to be mindful that aspiring lawyers may think in particular ways, and that this may have implications for the type of teaching at issue in this study.

Having described some important empirical and theoretical scholarship on ways in which the dominant methods of legal education tend to obscure social context and student experiences in the classroom, I move next to a discussion of major recent reports in American legal education that implicate these issues. These reports help to provide additional perspective on law school pedagogy, as well as reform efforts, and illuminate the ways in which the legal academy has wrestled with ways of educating its students and preparing them for practice.

Major Reports and Their Implications for Legal Education

In 1992, the American Bar Association issued a *Report of the Task Force on Law School and the Profession—Narrowing the Gap* (the *MacCrate Report*, named for Robert MacCrate, the task force's Chair). *The MacCrate Report*'s authors set out to address a perceived gap between the abstract knowledge acquired by law students and the requirements of day-to-day lawyering. Practicing lawyers had long found that many new law school graduates—educated by legal scholars in university-based settings—were unprepared for the actual practice of law like drafting contracts, responding to a summons, appearing in court, and the like. In some cases, students had been steeped in legal doctrine and theory but did not possess the skills required for successful lawyering.

The report led to extensive national discussion about legal education and potential reforms, as well as to changes in American Bar Association Standards and other practices (Bilek

et al., 2013). But some in legal education viewed the task force's recommendations, which focused on skills teaching and professional development during the law school years, as uninspiring (Baker, 1994; Bilek et al., 2013). As one scholar noted, the report focused on the traditional classroom experience.

> It pays scant attention to the ubiquitous experience of law students working as law clerks part-time and during the summer. It pays even less attention to students' externship experiences, and what attention it does give is largely negative…the MacCrate Report mainly tips its hat to the traditional 'core curriculum' as doing its job 'well in teaching substantive law and developing analytical skills.' (Baker, 1994, p. 2)

About 15 years later, another influential report again challenged the legal academy to think critically about its teaching practices and spurred national dialogue. The *Carnegie Foundation Report on Legal Education* (Sullivan et al., 2007), widely known as the *Carnegie Report*, was hugely influential in forcing re-evaluations of law schools' primary teaching methods in ways that attended more seriously to professional identity (Bilek et al., 2013; Joy, 2012). The report notes that, among other findings, lawyers are best taught through a curriculum that integrates the three pillars of: (a) legal doctrine, (b) legal skills, and (c) professional identity, rather than having a curriculum that focuses on doctrine, and treats the other pillars as "add-ons" (Sullivan et al., 2007).

Bilek and her colleagues (2013) described the *Carnegie Report* as articulating

> a conceptual superstructure to explain the process by which law schools guide students through three essential apprenticeships—the cognitive or intellectual apprenticeship, which provides students with an academic knowledge base; an apprenticeship in the forms of expert practice shared by practitioners; and an apprenticeship of identity and purposes, which introduces students to the values of the professional community. (p. 3; also see Terry, 2009, p. 241)

In other words, the report provided a new way to think about the purposes and goals of American legal education—and it did so in a way that signaled the importance of non-academic expertise (such as practical knowledge).

Additionally, the *Carnegie Report* observed that the dominant pedagogical method in law schools, the case method (described above), has very serious limitations. The case method uses court decisions to try to exemplify principles of the law and, eventually, help students to articulate a general rule about a particular legal area. The report noted that, in doing so, the case method abstracts "...the legally relevant aspects of situations and persons from their everyday contexts" (p. 55). In other words, students are taught to view legal questions in isolation without considering their own prior knowledge. Relevant student prior knowledge in this area might include particular experiences (like, for example, with the criminal justice system) or their own values or beliefs (like, for example, a student's understanding of fairness and equity).

Some legal scholars have challenged key perspectives from the *Carnegie Report*. One scholar rejected the conclusion that law schools already "successfully [teach] students to think like lawyers." She noted the inter-connectedness of the type of legal analysis taught in law school and practical legal work, describing how new law students struggle with understanding how to apply analytical reasoning skills in service of a client. According to this view, the answer to addressing legal education's shortcomings is not necessarily to simply provide more practical training (as suggested by the report's authors) but to allow students to experience working in real-life, messy situations (like those with real clients) that teach them about law and problem-solving in lawyering contexts (Holmquist, 2011, pp. 356-357).

As discussed in Chapter 1, the *Carnegie Report* led to a number of significant institutional reforms, most of which were focused on the importance of providing more practical training for future lawyers, especially through clinical coursework (Maranville et al., 2011). As I noted above, it also spurred legal educators to consider the report's implications in a variety of other areas ranging from externship design (Barron, 2011; Maranville et al., 2011) to

encouraging communities of practice—groups that share experiences and practices, often in a workplace environment (Wenger, 1999)—in the law school classroom (Holmquist, 2011).

Despite the scholarship and reforms inspired by the *Carnegie Report*, the bulk of the various post-Carnegie reforms focused on expanding experiential learning opportunities and other curricular design issues. But most of these do not appear to have directly considered how a student's prior knowledge should be part of these new academic experiences. The changes largely appear to speak to systemic changes, but with relatively little attention to the particularities of teaching—including teachers' efforts to attend to students' prior knowledge.

Situating the Current Study in This Legal Landscape

As I have described, the current state of legal education is one in which the dominant pedagogical method seems to systematically exclude consideration of social context and student experiences. This is not to say, of course, that the case method should be abandoned. It clearly offers a great deal in terms of teaching legal reasoning skills and subject matter. However, the current legal education landscape—as described above through a description of the history of legal pedagogy, studies of legal education, and major reports on legal education—may exclude attention to students' prior knowledge and experience.

Indeed, the case method, as a matter of definition, focuses on a particular judicial opinion (that is, as the name suggests, the legal case at issue). It is concerned almost exclusively with such a judicial opinion (usually excerpted) as presented in a casebook, stripped of most context. As I noted above and in Chapter 1, my fear is that legal education's tendency to abstract subject matter from personal experience has important consequences for students. It seems to devalue students' pre-law school experiences and identities (and/or can make certain students' law school experiences disorienting to them). Additionally, it seems to de-emphasize important

considerations relating to morality and justice within the law school classroom—considerations that may be informed by students' own experiences and that may be important to them. This is contrary to major literature in the learning sciences that suggests that serious engagement with students' own knowledge and experience in the classroom can provide significant educational benefits.

I certainly do not want to suggest, however, that there are no hopeful signs within the legal academy. Indeed, there are several domains of law school-related scholarship that we can draw on to make connections to the issues most central to this study. I note here that many law school faculty members, even those who generally adhere to the dominant mode of instruction, have found ways around the barriers imposed by the traditional case method. I now move to a discussion of the domains that have adopted a "deviant" (Schön, 1983) approach—that is circumventing the tendencies toward abstraction in traditional case-based legal teaching—as well as efforts by individual faculty members to better connect students' knowledge and experiences with classroom subject matter.

Legal Scholarship Relating to Students' Prior Knowledge and Experiences

Popular portrayals of the law school experience tend to paint a picture of a hostile learning environment (recall, for instance, the popular 1973 film *The Paper Chase*, where a faculty member engaged in traditional Socratic-style questioning remarks to an unprepared student that the student's "skull is full of mush…"). But the reality is a bit more complicated.

Though the literature and reports cited above suggest a pedagogical approach that is not much concerned with students' own prior knowledge and experiences, there are important domains within legal education that take a markedly different (and, for our purposes, more hopeful) approach. For example, law schools have grown increasingly concerned about the

success and well-being of their students. Major initiatives have been taken on to help them, especially at schools where students tend to pass the bar examination at lower rate; examples include programs to offer academic support and help students pass the bar examination. Law school faculty have also begun to think seriously about how to teach across lines of racial, generational, and other differences. Moreover, clinical and experiential teaching remains an area where faculty members are deeply invested in cultivating students' prior knowledge, values, and experiences. Other innovative classroom practices abound. In this section, I describe each of these domains in turn and consider their implications for the research questions at issue.

Academic Support Programs

Academic support programs (ASPs) were first organized in the 1970s. During that decade, the number of law students of color increased significantly and affirmative action policies supported law schools in enrolling increasingly diverse classes. As McClain (2018) described in his detailed history of ASPs, "…[w]ith the admission of greater numbers of minorities followed other concerns. Not only was admission of Black students a significant issue, but so was retention. Blacks and other students of color received lower grades than Whites, attrition rates for minorities were higher, and minority students failed the bar exam at higher rates" (p. 142). ASPs provided support with academic performance, bar examination preparation, and the like. They also provided a sense of community for students of color who may have otherwise felt a sense of not belonging and were subject to stereotype threat and bias (McClain, 2018).

ASPs began, somewhat informally, to support students of colors as law school student bodies diversified. Academic support programs provided students of color with resources to help them succeed in law school while offering them a sense of community. These early programs

were explicitly race-conscious—designed to aid students of color. In the 1990s, ASPs became more a formal part of broader law school offerings (Lustbader, 1996; McClain, 2018).

There is an active scholarly community concerned with academic success and supporting students who are preparing for the bar exam. One faculty member (Schulze, 2019), for example, has had significant success in providing academic and bar support services to law students and has documented those efforts, detailing principles from the learning sciences that law schools and students should consider to improve student performance. His view is that law schools have focused primarily on changing teaching methods and curricula but have largely ignored students' own practices. He suggests learning and studying strategies that may lead to improvements in how students study and learn.

This work builds on related literature from other scholars that draws on cognitive science research, suggesting innovative teaching and learning approaches (at least for law schools) such as spaced repetition, retrieval practice, and encouraging metacognition (Teninbaum, 2017). Elsewhere in this area, scholars have described significant efforts to make curricular changes that may lead to better outcomes for students on the bar exam (Chang et al., 2010). Scholars have also suggested teaching specific lawyering skills, such as reading a case effectively, and detailed the challenges that law students face in learning such skills and the strategies that are most successful in overcoming them (Christensen, 2007).

Beyond teaching and learning techniques, though, there are important aspects of academic support programs that resonate with efforts to consider students' prior knowledge and experiences more fully. Specifically, ASP pedagogy relies on academic support professionals understanding their students' backgrounds and experiences so they can build on those

foundations to help students understand new material. As Lustbader (1996) noted in her foundational piece regarding the practices of then-emerging academic support programs:

> [W]hen teachers do not explicitly relate the new information to the students' developed schemata of prior knowledge, students cannot assimilate the new ideas, or they may mischaracterize them. These assimilation problems can be exacerbated for diverse students because the majority of information disseminated (cases and hypothetical problems) in law school classrooms is generated from a white, upper-middle class, often male experience. Consequently, much of the information does not reflect, and is not relevant to, diverse students' prior knowledge or experience. (p. 849)

Here, Lustbader is very explicitly making the case for the use of students' prior knowledge and experiences for ASP instruction and describing the importance of linking subject matter to such knowledge and experiences.

This use of students' prior knowledge and experiences is notable in the ASP context, particularly since it is often excluded in other aspects of the law school experience such as traditional doctrinal classes.

Diversity and Teaching Across Lines of Difference in Law Schools

There is a large and well-developed legal literature relating to diversity and teaching across lines of difference. "Difference" in this context often refers to differences between student and faculty gender and ethnicity, but other characteristics like age or generational status are sometimes included. In particular, for our purposes, there has been significant scholarly work on the importance of (and barriers to) student and faculty diversity in legal education, methods for teaching across lines of difference, and admissions-related barriers that limit or impact access to law schools for low-SES students and students of color.

Collectively, this literature on teaching across lines of differences has important implications for this project. First, the question of who has access to legal education bears directly on the characteristics of the students who eventually attend law schools, as well as how

those students relate to each other and faculty members. Second, much of this literature carefully considers ways in which law schools and their faculty might consider important aspects of a student's identity as part of their teaching. As a result, the insights offered by the preceding literature can help with our efforts to better understand how law schools currently consider the use of students' knowledge and experiences in a pedagogical context.

To begin, legal scholars have explored ways to provide law students with cross-cultural competency. For example, Bryant (2001), in her treatment of cross-cultural competency, analyzes the role that culture plays in "decision making, communication, problem solving, and rapport building" as a part of lawyering, and her article demonstrates the importance of lawyers learning cross-cultural concepts and skills. In this view, instructors guide students in exploring their biases.

Additionally, some scholars describe practice-based techniques for managing interactions relating to identity, like managing "racially charged" discussions in diverse classrooms and encouraging authentic conversations about identity. A relatively small but important literature addresses classroom techniques that instructors can use to draw on elements of students' identities to address social issues inherent in legal questions and principles—and provides several practice-based examples of how instructors might link student identities to questions of power, privilege, and the law (McClain, 2018; Mlyniec, 2012).

Other scholarship addresses the challenges of teaching across lines of *generational* difference. George (2013) uses insights from the cognitive sciences to describe methods to reach the "smart phone" generation. Benfer and Shanahan (2013) aim to "train legal educators to recognize their students' generational learning style and to deliver a tailored education that supports the development of skilled attorneys" (p. 1). They describe millennial students as

having very specific views of teachers and supervisors, and their respective roles. Namely, they expect a learning environment that is more collaborative than a traditional classroom. Millennial students are accustomed to a model of education that is a "co-partnership" with supervisors and teachers. These students seem to expect teachers to consult with them on major decisions affecting the class.

Dark's (1996) work provides support for the importance of explicitly and deliberately raising issues of diversity in the classroom. She notes that such discussions "often enhance and broaden discussions in class and cause my students to re-examine substantive legal doctrines" (p. 542). For Dark, issues relating to diversity and identity have important impacts on society—including the legal system—so students need to be aware of these issues and learn to recognize their own perspective or bias when it comes to their legal thinking or practice. Relatedly, Archer (2013) describes some of the challenges involved in teaching about racial discrimination when students view the world as post-racial, or when they view race as less relevant. She describes an experience from her clinical teaching experience where white students tended to view a problem through a race-neutral lens and the related difficulties involved in teaching white students to appreciate the pervasiveness of racial discrimination in contemporary American society.

Taking a broader view, Ramirez (2018) and others reaffirm the importance of diversity in the legal academy and describe some of the obstacles faced by students of color in accessing legal education. Ramirez describes the state of diversity in legal education, including significant institutional barriers to diversity among law students. As described in Chapter 1 and elsewhere above, these include the Law School Admissions Test (LSAT), which, according to Ramirez, "reliably transmits all elements of the social construction of race into the law school admissions process" (p. 979). In other words, the scores vary by race—and racial differentials in areas like

socioeconomic status and educational attainment are reproduced as students are "sorted" into schools ranging from elite to broad access largely on the strength of these scores.

Other scholars explore other aspects of diversity in law schools, including the importance of diversity among law faculty (Dubin, 2000). Among other things, the presence of a diverse faculty "benefits…students of color from the presence of mentors and role models of color..." (p. 448). For our purposes, the ability of faculty members of color to relate to students with similar backgrounds is important because it relates to their potential to use of students' prior knowledge in the classroom.

Still other scholars are focused on particular aspects of the law school admissions process and have analyzed the use of the LSAT and its implications for applicant diversity. Haddon and Post (2006), for example, provide a thorough discussion of the exam, including how it tends to overlook and disadvantage people based on their race, gender, and class. The authors note that "heavy reliance on the test denies individuals a chance to show that the generalization does not apply in their case…." Similarly, Curtis (2019) notes how the LSAT sorts students in a way that "exacerbates inequities and reinforces the existing hierarchies within and outside of law world for no academically justifiable reasons." Curtis notes that selective schools end up enrolling students of color and of lower socioeconomic statuses based on their relatively lower LSAT scores. In the end, Curtis concludes, "[r]eliance on the LSAT is sorting students into schools not just by score, but by race and class" (p. 323).

Legal scholarship relating to diversity is a large, well-developed, and varied area covering multiple topics and issues not discussed here. What is clear, though, is that much of the work in this area takes very seriously students' identities and perspectives (including biases), and what they mean for classroom instruction. This work also considers the ways in which student

and faculty diversity might impact how these groups relate to and understand one another's background and experience. For both of these reasons, it is an important area of scholarly inquiry that bears directly on this study.

Clinical Legal Education and Focus on Context and Social Justice

Legal literature relating to law school clinical programs and teaching therein is important for our purposes because such programs differ, pedagogically and philosophically, from their doctrinal counterpart. Clinical approaches speak to the potential shortcomings of doctrinal teaching discussed above, and in many regards, they point a potential way forward. It bears repeating here that the *Carnegie Report* pointed the legal academy in the direction of more, and more integrated, experiential learning.

A law school clinical program is an experiential learning program that, according to ABA Standards (2020), "provides substantial lawyering experience that involves advising or representing one or more actual clients...." Indeed, clinical legal education is often said to "bridge the gap" between law school and legal practice. Typically, clinics provide students with the opportunity to represent real clients in litigation, transactional, regulatory, legislative, policy, and other contexts. This occurs under close supervision, often from a full-time law school faculty member with significant subject-matter expertise. In many cases, because of the small class sizes in most clinics, the faculty-student relationship is apprentice-like, with the law school faculty member working intensively to develop students' legal skills and knowledge. Other types of experiential learning programs—like field placements—are also provided by most law schools. Students' learning in field placements has, as a general matter, received less scholarly scrutiny than has clinical teaching.

Clinical legal education theory and the related body of literature (which is robust) proposes that: (a) learning from experience (ideally in a reflective manner and with close and careful guidance from a faculty member) is a critical method of instruction; and (b) lawyers should be agents of social justice/change (Santacroce et al., 2012). To be sure, some clinicians reject this social justice orientation (or consider it an option as opposed to a requirement for clinical programs), but such an orientation is present in most clinical settings (Aiken, 1997; Dubin, 2000; Kosuri, 2012).

Here, as opposed to within the context of traditional doctrinal courses, context is central and students typically perform lawyering-type work in complex and uncertain situations (Santacroce et al., 2012; Stuckey, 2007). In the words of Donald Schön (1983), a prominent theorist on reflective practice and learning, clinics are, for law schools, the "deviant traditions of education for practice that stand outside or alongside the normative curricula" (p. 15).

In addition to acquiring substantive knowledge about the law and legal procedure, clinic students often spend time working with clients from vulnerable populations and participating in law reform efforts or other community partnerships. In this way, students explore the social context of their clinical experiences, and some students develop an enhanced awareness or understanding of the social context relating to their practice area (Archer, 2013; Maranville et al., 2011).

In addition, because of the intensive nature of the clinical teaching method and typically small class sizes, instructors are more likely than in doctrinal settings to have the opportunity to get to know their students' backgrounds and experiences—especially since such backgrounds and experiences are often explicitly included in class discussions.

While the clinical literature addresses ways that students might learn from experience through practice and reflection, "experience" in this setting often means students' substantive knowledge of law and work (as opposed to knowledge of non-academic personal or cultural matters). For instance, while Neumann's (2000) discussion of Schön's primary insights and their potential application to legal education provides a useful distillation of Schön's work in the context of experiential learning, it does not appear to consider ways in which practicum settings could encourage the mining of students' non-academic prior knowledge, such as knowledge in its cultural or personal forms (Neumann, 2000; Terry, 2009). In other words, the definition of what counts as prior knowledge and experience seems relatively narrow in this context (in that such definition does not fully consider cultural or personal knowledge).

Other literature in this area, though, does pay more attention to cultural and personal knowledge (Archer, 2013; Newbern, 2013), especially with regard to its use in the classroom to make explicit connections to subject matter. For example, Givelber's (1995) work on the theory of ecological learning describes ways that law schools can help students to construct a lawyerly identity that does not do damage to their existing personal identity. Baker (1994) extended Givelber's work, exploring the ways in which law students learn from experience. Baker challenges what he calls "the hegemony of educator-centeredness" and poses questions about how learning from experiences unfolds and the role that legal educators should and do play in experiential learning (p. 2). In other words, Baker's view is that contextualized practical work experience (as in a clinic), as opposed to a traditional professor-led classroom experience, can be an important component of a quality legal education. This work is critical in the way that it considers students' own identities and the centering of student perspectives in their own learning—and the theoretical work by Givelber, extended by Baker and others, represents a

notable effort to reckon with how students' identities impact the ways that they learn from experience.

Clinical and experiential legal education, though it began as a "deviant" (to again borrow Schön's term) method of instruction, now sits comfortably aside the more traditional curriculum, though not without problems[1] (Santocroce et al., 2012). Below, I discuss other innovative (and less familiar) classroom approaches that more fully consider student knowledge and experience.

Other Notable Classroom Approaches That Consider Students' Knowledge and Experiences

Having considered literature relating to academic support programs, teaching across lines of difference and diversity, and clinical legal education (all of which, at least to some degree, implicate the use of students' knowledge and experiences to make connections to legal subject matter), I now turn to a discussion of two innovative classroom approaches outside of these categories. The approaches described here demonstrate some recent innovations in legal pedagogy that attend specifically to students' prior knowledge and experiences—these are approaches that seem to hold considerable promise in creating substantive linkages between legal subject matter and students' prior knowledge and experiences. To be clear, this section is not intended to be an exhaustive list of innovations in this area; it is simply illustrative of some of the work being undertaken in recent years that bears on the study.

First, Sturm and Guinier (2003, 2007) described the formation of multiracial learning communities in law school classrooms that allow students to consider their own identities (particularly with regard to race and gender) and how those identities conform to, or are influenced by, existing law school ideals and metrics. Students are explicitly asked to connect their personal experiences to the legal academic enterprise. Moreover, "power" is shared among

[1] For instance, faculty members who teach clinical and other experiential courses are sometimes accorded a lower institutional status than their colleagues.

the participants as the faculty members assume co-equal roles with the students—a significant attempt at centering the subject matter as opposed to the instructor. One of the objectives of the class is to connect classroom learning to students' personal identities, professional roles, and values. This work does not fit neatly into the law school curriculum—it is neither a traditional doctrinal class nor a clinical or other type of experiential learning experience. Rather, the class takes the form of an upper-level seminar, though one with unique subject matter and pedagogical approaches.

Second, recent societal developments in America and elsewhere—including continuing police violence against Black people and resulting mass protests—seem likely to produce new and important scholarly insights and pedagogical changes. Legal educators have already started to consider ways to educate law students about the profound ways in which race has influenced the development of various areas of the law—even those that were previously not typically viewed through a critical lens (Crowell, personal communication, 2020). Based on personal communications and my own observations regarding new law school programs and initiatives, schools are considering new efforts to support discussion of race and the law in dedicated sessions and by updating the current curriculum. At my own institution and elsewhere, these efforts include consideration of how race and racism have shaped legislation, law enforcement, public policy, and other areas. Some also include discussion of how race and racism impact law schools and the law student experience. Because a person's race is often closely intertwined with their identity, experiences, and culture, scholarship resulting from such efforts may result in important new insights into ways that students' prior knowledge and experiences can influence their academic learning in law school classrooms.

Analysis of the Legal Education Literature

As I have described above, legal education and the literature relating to it often do not take seriously enough students' existing prior knowledge and experiences—especially as an asset to be used to further subject matter understanding. To be sure, there are important exceptions to this rule: there is evidence of some of these exceptions in literature relating to academic success programs, diversity, clinical education, and other innovative classroom approaches. Scholars in these areas have described and undertaken significant efforts to draw on students' existing knowledge and experiences in the classroom. Often, though, even these efforts do not fully consider the personal and cultural knowledge that students bring to law school and, subsequently, how faculty can draw on it to teach legal knowledge and, in other ways, prepare students for the legal profession.

As I described previously, this study is an attempt to better understand how law faculty search for and create *linkages between the subject matter being taught (legal knowledge) and law students' existing (that is, prior) knowledge, values, and experiences*. For faculty who do search for and create these linkages, the findings from this study will, hopefully, help them to identify resources, institutional arrangements, and other factors that, if fully accessed, can promote or support their teaching in this manner.

As discussed above, dominant law school pedagogical methods tend to exclude students' prior knowledge and experiences from serious consideration in the classroom perhaps especially so when such experiences are unique to particular students' lives. This makes it difficult, if not impossible, for faculty to link such knowledge and experiences with the subject matter at issue, thus increasing the chances that students will learn the desired academic content. Despite the barriers, there are certain areas of the literature (namely academic support programs, diversity

and teaching across lines of difference, clinical legal education, and other innovative classroom approaches) that have begun to describe ways for law faculty to link students' knowledge and experiences with subject matter toward supporting their legal learning. These areas tend to operate outside the normative law school curriculum and have developed their own pedagogical approaches and traditions that connect to student identity in meaningful ways. This is of great significance for this study as it illuminates aspects of law school pedagogy that might offer support and insight to faculty desiring to bring students' prior knowledge into their classroom teaching.

But, overall, the existing law school literature lacks a sufficient emphasis on strategies and practices for creating linkages between subject matter and students' prior knowledge and experiences, especially so in the doctrinal classroom which, for the most part, has not been seen as a site conducive to such teaching. I work from the assumption that the doctrinal classroom may well be a site for teaching that draws purposefully and explicitly on learners' prior knowledge. It is this possibility that I have examined via the project reported in this dissertation. In the next section I draw on research in education, as informed primarily by the learning sciences, to discuss theory, pertaining to instructors' use of students' prior knowledge, that were of use to me in my study of how law professors may draw out and use students' prior knowledge in their teaching.

Education Scholarship on Students' Prior Knowledge and Experiences in the Context of Student Learning

This section seeks to illuminate ways in which education scholars and researchers have considered the use of students' knowledge and experiences in teaching. As I have noted above, the dominant approach to law school teaching systematically excludes meaningful consideration of students' own knowledge and experiences. As I further described in the previous section,

however, there are various domains within the legal academy in which such knowledge and experiences are more seriously considered. Still, the existing law school literature is incomplete and, as a result, it makes sense to turn to studies of teaching in the fields of K-12 and (non-law school) higher education that do explicitly examine whether and how instructors link subject matter and students' prior knowledge and experiences. I review such studies in this section.

Scholars have contributed to our understanding of how things that learners *already know* can impact their learning in school. Among the most influential of these scholars was John Dewey, who was one of the major public intellectuals of the 20th century. Dewey's work, in part, involved the relationship, and sometimes frictions, between a child's experiences and their formal schooling. He described the life of a child as one in which all knowledge about the world is unitary and related directly to experience (Dewey, 1902, 1916, 1938). When a child goes to school, however, this notion of knowledge as connected to experience is shattered by the separation of subject matter by field and by academic organization. Subjects and disciplines serve to separate knowledge from experience and deliver it in ways that are foreign to the child (Dewey, 1902).

Dewey also described the logical and psychological aspects of learning. The logical is the nature of the subject matter itself (such as the body of knowledge that comprises a field of study, e.g., biological knowledge for the field of biology). The psychological is the nature of particular students' interactions with the subject matter (for example, the way they make meaning of a particular concept or the process they use to arrive at a particular answer). Subject matter, as understood by disciplinary experts, must be connected to student experiences, and teachers (as those experts) must be aware of whether and how this is happening. Dewey also used the concept of a map to explain how individuals may come to an understanding of a subject that is

comparable to that of experts. Consider a map that is designed based on the prior experiences of various explorers. The fact that such a map exists does not mean that others do not have to undertake their own journeys and their own exploration (intellectual exploration, in this case). However, they need not start from scratch. The map provides a useful starting point and, in some cases, a type of organizational system that can guide the journey. Existing knowledge works in this way—providing a useful foundation but still requiring one's own journey to understand and make connections to one's own experiences (Dewey, 1902).

Other scholars further developed the idea of prior knowledge to consider ways that it relates to, and can facilitate, student learning. Lee Shulman was an enormously important thinker in this area, articulating the concept of teachers' pedagogical content knowledge in an effort to describe the knowledge of teaching that is uniquely held by knowledgeable teachers by virtue of their situated experiences in classrooms with students and subject matter. I describe his work in detail below. Shulman (2004a) noted that "the heads of students are full, are rich, are variegated. And that teaching involves connecting not with their ignorance, but with their prior knowledge" (p. 131). Thus, to create subject matter understanding for students, teachers ought to try to ascertain what their students already know and then work to find ways to build on that existing foundation—as opposed to assuming that their students present a "blank slate" for receiving new knowledge. Some researchers have made attempts to categorize various types of prior knowledge and to document its sources. Indeed, prior knowledge is not simply pre-existing subject matter, or academic, knowledge (such as that learned in earlier grades) but also includes other categories of knowledge. Scholars have proposed different categories of prior knowledge: academic, cultural, and personal knowledge (Pallas & Neumann, 2019). In this view, there are three components of prior knowledge—academic knowledge, cultural knowledge, and personal

knowledge. Each of the three types of knowledge can be used to help students relate to, reason about, and better understand subject matter ideas in a classroom setting. This happens in a variety of ways but can include teachers actively working to surface things that their students already know (prior knowledge) and linking that prior knowledge to new subject matter. These forms of prior knowledge are not mutually exclusive. Academic knowledge can often be traced to cultural origins, cultural knowledge can be personally shaped, personal experiences are often shaped by cultural beliefs, and so on. Each shines a light on prior knowledge without necessarily "blocking out" the others.

Scholars have also contributed to our understanding of prior knowledge through two significant reports: *How People Learn* (Bransford et al., 2000) and *How People Learn II* (National Academies of Sciences, Engineering, and Medicine, 2018). The first report notes that research on learners and teaching provides strong support for the notion that learners "come to the classroom with preconceptions about how the world works. If their initial understanding is not engaged, they may fail to grasp the new concepts and information that are taught…" (Bransford et al., 2000, p. 15).

How People Learn II (National Academies…, 2018) provides additional insight into how cultural experience shapes a learner's development. The report's authors detailed findings that demonstrate that the physical environments where an individual lives can influence their cognitive processes. Cultural practices also influence learning and development: socialization practices, or the ways in which caregivers interact with children, impact how those children learn and develop. These findings are of special importance to teachers, indicating that students' existing knowledge is not confined to the *academic* knowledge they learned in earlier grades or

in other classes; it also includes knowledge that they learned in personal spaces—at home and in neighborhoods, for instance.

Importantly, students' cultural experiences impact many aspects of their education. The report's authors described how "characteristics of the learning environment, of educators, and of the students themselves are all shaped by…cultural context" (p. 137). In other words, it is now clear that students' cultural knowledge significantly impacts their entire educational experience—including how they learn—and should not simply be considered in relation to the subject matter taught in school (p. 20). Indeed, one scholar noted that culture "infuses what teachers bring and subject matter, as well as the context of learning and students' prior knowledge" (Neumann, 2022).

Aspects of this prior knowledge come from *cultural* experiences in students' communities and with their families, variations in physical spaces, and societal contexts (González et al., 2005; Ladson-Billings, 1995; Lee, 2007; Moll, 1990; Moll & González, 2004). The funds of knowledge framework, for instance, posits that people's everyday life experiences provide them with valuable knowledge that is accumulated throughout their lives and that schools and policymakers should encourage pedagogical approaches that acknowledge and draw on these stores of knowledge in the educational context (González et al., 2005, pp. x-xi). Again, this knowledge is not necessarily academic in type. Indeed, González and her colleagues consider these funds of knowledge to be primarily cultural and cognitive resources (p. 75). Relatedly, Rose (1989) describes spending substantial time learning about his students' backgrounds and motivations so he can best help them succeed. He also draws on his own college experience—which is similar to that of many of his students—to better identify with his students and make appropriate pedagogical adjustments.

The preceding key theories grew out of research primarily in the K-12 domain, though a small number of researchers have sought to examine the applicability of these theories to teaching in higher education. The resulting literature from these efforts includes work by Pallas and Neumann (2019) in developing their theory on convergent teaching (described in further detail below), Castillo-Montoya's work (2021) on faculty use of prior knowledge in teaching certain college students, and a doctoral dissertation by Delima (2020) examining how first-generation college students of color draw on their prior knowledge and experiences in certain classroom contexts.

Having described the ways in which scholars have conceptualized and described prior knowledge in education, I now turn to a discussion of three major theories, or bodies of theory, that speak to teaching and learning in which prior knowledge and cultural knowledge for teaching are central components. I present these theories below as the three-part conceptual framework that guided my study.

Conceptual Framework of This Study

Below, I present the three frames that guided the study I carried out.

Frame 1: Pedagogical Content Knowledge

The roots of pedagogical content knowledge can be traced to Dewey (1902). As described above, Dewey (1902, 1916) brought to light the need for teachers to grasp students' understandings of phenomena in their worlds as starting points for their thinking about key ideas in a discipline or field; teachers can provide students with experiences, materials, and tools toward building up those ideas themselves. Drawing on this philosophical foundation, Shulman (1986) first articulated the concept of teachers' pedagogical content knowledge in an effort to describe teachers' distinctive base of knowledge. A teacher's pedagogical content knowledge

draws that teacher to attend to students' prior (and current) knowledge and experiences and considers various ways to represent subject-matter knowledge in relationship to it, in effect building it up from what students know already (Shulman, 1986, 1987). It is comprised of strands of both pedagogical knowledge (e.g., instructional methods) and subject-matter knowledge (i.e., content), but is much more than a mere combination of the two. Pedagogical content knowledge also refers to a teacher's ability to represent material in multiple ways based on students' prior knowledge and experience, knowledge of how to sequence the presentation of subject matter in an optimal way for students, and knowledge of how learners are likely to experience particular subject matter based on their prior knowledge (Gess-Newsome, 1999; Lampert, 2003). Drawing on Shulman, Bransford and his colleagues (2000) provide additional explanation and examples of teachers' pedagogical content knowledge. For them, pedagogical content knowledge is found at the intersection of subject matter knowledge and pedagogical knowledge (p. 155). It relies on teachers' "cognitive roadmaps"—deep and reflective knowledge of the subject matter being taught that dictates the teaching and evaluation methods employed and that allow for the identification of potential obstacles and resources relating to student comprehension, as well as anticipation of student errors and questions.

Neumann (2014) has contributed greatly to our understanding of teachers' pedagogical content knowledge and how it can be used to advance students' subject matter understanding. In a Presidential Address to the Association for the Study of Higher Education, Neumann (2014) made several claims about learning in higher education that emphasized the importance of surfacing and then carefully using prior knowledge (p. 261). These claims follow from a view of student learning that acknowledges the importance of knowledge and ideas already held by students in the context of learning new subject-matter knowledge. Indeed, Neumann treats

subject matter very seriously—including describing how the subject matter at issue should influence how it is taught (as she notes, "subject matter matters") (p. 251).

Other scholars have contributed to our understanding of teachers' pedagogical content knowledge (including the centrality of the subject matter at issue in shaping the pedagogical approach), including the educational researchers and teachers Heaton and Lampert (1993). In their view, teaching preparation programs that separate pedagogical classes from subject matter classes disserve future teachers. This is because, as Shulman has articulated (and Dewey before him), effective teachers have a unique combination of the two (pedagogical techniques and subject matter) which they use to draw out students' prior knowledge and experience toward the aim of advancing student understanding of subject matter. In other words, subject matter and pedagogical methods are inseparable, and their unification helps to create pedagogical content knowledge. Such pedagogical content knowledge is a form of knowledge that teachers hold—their distinctive professional knowledge.

Palmer's (1998) work also pursues this idea that subject matter should be central to learning—and should be taught through pedagogical approaches that take into account what students know and how they learn. Palmer's approach, the "subject-centered classroom," places subject matter squarely at the center of the educational exchange in an effort to move away from extreme approaches that tend to center either the teacher or students to the exclusion of the other. Community is built around that subject matter leading to dialogue between teacher and student. Palmer further describes the idea of "teaching from the microcosm" whereby a core idea, a concept that is central to understanding the subject matter in the field and which serves as a foundation for other knowledge in the field, is taught in a way that is likely to lead to deep understanding (p. 120). This deep understanding of core concepts can, in turn, help students to

better understand other subject matter in the field—including how people in the field think, generate data, and the like. While the approach seems, at first, to limit subject matter coverage because of its time-intensive nature, it actually has the potential to allow for better and broader understanding since the deeper student learning that occurs initially may allow for better subject-matter understanding moving forward (p. 121).

Despite its strengths, pedagogical content knowledge, as a way to conceptualize teaching, may not pay sufficient attention to the cultural knowledge and identities that other scholars have identified as critical to understanding the knowledge and experiences that students and teachers themselves bring to the classroom (Ball, 1993; Bransford et al., 2000; Ladson-Billings, 1995; National Academies…, 2018). Scholars have pointed out that pedagogical content knowledge fails to consider students' cultural knowledge (Ladson-Billings, 1995), as well as the broader span of culture that permeates the classroom (Pallas & Neumann, 2019). For students in particular, this cultural knowledge, gained from various community and familial experiences, significantly influences how they relate to new subject-matter knowledge in classrooms. This is particularly important for law faculty who, as noted above, are likely to have cultural backgrounds that are markedly different than those of their students (ABA, 2020).

The theories below help to address some of these shortcomings in theories emphasizing overly narrow views of pedagogical content knowledge.

Frame 2: Cultural Elements of Learning and Teaching

For the purpose of this study, I adopted a sociocultural perspective on learning and teaching. As described in *How People Learn II* (National Academies…, 2018), "the underlying principle in this body of work is that cognitive growth happens because of social interactions in which children and their more advanced peers or adults work jointly to solve problems." In other

words, children acquire their tools for problem solving (including the ideas, skills, and values inherent in these tools) from their social interactions with members of their communities. The authors go on to describe a body of research that documents "…how everyday cultural practices structure and shape the way children think, remember, and solve problems" (p. 26). This conceptualization of culture and its effects on learning, albeit needing to be reframed for adults, gives us way to consider how individuals' cultural identities might interact with their learning, for example, in schools and colleges (Nasir & Hand, 2006).

Cultures matter in schooling as they influence students' relationships with and within their school, curriculum, and society; they shape the ways in which students, their families, and their communities understand and interact with educational institutions (Ladson-Billings, 1995). With this in mind, we can view culturally responsive teaching as acknowledging and valuing both home and school culture (or, put another way, cultural knowledge and classroom subject matter) without subjugating one to the other (Erickson & Mohatt, 1982; Ladson-Billings, 1995).

While the curriculum theorist Joseph Schwab is rarely associated with sociocultural perspectives, starting with his work offers a useful point of departure for considering culture's relationship to students' learning. Schwab's (1983), perhaps, best-known contribution to knowledge about education is his conceptualization of four commonplaces, or considerations, to bear in mind when designing curriculum: the student, the teacher, the milieu (or the environment in which the child learns and grows), and subject matter. In Schwab's view, all four must be carefully weighed in making curricular decisions in order to avoid an over-emphasis on one commonplace or another. Schwab's conception of curriculum clearly and explicitly provides for the consideration of pedagogical approaches that value culture as a form of context and accord it equal importance to the other commonplaces. To borrow from Schwab's language, consideration

of "socio-ethnic" views is vitally important since the subject matter being taught at any particular time and place should be responsive to the local community.

The researchers in *How People Learn II* provided considerable empirical support for the notion that culture plays a critical role in cognition and learning. One research team presented a summary of decades of research on cognition showing that culture influences people's cognitive, moral, and social development (National Academies…, 2018, p. 22). Studies discussed in that report also suggest that cultural differences contribute to basic cognitive processes relating to learning—and that these vary by group. Additionally, and perhaps most significantly for my purposes, research has also shown that learning is a social process. Researchers have investigated interactions between what a student learns at home and what happens at school—including variations in learning methods, language, expectations, and other areas (National Academies…, 2018).

This notion—that education is shaped by culture—is consistent with much other work on *cultural knowledge*, or the individual experiences, customs, beliefs, traditions, and resources that students develop at home and in their families and communities. Indeed, a wide variety of theorists have proposed ways in which teaching can acknowledge, value, and use students' cultural knowledge in the classroom. Ladson-Billings (1995) provided perhaps the most substantial contribution to this framework when she proposed a new way of considering how educators and schools can be responsive to learners' cultures and communities. That framework, culturally relevant pedagogy, is a pedagogical approach that focuses on student achievement while emphasizing cultural competence in a way that affirms the students' own cultures and the development of their sociopolitical consciousness (Ladson-Billings, 1995). Teaching in a way that is consistent with culturally relevant pedagogy means affirming students' cultures (which are

generally marginalized ones) and teaching them how to navigate the dominant culture without sacrificing theirs. Finally, it means teaching (and having) sociopolitical consciousness, or an ability to understand certain students' marginalized status, as well as to think critically about school curricula, institutions, and society (Ladson-Billings, 2006).

Since 1995, scholars have further explored what it means for educators to be responsive to students' cultures in the classroom. One scholar explicitly articulated how educators can draw on students' cultural knowledge to make connections to new subject matter (Lee, 2007). Her pedagogical approach conceptualizes learning itself as a cultural process (pp. 33-34). Lee's approach seeks to understand the cultural practices in which students and their parents engage outside of the educational institution and incorporate such knowledge into classroom learning (González et al., 2005). Such cultural knowledge is then used to make connections between students' everyday knowledge and school-based knowledge. Lee (2007) called this approach cultural modeling (p. 35).

Lee's approach relates, further, to a highly regarded framework for supporting learning and captured by the concept of "funds of knowledge" (González et al., 2005). This framework describes how people's everyday life experiences, typically infused by culture, provide them with valuable knowledge, useable for learning in school, that is accumulated throughout their lives. Proponents of funds of knowledge argue that we should encourage pedagogical approaches that acknowledge and draw on these stores of everyday knowledge in the educational context (pp. x-xi). There is ample literature to demonstrate ways in which educators can use funds of knowledge as part of their pedagogical methodology in various subject-matter contexts (Aguirre et al., 2012; Barton & Tan, 2009).

The broader sociocultural perspective, and perhaps especially culturally relevant pedagogy, play a central role in this study's efforts to conceptualize ways in which law school faculty members might engage with students' prior knowledge and experiences—both in recognizing their value and deploying them in efforts to teach subject matter. Despite its strengths, however, this frame, in itself, is not sufficient. It is squarely focused on K-12 education and the unique nature of the K-12 teaching profession. It does not consider higher education and the distinctive features of the professorial career.

Frame 3: Convergent Teaching

Drawing, in part, on the theories described above, convergent teaching is an approach that requires that teachers attend to subject matter, students, and context simultaneously. This involves an intense consideration of the particular subject matter at issue; surfacing students' relevant prior knowledge, gained from their personal lives, cultures, and prior academic experiences; and bridging the gap between such prior knowledge and experiences and the subject matter at issue (these are articulated as three principles that underpin convergent teaching) (Pallas & Neumann, 2019).

As noted above, convergent teaching draws on a variety of theories of teaching and learning, including pedagogical content knowledge, culturally responsive teaching, culturally sustaining teaching, the funds of knowledge framework, and cultural modeling. It is again important to emphasize that these theories were developed out of K-12 data and, primarily, to inform K-12 teaching practices.

There have been few attempts to bring these ideas into higher education to determine whether they apply in postsecondary settings. Much of the aim of convergent teaching, then, is to bring major ideas from these K-12 theories together, examine their fit with features of higher

education settings, and ultimately transfer them for use in college teaching practice, pending any needed revisions. In this way, convergent teaching does not seek to build something entirely from scratch. Rather, it imports significant ideas about students' prior knowledge and experiences into a new content and asks, essentially, whether they work in that setting and what adjustments are needed and appropriate. Convergent teaching also goes further and provides higher education instructors with some direction on how to use students' prior knowledge toward furthering students' learning of subject matter.

Picking up where the legal literature leaves off, the preceding bodies of theoretical knowledge offer lenses for considering how students' knowledge (including, and perhaps especially, their non-academic knowledge such as cultural knowledge) and experiences can relate to subject matter. Collectively, these theories, alongside those portions of the legal literature that examine students' knowledge and experiences, provide an entry point for the research questions at issue here—all relating to ways in which law school faculty members link students' knowledge and experiences to law school subject matters in their classrooms. As a result, convergent teaching seems to represent the "best of both worlds"—a full consideration of the most important insights from the learning sciences with a perspective that includes higher education.

Though all have their relative strengths and weaknesses, collectively, these three major theories, or bodies of theory, speak to teaching and learning in a way that is extremely useful for this study.

Closing

As I described above and in Chapter 1, this study is an attempt to better understand how law faculty search for and create *linkages between the subject matter being taught and law*

students' existing (that is, prior) knowledge, values, and experiences. For faculty who do search for and create these linkages, the study's findings, reported in Chapter 4, will elucidate factors that support, or promise to support, their teaching in this manner. Not least, the study considers faculty members' reasons for constructing their teaching as they do.

As this chapter shows, there is considerable evidence in educational research (not including law schools however) that teaching in a manner that connects carefully selected subject-matter ideas to students' pre-existing knowledge and experiences leads to better opportunities for student learning (Bransford et al., 2000). As discussed in the first part of this chapter, writings on pedagogical practices in law schools (and related literature) often do not seriously consider such pre-existing knowledge and experiences. This study offers the possibility of a corrective to knowledge about teaching in law schools and, as Chapter 4 will show, it shows that some law school faculty are already teaching in this way but doing so poses distinctive challenges. I turn next to present the design and method of my study.

Chapter 3: Study Design and Methods

In this chapter, I discuss the research design and methods that I used in this study of how law faculty search for and create linkages between students' prior knowledge and classroom subject matter. Below, I review the research questions and then proceed to a discussion of the study's overall research perspective that informed my plans and actions as I carried out the project. Next, I describe the research design and specific methods used for data collection, as well as my approach to data processing (data cleaning and organizing) and, ultimately, data analysis. I also discuss the study's limitations and my protocol for protecting human subjects.

Research Questions

I previously discussed my research questions and present them again here as a starting point for detailed discussion of the study's design and methods:

1. In their teaching, how do full-time doctrinal law faculty search for, and sometimes create, linkages between the subject matter they teach and their students' existing knowledge, experiences, and values in ways that support the students' learning of the subject matter?
2. How do full-time doctrinal law faculty who search for, and sometimes create, such linkages describe their reasons for so doing?
3. What do full-time doctrinal law faculty who search for, and sometimes create, such linkages identify as factors that support or promote their so doing?

Research Perspective

In Chapter 2, I described a three-part framework for conceptualizing *what* I would study. I begin this chapter by presenting several theories of research that guided *how* I went about my study—that is, how I planned and carried out the study, given what I sought to learn—and *why*.

I discuss these theories of research below, viewing them collectively as my study's guiding research perspective.

Modified Grounded Theory

This study took a modified grounded theory approach to qualitative research. *Traditional* grounded theory is an approach whereby theory is viewed as evolving directly from a "ground of data." The approach typically seeks to construct such theory based on analysis of data about people's lives and experiences (Glaser & Strauss, 1967; Strauss & Corbin, 1990); the process for so doing is largely inductive. Through interviews, observations, and document analysis, I aimed to develop theory, or to propose theoretical constructs, pertinent to law schools based on the data I collected (Brinkmann & Kvale, 2015, p. 227). In the analysis phase of this study, I saw myself as engaging in an intellectual "dialogue" with my data, guided by the theoretical frames I described in Chapter 2. The process led me to pose data-based patterns suggestive of concepts pertaining to professors' use, in teaching, of learners' prior knowledge.

The traditional grounded theory approach, though, assumes that "researchers are interchangeable and remain unaffected by their commitments, interests, expertise and personal histories" (Charmaz, 1983, p. 112). From my perspective, researchers bring a great deal of themselves to any research project, including their own assumptions, values, beliefs, and personal theories, as well as theories they have identified in literatures they have studied (much as I have done with the theories in the preceding chapter). Constructivist models of grounded theory, like those posed by Charmaz (1983), articulate this perspective. Charmaz described an approach in which every researcher brings to their work "preconceptions founded in expertise, theory, method and experience…" (p. 114). This does not mean, of course, that the researcher should not engage in a full examination of the data from varied perspectives. But it does

acknowledge that researchers come to their work with beliefs and ideas that are likely to shape and inform their analysis. This was certainly true for me (and earlier I described my own "stake" in this research and my experience in the field). As a law school administrator with teaching experience and a deep interest in teaching that considers students' prior knowledge, I have my own ideas and perspectives on classroom pedagogical approaches and other issues related to the study that may have influenced my research. My ideas led me to ask certain kinds of questions and to pursue particular analytic routes, even as I scrutinized alternative paths and possibilities.

Among other scholars, Erickson's methodological work supports such a modified grounded theory approach. Like Charmaz, Erickson (1985) noted that we all bring our own experiences to the research process. In his view, an important part of fieldwork is to understand our own preconceptions in addition to understanding the "frames of interpretation" of those we are observing (p. 119). In other words, it is important to consider the perspectives of both researcher and subject, as well as how these might impact the study at issue. This I have tried to do throughout the process—reflecting on my own experiences and perspectives while trying my best to understand those of the faculty in the study.

Neumann (2006) further articulated a similar point about what a researcher brings to the process. In a discussion of her work on emotion in the scholarship of professors, she noted that she "…did not walk into the field free of preconceptions or framing theories" (p. 392). Rather, she only began work on the design and data collection following extensive consideration of applicable theory. These theoretical perspectives had provided her with an initial theoretical grounding to begin data collection and analysis. But this initial theoretical grounding was held lightly—always subject to change and leaving room for revision and reconstruction based on the data she collected (p. 392).

I planned to engage in this work in a way that was consistent with these modified grounded theoretical approaches. Like Neumann, I engaged in significant study of applicable theory in advance of this study, and the theoretical frames described in detail in Chapter 2 helped inform the development of my research questions, study design, and methods (Gerson & Damaske, 2021).

Interpretive Perspective

The interpretive perspective, as articulated by Erickson and others, is concerned with the *meaning* of actions to the participants as opposed to simply the recording of actions or events observed (Erickson, 1985; LeCompte & Preissle, 1994). As Erickson noted, this approach centers the "mental life" of teachers and students—a perspective that resonates with Shulman's theorization around teachers' knowledge and that of other researchers writing in a related vein (such as Neumann, 2006). I consider my study to be firmly rooted in this orientation.

Maxwell (2013), in support of interpretive research, notes that for a study to be genuinely qualitative, it "must take account of the theories and perspectives of those studied, rather than relying on established theoretical views or the researchers' perspective" (p. 53). Specifically, Maxwell warned against the imposition of external theory on a subject's experience as this can diminish insights, on the topic of study, that are unique to persons and contexts that prior theory did not address.

Neumann's (2009) work is a good example of scholarship that proceeds in an interpretive manner. As she noted when discussing two significant research projects, "…the studies called for designs and methods that could reach into the professors' consciousness…" (p. 233). These studies were concerned with what professors' scholarly learning *meant* to them and how the

professors experienced it. This attention to the meaning of actions to the participants is core to the interpretivist perspective.

My research questions are focused on ways in which teachers search for and create linkages between students' prior knowledge and subject matter. What I mean by this is that I am concerned, deeply, with *how these teachers think* about this work and its importance, including: *why* they do it, *why* they started to do it, whether they *feel* supported in doing it, and so forth. Answering these questions requires more than mere observation; it requires serious attention to study participants' own meaning-making process. The interpretive perspective was well-positioned to help me do so—and this perspective helped to guide my methodological decisions, including encouraging me to provide for multiple interviews and multiple classroom observations so that I could speak directly with participants about their own perspectives and meaning making. More accurately, I wanted to hear their interpretations of what they said they did and also what I saw them doing.

Finally, the interpretive approach also considers the relationship between the meaning/perspective of individuals and that of others in a shared social setting (Erickson, 1985, p. 127). This is important as it takes some account of how institutional, classroom-level, and other dynamics take shape in faculty members' minds, leading them to take particular actions. My research design and questions anticipated the possibility that professors might be responding to others in their environment, including to students in their classrooms, an inquiry supported by the interpretive approach.

Phenomenology and the Nature of Interviews

For each participant, this study involved an in-depth interview, multiple classroom observations, and a follow-up interview. This series of interactions, and discussion of the subject

matter at issue, could, I realized, result in intense interactions. As a result, it was important to me to interrogate my methodological perspective on the nature of an interview. To do so, I adopted a Brinkmann and Kvale's (2015) phenomenological perspective on the "inter-view" (pp. 30-37). This approach focuses on unearthing and understanding people's perspectives on, or understandings of, the world. The approach allowed me to inquire into—to see and to understand—my interviewees' first-hand experiences with the teaching in which they engaged, and with attention to their work with students.

Consistent with this approach, I viewed each interviewee as a sort of partner in the knowledge production resulting from our discussion (the interview in which we both engaged). Relatedly, I fully appreciated that this type of interview, through which a participant is asked to disclose to me important details about their perspectives and experiences, may reflect power imbalances. Indeed, Brinkmann and Kvale describe a variety of reasons for such an imbalance: the one-way nature of the interview dialogue, an agenda on the part of the interviewer, and the interviewer's monopoly on interpretation of the data. Likewise, Maxwell (2013) notes that qualitative research is almost always "an intrusion into the lives of the participants…" (p. 92). It was important for me to consider the implications of such an intrusion and the imbalance, regarding the knowledge produced, when interviews are the key research methods. (I deal with the ethical implications of the study in more detail below). In response, I took special care to maintain ethically appropriate relationships with my subjects and to anticipate the ways whereby they might perceive and experience the interview and observation process (Maxwell, 2013).

Ethnography and the Nature of Observations

In addition to interviews, informed by the perspectives discussed above, I also carried out class observations, thus watching study participants carry out, in class, the kinds of things we

talked about in interviews. Most of the literature relating to law school teaching does not include firsthand observations of teaching (of course, there are exceptions—some of which I described in Chapter 2). Rather, this literature tends to be theoretical or to describe certain practices that faculty members have employed in their own classroom. With some exceptions (e.g., Mertz, 2007), systematic observations of law school classroom teaching, and analysis of resulting data, are unusual. I view this study's use of observations as a significant strength. These observations allowed me to see firsthand the pedagogical techniques and approaches used by law faculty as they seek sought to identify and use students' prior knowledge in their teaching.

This observational component of the study is strongly informed by ethnographic traditions derived from the social sciences. LeCompte and Goetz (1982) describe ethnography as "analytic descriptions or reconstructions of intact cultural scenes or groups…" (p. 387). This research methodology and perspective involve first-hand observation and analysis of what people do and say in a certain context (Erickson, 1985). There is an emphasis in this tradition on understanding a community's practices and perspectives through these first-hand observations (Hammersley, 2006). In my study, I carried out two class observations for each study participant. Informed by the ethnographic tradition, these observations provided an important first-hand view of how the faculty members engaged in the kind of teaching we discussed in interviews. I found that the ability to both interview participants and observe them teaching providing helpful insights on participants' actual views and beliefs as well as their actual practices.

In the next section, I discuss the study's overall design, including site and participant selection, data collection, and data analysis.

Study Design

The study design of this research project involved 14 faculty teaching in four law schools—two elite and two broad-access. I selected between two and four faculty members who taught first-year courses at each of these schools. I collected data via a combination of interview, observational, and document analysis methods. In the study's first phase, I carried out an extended initial interview (generally between 1-2 hours) with each focal study participant, namely each of the selected faculty. The second phase of data collection consisted of two course observations for each faculty member, followed by one post-observational interview (generally about 1 hour) for each faculty member. I chose this number of schools and faculty members to provide sufficient coverage of the types of participants and their teaching sites while still allowing me to engage in the sort of time-intensive, in-depth interviews and observations that I discussed earlier.

The flow chart (Figure 1) below displays the study design which started with site selection, moving then through participant selection, then data collection.

Site Selection and Gaining Entree

I conducted my study at four American law schools. Each of the law schools is accredited by the American Bar Association (ABA), which is the primary accreditation organization for graduate programs of legal education. The overwhelming majority of American law schools are ABA-accredited, and such status allows student to take out federal loans to fund their studies, qualifies students to sit for the bar exam in certain states, and ensures that law schools comply with a comprehensive set of quality standards relating to their academic programs, facilities, policies, and operations (ABA, 2021).

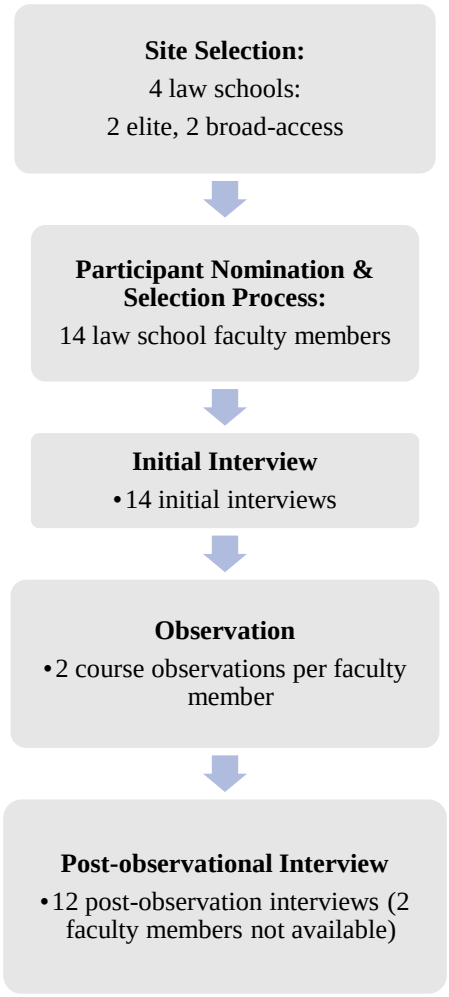

Figure 1. *Study Design*

From this pool of accredited law schools, I chose to carry out the study at two schools that are considered elite and two that are broad-access. For the purposes of this study, elite means institutions ranked in the top 50 of the *U.S. News and World Report's Annual Law School Rankings* (out of about 200 total accredited law schools). Broad-access institutions are institutions ranked below 50. I acknowledge that *the U.S. News and World Report* is an imperfect system, and there is very significant controversy associated with its methodology.[1] But, for these

[1] For example, Tamanaha (2012) described some of the ways, including with regard to employment statistics, in which the rankings are unreliable, or schools tried to influence the rankings. As of this writing, some

purposes, it does provide a useful way to quantify, in broad and approximate terms, schools' relative standing as far as bar passage rates, student credentials, admissions selectivity, graduate employment data, and so forth.

I chose two elite institutions and two broad-access institutions to allow for potential differences in study results that may be attributed to this defining feature of each site. Such differences matter for this study because they bear on the characteristics of the students and faculty that they attract; such factors may then shape the learning and teaching in which these key actors participate. As a general matter (and, of course, with exceptions), more elite schools have higher-SES students and fewer students of color compared to broad-access institutions (Curtis, 2019); moreover, faculty at more elite institutions have somewhat different educational backgrounds when compared to their broad-access colleagues (George & Yoon, 2014). These differences, and likely others, might impact the extent to which—and how—faculty members create linkages between the subject matter they teach and their students' existing knowledge. Indeed, these differences might relate to the kinds of prior knowledge likely to be held by students and faculty, as well as the backdrop against which the teaching at issue is likely to unfold. For example, the types of prior knowledge held by lower-SES students is likely to differ from that of high-SES students with regard to the kinds of cultural capital, school-based academic knowledge and ways of knowing, and cultural perspectives and worldviews that they bring to their law school learning. The individual and institutional contrasts created by using two elite institutions and two broad-access institutions as part of this study were helpful in illuminating important aspects of the research questions related to faculty members' efforts to

law schools (especially, though not exclusively, elite institutions) have indicated that, moving forward, they will not provide non-public information to be used in these rankings.

identify, draw out, and use their students' prior knowledge and experiences (Gerson & Demaske, 2021, p. 49).

Additionally, each of the law schools is within about 7 hours by car or public transportation from New York City (though, as discussed below, institutions were visited remotely). This study unfolded while significant restrictions relating to the ongoing Coronavirus pandemic were still in place and impacting law school operations. For this reason, I conducted study activities remotely. I discuss this issue more fully below.

When selecting potential sites, I also considered my own contacts at a particular institution. These were helpful in gaining access to the sites. As I worked through the process of gaining the access to each institution, I was in close touch with the appropriate school officials to explain the study, secure the required permissions, and determine the institution's IRB process and requirements.

The site selection process proceeded, for the most part, in the way that I had initially planned. I conducted outreach to a total of eight institutions (three elite and five broad-access) to invite them to participate. I had a personal or professional connection to the Deans at each of these law schools. All initially expressed a willingness to participate. Two of the eight subsequently declined to participate because they were concerned about the burden of the study activities on their faculty members. An additional two eventually did not respond to several follow-up requests following the initial outreach. This resulted in the remaining four (two elite and two broad-access) that served as my research sites for the study.

Participant Selection

As I noted above, I studied between two and four faculty members at each of the four law schools described above, for a total of 14 participants; to qualify for participation, faculty had to meet the criteria listed in this section. After consulting with my dissertation committee, I settled

on 14 participants because this number seemed to provide adequate coverage of the population at issue while yielding a manageable data set. I ultimately invited faculty members who, according to institutional nominators, met the criteria described below:

1. Faculty were full-time doctrinal teachers *teaching* 1L doctrinal course(s) during the term of data collection. The focus of this study was law school 1L doctrinal teaching, so the participants needed to teach such classes in the term of data collection. Such courses make up the foundation of the American legal education experience and so deserve particular attention in a study of this type. For the purposes of this study, I included full-term legislation and regulation courses in this category. Legislation and regulation courses are largely concerned with providing students with an introduction to the administrative state and the regulations that flow from it. Their focus is on laws and regulations—as opposed to litigation. For my purposes, though, full-term versions of these classes have enough in common with the core 1L doctrinal curriculum as far as teaching methods, faculty, and rigor for me to treat them similarly. For the purposes of this study, I was interested in full-time faculty members since they provide the bulk of first-year legal instruction and devote themselves fully to the project of legal education and scholarship.
2. Faculty participants were from diverse racial, ethnic, and/or cultural backgrounds, where possible, in order to ensure appropriate representation and to allow for potential comparisons between groups. This was particularly relevant to the study because as discussed in Chapter 1, law school student bodies are, on average, more diverse than law faculties and have less elite educational backgrounds. As a result,

faculty need to have ways to connect to prior knowledge that may be different than their own. This was an important component of the study.

3. Faculty were known, by knowledgeable nominators, to teach legal subject matter in ways that consider their students' prior knowledge and experiences. The study examined how full-time doctrinal law faculty search for, and sometimes create, linkages between the subject matter they teach and their students' prior knowledge and experiences. This requires faculty who actually teach in this way. To assist nominators in identifying faculty meeting this criterion, I included in my letter of invitation to them straightforward definitions laying out key elements of such teaching.

In additional to the criteria noted above, I gave due consideration to the question of whether all study participants should be teaching the same subject matter (the four primary 1L doctrinal classes for many law schools are property, torts, contracts, and constitutional law, and I considered which of these subject matter areas would be most appropriate for the study). Such an approach might have allowed me to observe multiple faculty members teaching similar subject matter, including any potential differences in their approach. However, I decided against this approach for three reasons:

First, there are simply not enough faculty members in most law schools who both (a) taught the same 1L course at area law schools, and (b) taught it in a manner that would lead nominators, working by the above-stated criteria, to select them.

Second, limiting the study to a single 1L subject matter area would have limited the scope of the study and impacted my ability to describe more general findings about the ways in which full-time doctrinal law faculty search for, and sometimes create, linkages between the subject

matter they teach and their students' existing knowledge, experiences, and values in ways that support the students' learning of the subject matter.

Third, this approach might have limited my ability to observe meaningful consistencies (and perhaps differences) across the varied pedagogical approaches used, traditionally, to teach particular doctrinal subject areas. I was interested in capturing insights that might be drawn from this cross-subject matter view.

For these reasons, the study included faculty members teaching throughout the 1L curriculum—providing a glimpse of a relatively wide range of subject matter areas and allowing for observations relating to potential variations in subject matter.

The nominations process for the study proceeded as follows. I sent a letter to the Dean and/or Academic Dean at each participating institution, asking them to nominate faculty members who met pre-specified criteria (shown below). To assist the nominators in identifying appropriate nominees, I provided a description from related literature of teaching in a way that creates linkages between the subject matter and students' prior knowledge. I reviewed these nominations using publicly available CVs and faculty profiles to ensure that potential participants met, as best as possible, the objective criteria outlined. Two of the four institutions declined to participate in a formal nominations process, as outlined above. In those two cases, I used the provided lists of faculty members teaching 1L courses to identify potential participants by speaking to individuals outside of those institutions who were well-positioned and well-qualified to identify appropriate faculty for the study from the provided lists. These outside nominators included faculty leaders and administrators at other institutions.

Once I had assembled the full list of nominees, I sent each of them a letter inviting them to participate in the study. I followed up with emails and phone calls to ask them to participate.

Table 1 reflects the invitee responses for each institution and overall. As the table shows, there were between two and five participants at each institution, with response rates ranging from 18% to 66%. The overall response rate was 41%. It must be noted that one of the 14 participants participated in the first interview but then became non-responsive and did not participate in class observations or a follow-up interview. Therefore, data for this one participant were limited to the initial interview.

I display the participants, their institutions, and their courses in Table 1. Since I was aiming for a diverse group of participants, I also tracked information on race and gender. Based on my own observations and information, their own statements, or other publicly available information, 64% of participants were women and 21% were people of color.

Table 1

Invitee Responses for Each Institution and Overall

Institution	# of Participants Invited	# Participating	# Declining	# Non-Responsive	Positive Response Rate
1	7	3	4	0	43%
2	8	5	2	1	63%
3	11	2	7	2	18%
4	6	4	1	1	66%
					Overall Positive Response Rate
					41%

Nature of the Data and Data Collection Methods

I collected data using three methods: interviews, observations, and document collection/analysis. Overall, I conducted 27 interviews (totaling approximately 50 interview hours) and 27 observations (totaling approximately 40 observation hours), for a total of about 90 hours of time in the field. In addition, I collected professional documents, including instructional materials, which I discuss in more detail below.

Interviews were key elements of the data collection process. I conducted two interviews with each faculty participant—an extensive interview at the outset (approximately 2 hours) and a briefer follow-up interview following the class observation sessions (I describe the aims of each interview below). All of the interviews took place remotely using a video-conferencing system such as Zoom. They were audio-recorded and transcribed by a professional transcription service.

I chose to use interviews because they "place each participant's voice at the heart of the research" (Gerson & Demaske, 2021, p. 1). Indeed, I adopted Gerson and Demaske's approach to conducting "deep interviews"—lengthy interviews that ask participants to engage in reflection on multiple aspects of a particular experience (such as a description of a particular experience or event, discussion of the social context that impacted or shaped the event, their reaction post-event, and so forth) (pp. 4-5). Interviews provide opportunities to hear from participants in their own words and to uncover insights that might otherwise be "undiscoverable" (p. 7) by soliciting information on important aspects of an individual's private perspective and experience in a nuanced manner. As I noted above in my discussion of methodological perspectives, I was extremely interested in hearing directly from the participants as they described their own perspectives—what they were seeing and thinking during a class session, why they made certain pedagogical decisions, and other elements of their experiences.

Two of my research questions (2 and 3) relied on hearing from faculty members about *why* they teach in a certain way and what factors *they believe* support or promote such teaching. The study relied on hearing participants' own perspectives on these questions, including how they came, over time, to develop certain approaches and philosophies, as well as their reasons for so doing. Interview served as my key method for gathering such data (Gerson & Demaske, 2021, p. 6).

Observations were also an important part my data collection process. I observed two classes taught by each participant (with one exception noted above, where a participant became unresponsive following the initial interview). These observations allowed me to see the participating faculty members "in action." As I noted above, such first-hand observations and analysis can help a researcher to understand what people actually do and say in a certain context (Erickson, 1985). This was certainly the case for me—my course observations provided an important first-hand view of how the faculty members engaged in the kind of teaching at issue in the study. In some cases, the observations provided important examples of things that participants had described in a more abstract way during their initial interviews (and some of these examples are included in the following chapter to illustrate data patterns). Overall, observations were an important method for gathering data that were responsive to my research questions.

Document analysis was also helpful for the study. I reviewed CVs or public biographies for each participant. In most cases, I did this in advance of the initial interview. These documents allowed me to understand the participants' personal and professional background and experience and, in some cases, helped to inform my interview questions. These documents also provided me with important information about the courses taught by each participant, their educational background, what they did before joining the legal academy, and the like. In addition to these documents, I also reviewed syllabi for each of the courses I observed. These syllabi allowed me to understand the overall scope of the course, the material being covered for each class session, major class projects planned for the term, readings for each class session, and similar information. My review of these syllabi helped to inform my class observations and my analysis of the resulting data by providing important contexts for each course and individual sessions.

The sequence of my data collection was as follows: collect relevant documents pertaining to the faculty member or the class, initial interview, first class observation, second class observation, and second interview. I describe each of these data collection events below.

Documents. I first collected various documents relevant to the study. These included faculty CVs, syllabi and other course materials, faculty publications, course handouts or assessments, and other relevant materials. I collected these in advance of conducting the initial interviews whenever possible, though sometimes they were not available until later. I reviewed these documents carefully, took notes on them, organized them, and kept them on file. In some cases, they provided insights into a faculty member's professional experience, educational background and credentials, years of experience, and pedagogical approach (through the syllabus or assessments). I used these documents both in the data analysis stage and as preparatory materials for my interviews and observations.

Initial Interview. For the initial interview, which sought to elicit substantial biographical and career information, as well as self-descriptions of pedagogies in use, I used a semi-structured interview guide. Questions were prepared in advance as described below, but, importantly, I was prepared to depart from the "script" as needed based on how the interview unfolded (Brinkmann & Kvale, 2015, pp. 164-66; Gerson & Demaske, 2021, p. 9). The interview guide was carefully developed and sequenced. It was designed to elicit responses that addressed my research questions. These initial interviews took place at the beginning of the semester in advance of my observations. Generally, these lasted 1-2 hours. The interviews were designed to elicit information on the following: faculty biographical and personal information, including demographic information, teaching experience, courses taught, and so forth; faculty members' self-description of themselves as teachers including their pedagogical strategy and method; their

expectations and assumptions about how law students learn; faculty awareness and/or interest in student prior knowledge; extent to which faculty see themselves as seeking to create linkages/connections between student prior knowledge and course subject matter, their sense of whether they are successful in doing so; faculty reasons for creating such linkages; and faculty reflections on factors that support or promote their interest in teaching that supports the forging of such linkages.

I took notes during the interviews, in addition to the audio-recording, in order to document the conversations, note additional questions (for example, following up on issues the interviewee introduced earlier and of interest to the study), document nonverbal cues or interactions, and provide other nonverbal/contextual information such as descriptions of the setting that might be relevant to the study.

Observations. As indicated above, I observed two classes taught by each participant (with the exception of the interviewee who only participated in the first interview). I carried out all class observations remotely. In some cases, students and faculty members were fully remote, and classes were taught via an electronic platform like Zoom. In other cases, classes were offered in-person and I observed remotely.

Because of the pandemic, nearly all law school classes offered during the study period provided an opportunity for remote observation and/or participation. This allowed for my remote observations. While I observed most classes as they occurred (or "live"), there were limited times when the study was better served by observing recently recorded classes (during the most recent academic year). This was the case for approximately three participants. As noted above, such recordings were made as a matter of course by each of the participating institutions.

Selecting which particular sessions to observe was an important decision since I wanted to focus on classes most likely to include the type of teaching at issue in this study. I wanted to see teaching that involved an effort by the faculty member to surface and/or draw on students' prior knowledge. With this in mind, I carefully selected which classes to observe. These decisions were informed a discussion with the participants and review of the syllabi.

I did not record class sessions in deference to the fact that students were not study participants. Indeed, I adopted an approach to data collection, via classroom observation and writing of observational notes (as data), that limited any risks to them. To capture interactivity as a feature of an instructor's teaching, I wrote observational notes to document the content of interactive teacher-student dialogue to the extent that it illustrated points that were relevant to the research questions. I minimized focus on student comments and actions and brought faculty responses, questions, and actions to the forefront (which was appropriate, given the aims of the study).

Consistent with this approach, I wrote descriptive notes documenting my observations about each session, including the location, setting, number of participants, and significant events that unfolded during class. I also noted questions to return to later (or to include in interviews with the participants). Specifically, many of the items covered in my observation protocol required discussion in the follow-up/second interview with the faculty members to allow me to understand more fully their perspectives, intent, and reactions to relevant classroom events.

Second Interview. For the second interview, I again used a semi-structured interview guide. These interviews took place following my two course observations (described above). When possible, the interview took place no more than a few days following the final observation so that the classroom experiences were relatively fresh in the mind of the faculty members. The

purpose of this interview was to clarify and illuminate what I had observed in the classroom through the two observation sessions. This interview included a pre-determined set of questions, but I often departed from the prepared "script," depending on how the interview unfolded.

In preparation for this second interview, I used my class observation notes to prepare questions about the following: the instructor's objective in this class session relative to subject-matter ideas the faculty member wanted to work on; other objectives for the session; why the faculty member chose certain pedagogical methods in the classes I observed; whether such methods were aimed at ascertaining student prior knowledge; whether such methods were aimed at linking such student prior knowledge with subject matter (and if yes, how the instructor thought through making that happen); how the faculty member experienced a particular classroom event or interaction; and other relevant reflections or observations that the faculty member wished to share.

I took thorough notes during the interviews, in addition to the audio-recording, in order to document the conversations, note additional questions, document nonverbal cues or interactions, and provide other nonverbal/contextual information. All of these interviews were transcribed by a professional transcriptionist and checked by me for accuracy.

Considerations Relating to the Ongoing Pandemic

The ongoing COVID-19 pandemic impacted the way in which I carried out my study. I note here that the evolving public health situation required significant flexibility on my part, as well as on the part of the study's participants, and I made whatever adaptations were appropriate, and in consultation with my committee, within the context of the study to facilitate the necessary data collection.

The first issue presented by the pandemic related to the mode of classroom instruction. While the traditional mode of instruction in most law schools is in-person, many law schools taught classes in online/remote or hybrid formats. For these purposes, hybrid means a class arrangement where certain faculty members and/or students are physically present in a classroom and others are participating remotely on a synchronous basis. These formats allowed some (or all) students and faculty to participate remotely, thus lowering the risk of COVID-19 transmission. This was a new development in legal education (and in higher education broadly), and it is impossible to fully gauge the implications for this study. Indeed, it is unclear how these formats impacted the type of teaching that I observed and how the participants made sense of their learning experience. My own anecdotal observations in this regard are as follows: During the pandemic, law school faculty adapted to the new formats in varied ways, and while some classes seemed to proceed "like normal," other classes underwent significant pedagogical changes such as shortened lectures, adding in of asynchronous elements such as pre-recorded videos, and so on.

As I noted earlier, I conducted all of my interviews and course observations in remote or hybrid environments due to health and safety concerns, and because most law schools limited external visitors during the study period due to the pandemic. I explicitly raised this issue in interviews with the faculty members involved in order to understand how classes may have changed to adapt to these new conditions and whether the instructor perceived any changes to their ability to carry out the kind of teaching at issue in this study. I also note here that some law schools have retained these alternative methods of delivery even once the pandemic subsides. For this reason, observations in remote or hybrid environments may offer important insights into teaching that unfold as part of the "new normal" for legal pedagogy.

With regard to the data collection phase of my study, I appreciate that such remote attendance and interviews may have impacted the nature of my teaching observations, perhaps by limiting what I was able to perceive and document about the physical environment and in-person interactions. It may have also prevented my observation of brief (but helpful) interactions between faculty members and students like those that often take place in the hallway before and after classes. However, the possibility of remote attendance also offered me the opportunity to include sites and participants beyond the more limited geographic range that in-person data collection would permit. Remote data collection also appeared to be convenient for faculty—many of whom appeared to be working almost exclusively from home or other distant locations. In this way, the possibility of remote interviews and observations may have benefited the study by offering more (and different) potential sites and encouraging faculty participation by making such participation more convenient for them.

Processing Data in Preparation for Analysis

As noted below, all interviews and class sessions were audio-recorded (and some were recorded using Zoom, though in such cases only the audio portion was transcribed and retained and the video portion was discarded). Additionally, all participant interviews were transcribed by a professional transcription service. I reviewed all transcripts for accuracy while listening to the audio files and made corrections as needed.

Before beginning data collection, I established a secure organization and filing system. All of the files described below were password-protected, with the password known only to me. I created a file on my computer to gather, file, and track participant information, documents, teaching artifacts, audio files from observations and interviews, completed observational protocols, and other notes.

I created a spreadsheet with demographic and other background information about the faculty participants. I used codes unassociated with participating identities that I then converted in pseudonyms, thus creating two layers of protection for participants' identities. I also created a key to match participant data to their codes (this key file is stored in a separate location and with its own password).

Data Analysis

I began my data analysis while I was still collecting data (Maxwell, 2013, p. 104), allowing me to pursue (and think through) patterns of interest while the data were fresh in my mind, and permitting me to pursue points of interest with participants, for example, in the final (second) interview. This approach also allowed me to avoid a situation in which I had a large amount of unanalyzed data at the conclusion of the data-gathering process. Indeed, the grounded theory approach I described earlier in this chapter demands that collection and analysis be interrelated (Strauss & Corbin, 1990, p. 7). My process unfolded as follows.

First, I reviewed all transcripts, notes, and other documents. I took detailed notes on these documents and began to develop "tentative ideas about categories and relationships" (Maxwell, 2013, p. 105); I also identified initial themes related to my research questions (Creswell, 2007). I also wrote memos to aid in my reflection on the data and to facilitate my thinking and work through developing analytic insights (Maxwell, 2013, p. 105).

I then began a preliminary effort to code the data, which allowed me to organize and label the data I had collected. I carried out my coding using one of the leading qualitative research platforms, Dedoose. My initial coding involved developing coding categories based on my insights and reflections on the data (Maxwell, 2013, pp. 106-107). My initial coding categories identified mentions (for the interviews) or observed instances (for class observations)

by the participants of teaching that seemed to draw on students' prior knowledge. This required multiple passes through each transcript and set of observation notes. Based on the results of this preliminary analysis, I developed categories to describe the different types of teaching I was observing and participants were describing (for example, teaching that seemed to draw on students' academic subject matter from a prior class, teaching that seemed to draw on students' prior professional experience, teaching that seemed to draw on students' cultural knowledge, and other categories described in detail in the next chapter as part of my analysis of the data). The development of these categories eventually allowed me to sort and analyze the data further in light of my conceptual framework and with guidance from my research questions (Brinkmann & Kvale, 2015, pp. 226-228). Coding-facilitated data grouping (building categories) deepened my analysis and interpretation (Maxwell, 2013).

Once I reviewed and coded the data, I formulated analytic questions which were focused questions that I could pose to the data to allow me to address my research questions (I list these analytic questions below). I then engaged in additional coding in a way that was responsive to these analytic questions. I coded for only one analytic question at a time, which allowed me to focus my attention on each question. The purpose of developing analytic questions was to help me to interrogate the data in ways that might help me to develop claims, emerging from the data collected, and relating to my research questions (Neumann, 2006). As Neumann and Pallas (2015) explain, research questions guide the study design and data collection phases of a study, while analytic questions help to link insights from the data with the study's research questions (pp. 166-167). Moreover, analytic questions operate on multiple levels: ground level, framed so as to pull data from a single transcript or observation at a time; sample level, framed to pull data

from all the transcripts and other data records; and generalizing level, framed so as to help the researcher formulate general propositions about the subject under study.

Human Subjects Protection

It was extremely important that I protect the human subjects involved in this study. I conducted the study only after approval from the Institutional Review Board (IRB) of Teachers College (none of the participating sites required me to seek approval beyond the Teachers College IRB and each provided me with a letter to this effect). Such approval required completion of a detailed application and other materials relating to the study, as well as a detailed explanation of measures I would take to protect human subjects. The relevant materials are provided here as appendices. My IRB application specified the ways in which the study would maintain confidentiality, offer participants due levels of privacy, assure the voluntary nature of their participation including provision of ongoing subject consent, minimize participants' risks, and provide related protections. I describe these measures briefly below.

Confidentiality

It was, and remains, critical that all data and other information I collected remain confidential to avoid potential negative consequences of disclosure. All study information is kept in secure, password-protected drives. I have developed systems to ensure that all such data are kept strictly confidential, and the privacy of individuals and institutions is maintained. Such systems protect confidential information and, hopefully, encouraged the participants to be forthcoming and open.

I worked to ensure confidentiality by using codes (containing no identity-bearing information) as I gathered data. Later, once data analysis for the study was complete, I generated pseudonyms for each code (like the codes, these pseudonyms contain no identity-bearing

information). This means that no transcripts, notes, protocols, or other documents were labeled with the actual names of any of the participants or institutions. Instead, I used a key (password-protected) to match codes for individuals and sites to the actual names.

Additionally, I took significant steps to mask the identities of participants and institutions. Masking sometimes required editing transcripts (for example, deleting, presenting in generic terms, and using other strategies) with regard to remarks in class or during an interview that would make the participant or institution identifiable. I was sensitive to the fact that the universe of local law school professors is relatively small and, thus, persons are often known to one another. As a result, I have made an extra effort to ensure that privacy and confidentiality are provided to all persons and institutions participating in the study.

Ongoing Informed Consent

Consistent with IRB requirements and other principles of ethical research, all participants were well-informed about the study as well as about potential risks to them relating to their participation. The study was explained, both orally and through a written document (consent form), to all participants. Participants were provided with detailed written information and asked to read it carefully before agreeing to participate. I explained the nature and purpose of the study as well as the activities that participants could expect to experience. This included discussion of the planned interviews, observations, and document analysis. Participants were also told and reminded throughout the study that such interviews and observations would be audio-recorded and transcribed (some maybe by Zoom or a similar video conferencing platform, and so were also video-recorded). Participants had ample time to ask any related questions. Additionally, each participant was told and reminded of their ability to discontinue participation at any time and for any reason. They were also told they were free to decline to respond to any question or

any part of a question, and they should let me know if they wished certain statements they made to not be made public. Only one participant made such a request. I took detailed notes of all requests for privacy and confidentiality and created a document indicating such preference. The resulting document is kept in a secured location.

Minimizing Risk to Participants

This study was designed to pose very little risk to participants. I should note, however, that it did involve asking faculty members to engage in discussion of, and reflection on, their background, pedagogical philosophy and methods, and so forth. It is possible that such discussions could have surfaced sensitive or challenging memories or thoughts. It was also possible that participants' pedagogical approaches would be unaligned with mainstream approaches in use in legal academic (or that their discussion of their approach would include negative assessments of colleagues or institutions); such statements, if associated with a speaker (i.e. revealing identity) could be harmful potentially to individuals' academic careers. It is also possible that my presence for course observations might have made participants somewhat uneasy. I let the participants know about such risks in advance and reminded them about the risks throughout their participation in the study. I worked hard to minimize risk by maintaining confidentiality and taking other measures designed to protect human subjects.

Study Limitations

This study has a variety of limitations. I discuss some of these limitations below, along with steps I took to minimize their impact on the study.

Researcher Perspective

As with all researchers, my own knowledge, background, and experience may have impacted my research. I have significant experience in law schools—as a student, an alumnus, an

administrator, and a teacher. As I described in earlier chapters, I have strong feelings about the importance of drawing on students' prior knowledge and have organized various law school efforts towards that goal. I also have close relationships with many legal administrators and faculty members—and have spoken with them at length about the topic of this study.

My interest in this type of teaching, and especially the use of learners' prior knowledge in legal instruction, was a strong motivating factor as I designed and prepared to carry out the study. I am very aware of my own personal interest and experience in this area and believe that it has provided me with an excellent perspective on the subject matters that I would need to draw on to carry it out.

Of course, I am also aware that my relationships, knowledge, and experience may have given me certain preconceived notions about, or feelings towards, law school faculty and the type of teaching I would study. As I conducted and wrote up the study, I noted areas where my own prior work, knowledge, background, or experience may have impacted data collection or analysis (and, to the extent possible, I tried to keep such experiences from negatively interfering with these processes).

Generalizability

As described above, my study is limited to law school faculty teaching 1L doctrinal classes. Given the small sample size and the purposeful site- and participant-selection processes I used (i.e., I intentionally recruited sites and participants that would allow me to look deeply into the phenomenon of interest rather than examining its presence in law schools in general), I sought to generalize to theory, or to conceptual understanding, rather than to a population (Luker, 2009). However, I believe that my sample has given me grounds for establishing the "general value" of this study such that it comes to be viewed as a starting point for thinking

about issues, such as those I discuss in the study, in other sites not participating in the study. The propositions (i.e., propositional claims) I offer in Chapter 4 represent such value.

Reliability and Validity

Validity is the "correctness or credibility" (Maxwell, 2013, p. 122) of a finding or conclusion, and reliability is the consistency of results. I have made significant efforts to present reliable conclusions by collecting rich and varied data on the topic of study (including transcripts of observations, transcripts of interviews, notes, and documentary data) and searching for discrepant data as part of my data analysis process (pp. 126-127). For this study, it is important to note that a significant portion of the data were obtained through interviews through which participants were asked to think back (in some cases, over many years) and describe their experiences. This sort of retrospective interview has built-in limitations relating to reliability—namely, are the subjects' memories of events accurate? Indeed, the value of one's memories is often less for what they tell us of the past (as such) than of how, in the present, they live with their sense of the past—and take actions in light of that. That was my ultimate interest with regard to the teaching that, in addition to hearing about it, I also observed, thus in the present time. I considered such inherent limitations during the data collection and analysis phases of the study.

Chapter Summary

In this chapter, I described the design and method of this study on how law faculty search for and create linkages between students' prior knowledge and subject matter. This discussion included, among other aspects, site selection, participant selection, data collection, data analysis, and study limitations. I turn now to an analysis of the data and the development of propositions.

Chapter 4: Analysis and Findings

In this chapter, I present the results of my study of how law faculty search for and create linkages between students' prior knowledge and classroom subject matter.

The questions that guided my data analysis, which are sometimes referred to as analytic questions, relate closely to my research questions. As Neumann and Pallas (2015) explained, and as I discussed in detail in Chapter 3, research questions guide the data design and collection while analytic questions help to link insights from the data with the research questions. The analytic questions guiding this analysis are as follows:

1. What teaching methods do law school faculty members participating in this study describe and/or use in the classroom as they seek to create linkages between what they teach and things that their students already know, believe, or feel, thus building on their prior knowledge?
2. What do the participating law school faculty members say are barriers to their teaching in a way that draws on things that students already know, believe, or feel? What concerns or hesitations, if any, do they express about the possibility of teaching in this way?
3. How do these faculty members talk about the value of teaching in a way that draws on things that students already know, believe, or feel? For those who say it has value, what do they say that this approach to teaching accomplishes?
4. How, if at all, do the faculty members describe the way(s) in which the legal subject they are teaching impacts their ability to draw on things students already know, believe, or feel?

5. How, if at all, do faculty members describe institutional efforts to support or promote teaching that may draw on students' prior knowledge and experiences? What other sources of support do they describe?
6. What, if any, personal characteristics and/or elements of the life stories of participating faculty seem to relate to their use of students' prior knowledge in their teaching?

Table 2 below shows how each of these analytic questions respond to the research questions. To pursue the analytic questions, I drew on data collected from interviews with, and teaching observations of, 14 participating faculty members, as described in the previous chapter. I also examined relevant documents, including class syllabi. As Table 2 shows, each research question was pursued through three or four analytic reviews of the full data, as represented by the number of analytic questions shown.

The findings of the overall analysis indicated that participating faculty members engage in a wide variety of teaching practices that draw on things that students already know, believe, or feel (students' prior knowledge); they do this with the intent of using that prior knowledge to help students step toward understanding legal concepts that otherwise would be unfamiliar to them. The forging of such linkages, between what students know already and new subject-matter concepts, has been found to support students' learning of such subject matter (Lee, 2007). I begin with a broad review of my study results, then provide details for each finding (presented as themes and supporting data patterns).

First, participating faculty members, all of whom strive to draw on learners' prior knowledge, draw on several key methods for so doing—for example, drawing on students' prior

Table 2

Responsiveness of Analytic Questions to Research Questions

	AQ1. What teaching methods does this faculty member describe and/or use in the classroom as they seek to create linkages between what they teach and things that their students already know, believe, or feel?	AQ2. What does this faculty member say are barriers to their teaching in a way that draws on things that students already know, believe, or feel? What concerns or hesitations, if any, do they express about the possibility of teaching in this way?	AQ3. How does this faculty member talk about the value of teaching in a way that draws on things that students already know, believe, or feel? For those who say it has value, what do they say that this approach to teaching accomplishes?	AQ4. How, if at all, does this faculty member describe the way(s) in which the subject they are teaching influences their ability to draw on things students already know, believe, or feel?	AQ5. How, if at all, do faculty members describe institutional efforts to support or promote teaching that may draw on students' prior knowledge and experiences? What other sources of support do they describe?	AQ6. What, if any, personal characteristics and/or elements of the life stories of participating faculty seem to relate to their use of student prior knowledge in their teaching?
RQ1. In their teaching, how do full-time doctrinal law faculty search for, and sometimes create, linkages between the subject matter they teach and their students' existing knowledge, experiences, and values in ways that support the students' learning of the subject matter?	X	X		X		
RQ2. How do full-time doctrinal law faculty who search for, and sometimes create, such linkages describe their reasons for so doing?		X	X		X	X
RQ3. What do full-time doctrinal law faculty who search for, and sometimes create, such linkages identify as factors that support or promote their so doing?			X	X	X	X

academic knowledge from fields outside of the law, drawing on students' knowledge from prior professional experiences, and other teaching practices described in detail below.

Second, although the participating faculty portrayed their efforts to teach in this way as successful, they also pointed out obstacles to their so doing. The obstacles to which they referred typically related to institutional climate; difficulties in effectively drawing on knowledge and experience that are sensitive, personal, and/or controversial in nature; large class size; coverage concerns; and limited instructional time.

Third, faculty members overwhelmingly said that their institutions do little or nothing to formally support or promote teaching that involves the drawing out and use of students' prior knowledge in the representation of new legal content.

Fourth, some faculty members stated beliefs that certain personal characteristics and/or elements of their life stories influence them to teach in a way that draws on students' prior knowledge. These characteristics and elements included: (a) an emphasis on student well-being and success, (b) education at non-elite law schools, and (c) significant legal practice experience.

Fifth, despite the significant challenges that most of the study participants referred to, all 14 said that they believed teaching in this way is valuable for their students and increases their students' opportunities to learn legal subject matter.

Collectively, the findings provided strong support for the value of pedagogical approaches that draw on students' prior knowledge to support their teaching of law school subject matter. As the detailed presentation of themes and patterns below indicate, faculty members participating in this study unanimously stated beliefs that pedagogical methods attentive to learners' prior knowledge enhance and support students' opportunities for learning and produce better lawyers.

Documentation and Description of Law School Teaching That Draws on Students' Prior Knowledge

Theme A and Supporting Data Patterns

Participating faculty members described and/or demonstrated a diverse array of teaching methods as they sought to create linkages between what they teach and what their students already know, believe, or feel (or student prior knowledge[1]). Below, I describe those instructional methods I observed most often, though starting with the prior point that all members of my study sample indeed teach in ways that draw on learners' prior knowledge, and also that this is what they see themselves as doing.

Pattern A1. All (14 of 14) participating faculty members described or demonstrated teaching methods that sought to use the things that students already know (their prior knowledge) to create linkages to course material.

All participating faculty members sought to make connections between students' prior knowledge and the course material at issue. They tended to do so in a wide variety of ways, which I categorize below in four parts. Of course, these four approaches—here I use the term *method*—are by no means exclusive or exhaustive. They do not capture all of the relevant teaching I observed or discussed with participants. They do, however, represent the most common approaches.

I describe each of these four teaching methods below and provide illustrations based on interviews and class observations.

[1] My analytic questions, and parts of this analysis, describe the type of teaching that is the focus of this study as "teaching that *draws on things that students already know, believe, or feel*." For purposes of this data analysis, I also use the phrase "teaching that draws on *student prior knowledge*" or variations thereof to describe such teaching. These phrases are used interchangeably here. I discussed this decision in more detail above.

Teaching Method 1. **Using knowledge that has been provided by a student in class who shares insights from their prior professional experience (e.g., a job, an internship), to offer information or perspectives to classmates who have not had this experience, thereby supporting others in the class in understanding unfamiliar subject matter.**

First, more than half (8 of 14) of the participating faculty members described or demonstrated teaching methods that use things that students already knew from their professional lives in order to provide professional perspectives or factual information that might help other students—who do not have such perspectives, knowledge, or experiences—understand course material. Generally, in these cases, a faculty member will invite or permit a student to share something they already know regarding their past professional work. This knowledge is then linked to the course material so as to enrich or inform other students' understanding of a legal principle.

This method was illustrated by Prof. Kacey,[2] who used the professional experiences of two police department employees to inform class discussions regarding constitutional law. Prof. Kacey explained:

> I had two students who were both [police officers]. [One] was a detective…[one] was in internal affairs, he was the liberal progressive, he [the student working in internal affairs] was watching the police to see what they did wrong…so throughout the semester…[a]n issue would come up of how do you handle this? It was great just to hear those two different voices from within the police department and to know that this was a debate that the police had among themselves…. I called on [them] a lot [to illustrate the practical application of constitutional law principles related to policing in the criminal justice system].

Here, Prof. Kacey drew on the professional experiences and knowledge that two of her students had gained through their police service in a way that provided real-world insights directly related

[2] As noted earlier, all faculty names have been changed to maintain confidentiality; thus, all of the names used in this chapter are pseudonyms.

to the constitutional law course material. Additionally, from time to time, Prof. Kacey contrasted the perspectives of these two students—each of whom had a different role within a police department. She used their divergent experiences to illustrate that actors in the criminal justice system may have conflicting views based on their role (here, an officer and an internal-affairs official). In her view, this helps her students understand principles of constitutional law (such as those related to unlawful searches and seizures and certain interrogation practices) that apply to policing.

Other faculty members described the use of similar teaching methods. For instance, Prof. McEwing encouraged students with relevant professional knowledge to offer their expertise during his course on legislation and regulation. Given the subject matter, he expressed a particular interest in the views of students who have worked in jobs that have made them knowledgeable about how government agencies operate:

> My favorite thing is when I have students…that have worked in different agencies and every agency has its own culture and personality. Then I feel like it's super interesting for students to hear the differences in what it was like to work at this agency versus this other agency, or even at the federal level versus the state level…. I think it's really interesting and makes the conversation more rich for students to hear those things.

Here, Prof. McEwing described a process where one or more students' professional experience was used to enrich other students' understanding of the course material. Notably, in this case (and in the other categories described below), a student's professional knowledge was used to facilitate or enrich learning for others (and, perhaps, for the faculty member, too). In other words, specific professional knowledge is shared by a student with the class in a way that facilitates or enriches the collective learning experience. I observed this approach in classroom visits and discussed it with Prof. McEwing during interviews. This was in contrast to other teaching methods that used the prior knowledge at issue to facilitate the learning just of the student who

held that knowledge themselves (for a related example, in a study of undergraduate teaching, see Delima, 2020).

Other faculty members offered additional examples of approaches that sought to use professional knowledge to make connections to course material. For example, Prof. Diaz, also teaching a legislation and regulation course, described a specific situation:

> I want to talk about the actual things, processes that go on in making a legal decision. If somebody has worked in Congress or been a paralegal in a law firm, what's the process for billing on a brief? Say we're talking about how can we make the process of statutory interpretation cheaper or how does the general counsel of a client talk to an expensive firm…about setting the price for the services?

Here, Prof. Diaz was describing the use of student professional knowledge about practical aspects of legal practice, like law firm billing, to improve students' understanding of material that might not traditionally be covered in a law school text.

Finally, some participating faculty members described instances where students provided technical or factual information gained from prior professional experiences that illuminated course material. For example, Prof. Jepsen offered a description of a situation from a torts class where one student's factual knowledge provided important context that helped other students better understand a judicial opinion:

> There was one case that involved this dock plate, where the dock plate wasn't set properly, and it sprung up and crushed the worker who was standing there [*this incident was at issue in the torts case being studied in class*]. I was joking about how I had no idea what a dock plate was…and the student shot their hand up, and they were like, "I know what a dock plate was." They ended up explaining to the class what this was, how it worked, how it's supposed to work. It was just perfect, because I really do have the subject-matter expert that I can ask my own questions, and then that can further and deepen our understanding of the facts for that particular case.

Here, a student was able to provide information about a piece of industrial equipment that related to a torts case involving a workplace accident. The information proved useful to the other students, as well as to the faculty member, in better understanding the facts of the case.

Teaching Method 2. **Using student knowledge to provide information or perspectives from another academic discipline that might help other students to better understand course material.**

Second, most (10 of 14) participating faculty members described or demonstrated teaching methods that drew on things that students already know from an academic discipline outside of the law. This student knowledge (often gained through coursework in college or graduate school outside of the law) provided information or context that helped the student and/or the class to better understand course material. As discussed below, this form of student prior knowledge can come from a broad range of disciplines, including those that, like the sciences, are not traditionally associated with legal education except in relatively limited circumstances. The use of such knowledge is important because it provides technical information to help students better understand legal cases and/or doctrine and has the potential to offer new perspectives on the law.

For instance, Prof. McEwing, teaching legislation and regulation, noted that "[w]e have people that come in with a science background. I love for them to talk about the intersection of science and law and how scientists and lawyers struggle to understand each other and why and how those two can work better together." Here, Prof. McEwing described how academic knowledge that students may already have from outside of the law—in this case, from the sciences—contributes technical information and, perhaps, a unique perspective on the legal issues they are studying. Prof. McEwing described her interest in using various disciplinary perspectives, noting that she aimed to find "opportunities for students to share knowledge that they have in other areas [besides the law], not just the political science students but the science students, the English students." Thus, Prof. McEwing encourages students to draw on their

disciplinary knowledge, other than the law, to share knowledge with other students in the classroom.

Prof. Earle, teaching contracts, described one teaching method that sought to identify students' highly advanced and specialized knowledge in an academic discipline other than law, and to use that knowledge for the benefit of other students. He noted, for example:

> I'll get a student, a philosophy Ph.D. who will—I had one, two years ago who when we're talking about duress and autonomy, and this person basically got a Ph.D. in autonomy theory. He just took me to school, but he did it in a great way. He said something in class, and I reacted. Then that evening he wrote me a long email and I wrote him a long response of email. We took it offline. Then I walked into class the next time I said, "Here's this conversation I had…let me tell you how that went."

Here, Prof. Earle became aware that his student had relevant and advanced academic knowledge that might enhance other students' understanding of certain principles of contract law. He engaged in a substantive discussion with the student outside of class and then tried to distill the knowledge that seemed most relevant to share with the class. He said that the student's expert disciplinary knowledge improved subsequent class discussions. Were it not for the student's specialized knowledge from a discipline other than the law, the other students in the class would not have had the benefit of these insights.

Other participants in this study noted instances of students contributing specialized knowledge from fields ranging from economics to political science to statistics in an effort to provide context or supplemental information about a case or rule at issue in the course.

Teaching Method 3. **Using student knowledge from other law school classes to help students better understand course material.**

Third, half (7 of 14) of the participating faculty members described or demonstrated teaching methods that sought to link subject matter from one law school class to that of another

law school class. Often, this seemed to occur in relatively straightforward ways. For instance, Prof. Diaz, teaching legislation and regulation, noted:

> I'm constantly saying, "As you learned in civ pro."... I find that really useful because then they can say, "Oh yes, I did learn that. Oh wow, that applies here. Now that gives me a handrail that I can grab onto when thinking about this otherwise very abstract topic of what the judicial power is.

Here, Prof. Diaz reminded students about concepts they learned in other law school classes and demonstrated how their academic knowledge, from the class they took prior, applied in the current class. Students may then be able to make connections between things they have already learned and new content—thereby helping them to learn the new material. Indeed, Prof. Diaz's handrail analogy is a useful one as it illustrates how material from a previous law school class can assist a student by providing a sort of support as they wade into new subject matter territory. In this case, course material from a civil procedure class relating to the rules of civil lawsuits seemed to the faculty member to be connected to the ability of federal courts to resolve such disputes (in a way that helped students to understand the latter).

Sometimes, linkages between two law school classes were made in an even more extensive manner. Prof. Newman, for example, designed and implemented an unusual standalone co-curricular course in partnership with a fellow faculty member who was teaching a different class at the same law school. Students taking property and torts in the same semester were able to take advantage of the program. Its explicit purpose was to help students see how seemingly disparate areas of the law are actually inter-related. The optional program used subject matter from both property and torts and included applied lawyering exercises. According to Prof. Newman, participating students improved in both subject matter areas following their participation.

Teaching Method 4. **Encouraging students to consider different or opposing viewpoints and perspectives drawn, usually, from knowledge and points of view that they developed and used in other parts of their lives.**

Most (9 of 14) participating faculty members described or demonstrated teaching methods that sought to help students understand political and/or policy views different from their own—often by drawing on knowledge the students already possessed from other parts of their lives outside of law school. Faculty did this in order to prepare students to be effective advocates on behalf of clients, and to anticipate, understand, and counter opposing positions. For instance, Prof. Kacey, in a discussion of criminal law advocacy, noted:

> You have to know that there are people who are not going to think you're right. What I tell students is that if you want to be, for example, an effective defense attorney, you have to understand what's attractive about the prosecutor's position. Why the court might favor that position as opposed to yours, instead of just going and yelling, "Oh. This is outrageous. I win, I win, I win, I should win." I make this particular point in criminal procedure. [I ask] "Who thinks there is probable cause here, and who thinks there's not?" The students who think there is probable cause are shocked that so many other people could think there isn't, but they need to see the numbers.

In other words, for Prof. Kacey and other participating faculty members, effective lawyers need to have the ability to understand an opposing position and then be able to articulate why their own position is stronger. Prof. Kacey further explained in an interview that, often, such arguments have to do with justice (or arguing for what is the "right thing" for a court to do in a particular situation), and such debates require students to draw on perspectives that are informed by their prior life experiences, such as whether they are immigrants, have experience with the criminal justice system, or have certain professional backgrounds.

Having described four of the most common ways that faculty members seemed to try to create links between things that students already know and course material, I now turn to additional notable data patterns relating to teaching methods. These patterns are indeed related to

the pedagogical categories described immediately above and involve drawing on things that students already know from other parts of their lives. However, the data patterns presented below have distinctive features that require separate treatment.

Pattern A2. Participating faculty members used substantial classroom exercises that drew on students' existing knowledge, included orchestrated encounters between this knowledge and new subject matter, and encouraged students to observe and consider the resulting connections.

Approximately one-third (5 of 14) participating faculty members have designed substantial classroom activities and exercises with the explicit purpose of identifying things that students already know and then using that knowledge to help students better understand an important subject matter idea. Generally, these exercises proceed as follows. First, students are asked to identify things they already know about themselves, their community, or other students. Second, the faculty member orchestrates an encounter between this knowledge and an important aspect of the course material (sometimes the course material is presented in advance of the exercise). Third, and finally, students are encouraged to observe linkages between the knowledge they already have and the course material at issue.

Two particular examples illustrated this teaching method. First, Prof. Ivy, who teaches civil procedure, developed an exercise for her class to help students learn the concept of domicile. In this context, domicile is the last place someone lives with the intent to remain indefinitely. Prof. Ivy asked students to interview a classmate to ascertain facts that might help to determine their domicile, such as where they currently live, what they intend to do after graduation, and the like. Students were then required to use this information to engage in a domicile analysis for their interview partner (and for themselves). This required engaging with

the domicile rule, applying it to facts obtained through their interview, and working through the relevant analysis. Prof. Ivy described it as follows:

> This is one of the first days of class actually. I have them interview [a fellow] student, whoever's sitting next to them to find out what their domicile is…[i]t's wherever they move from that they intended to stay indefinitely. I'll have them—we'll read the case, I'll have them interview their partner and their seatmate and find out what their domicile is, and then present it to the class…. [t]he hardest thing I think with the law is applying it to facts. If they apply it to their own facts, if *they're* the hypothetical, then they can work it and then recognize the issue when they see it in other facts is the goal [emphasis added].

Through this exercise, which I observed during a classroom visit and discussed with Prof. Ivy later in interviews, Prof. Ivy reinforced the rule regarding domicile, which is extremely important in civil procedure cases. She accomplished this through an exercise that required students to consider how the rule applies to their own lives (and that of an interview partner). Through this process they became, as Prof. Ivy said, their own hypothetical. In her view, this method helps her students to learn the rule more thoroughly than using traditional teaching methods.

Prof. Lynn, teaching property, engaged in an extensive exercise that addressed an important issue in property law: zoning. She used an interactive electronic tool developed by colleagues at another institution to demonstrate the effects on communities of redlining, or the practice of refusing to provide loans to people living in certain geographic areas, often because of the racial composition of the area. She did this by asking students to identify a city or neighborhood where they lived (or were otherwise familiar with) and explore how redlining seems to have impacted the built environment or other characteristics of the neighborhood. She described her approach as follows:

> I wanted students to see this long-term impact. The choices that were made about exclusion almost a hundred years ago are still impacting the way that cities look and where people live in cities. I feel like I could have just given them a video of a story of one place. Right, and there are some of those stories in the video that they watched, but I feel like having them connect it to a place that they actually know, but don't necessarily know this history of is more powerful.

Based on my observation of Prof. Lynn's class, the exercise encouraged students to engage in significant reflection on their own communities and then consider how zoning and redlining may have impacted such communities. During a class discussion that I observed about the exercise, students expressed a range of strong emotions about how redlining may have affected their hometowns. They also considered how their own lives and experiences may have been shaped as a result of redlining done in the past. Students appeared to make strong and personal connections between their own experiences and the course material.

Participating faculty members described and demonstrated other similar exercises in various subject matter areas. Though they varied in scale and subject matter area, they each involved asking students to identify things they already knew about themselves; an orchestrated encounter between this knowledge and an important aspect of the course material; and the use of the surfaced knowledge to create linkages between such knowledge and the course material.

Pattern A3. Approximately two-thirds (9 of 14) participating faculty members provided, and often emphasized, contextual information with regard to human and social matters, for example, personal, or local or broader social circumstances influencing a legal case being studied. While the case may be distant from students' prior experiences (thus rendering it unfamiliar to them), the context may hold content to which students can connect, thus providing entrée to discussion of the case.

The majority of faculty members sought to provide human and social contextual information about judicial opinions at issue in a class. Through the use of such contextualization, faculty members seemed better able to help students consider individual and/or social circumstances that may have influenced the outcome of the case being studied (or the experiences and/or motivations of those involved with it). In some cases, faculty members called

on the students' own experiences to provide related insights and connect litigants' experiences with aspects of the students' own lives.

For example, Prof. Harris, in a discussion of her civil procedure class, described an approach that encouraged students to consider not just the text of a judicial opinion, but also the people involved:

> With civil procedure, I think that we do a lot of cases that have very real backstories…[t]hese are real cases with real people. I encourage students to not just read for the rules, but to be curious about, who are these people? What happened after the case was sent back to the district court? You learn more [about the rules and other course material at issue].

For Prof. Harris, the backstories of the individuals involved in a particular case are important for students to consider even as they focus on the legal rules at issue—and Prof. Harris believed that the approach leads to better learning outcomes, perhaps by allowing for a deeper understanding of the cases.

Other faculty members described similar approaches to teaching in a way that contextualizes judicial opinions. Prof. Kacey, for example, used a deliberate approach in her constitutional law class to humanize the litigants in a particular case. Using a very well-known criminal law case as an example, she noted:

> I always give the defendants their first names because it's important that Ernesto Miranda was an actual person, as opposed to the *Miranda* case. I think that's part of it. I think that also because students often don't have that strong of sense of where the cases come from, that they involve particular people. They're studying them as the law.

Here, Prof. Kacey described a deliberate choice to refer to defendants using their full names so that the real people involved in cases do not become an abstraction for students. This may help students to better appreciate the stakes of certain decisions for individual people—and, according to Prof. Kacey, deepen students' understanding of the importance or meaning of each case.

Other participating faculty members used different, but related, teaching methods to provide human and social context for cases. This was particularly true for faculty members teaching cases that raised issues relating to race and gender. Several participating faculty members described situations where students explicitly asked for supplemental material or class discussion time devoted to examining the race and gender dynamics that may have impacted a particular case. For example, Prof. Lynn, teaching property, described students asking for such additional discussion and materials:

> [My students said], "I want more. I want more discussion. I want more materials around this case." Given the space that I give in the class to speak about issues of race and issues of gender, sometimes even issues of ability come up, I think that seems right. I'm looking for ways to expand that in the future.

Similarly, Prof. Cleaves, in a discussion of contracts cases, noted:

> The places where contract law intersects with consumer law, the common contracts cases we teach…when you read histories of these cases, it's clear that race was structuring the entire transaction. I feel I can't teach those cases without talking about race. How to talk about race in a useful way, I think I don't really know yet and I find that it varies from class to class.

For Prof. Cleaves, race plays an indisputable role in impacting the outcome of a particular case (or the transaction that is the subject of the case). As a result, he felt it is important to incorporate a discussion of race when teaching the case. He acknowledged, however, that such discussions can be difficult for students and faculty members (I address this difficulty elsewhere in this chapter).

Pattern A4. Approximately two-thirds (10 of 14) of the participating faculty members used current events or aspects of popular culture, with which they believed that students were familiar, to link course material to things that students already know or to illustrate key aspects of the course material.

Some participating faculty members described or demonstrated practices that made substantive use of current events or popular culture by using them to create linkages to things that students already knew in ways that may improve students' learning.

Some of these teaching methods asked students to consider how current events with which students are already familiar—like an ongoing high-profile court case, for example—related to course material. For instance, Prof. Kacey has established an online discussion board related to current events for her constitutional law class. Using that electronic tool, students are asked to share observations on current events that relate to the course subject matter. For example, she described posing questions about private prisons and under what circumstances such prisons might be considered state actors. She also described asking students to provide thoughts about abortion and Court rulings related to that area. Other students can then weigh in (or Prof. Kacey can incorporate the student comments in class). She noted that constitutional law seems to be an appropriate subject for this sort of exercise since course material tends to be a subject of significant popular discourse and media attention; in her view, some of the most important and controversial social issues of the day relate directly to the class subject matter. As a result, she is able to use students' existing understanding of, and reactions to, current events to help them understand new course material. She described this approach in interviews, and I observed it during her classes.

For other faculty members, elements of popular culture with which students are already familiar played a very significant role in linking what students already knew to the course material. For instance, Prof. Lynn described the use of a classic film to teach students about Property. The film *It's a Wonderful Life* is a well-known Christmas classic about a man coming to new realizations about what is truly important in his life. Prof. Lynn had her students watch a

portion of the movie that, in a dramatized manner, demonstrated the consequences of shifting mortgage lending from local institutions to a more standardized, national model. Prof. Lynn noted:

> What I'm trying to communicate in the mortgages unit is mostly just how mortgages fundamentally operate and how the mortgage industry operates. I feel like understanding that transition from a local lending model to a national market is really key to understanding how redlining was able to occur, and then to understand the more modern issues around the subprime mortgage crisis. I feel like if you don't understand the model of lending, that the standardized mortgages were designed to shift, then it's really hard to get any traction.

For Prof. Lynn, the decision to show the film was highly considered: it demonstrates a difficult subject matter concept by using a story with which most students were already familiar.

Other participating faculty members used elements of current events to connect things that students already knew to course material. Prof. Ivy, teaching civil procedure, once used a lawsuit involving her institution to try to accomplish this. The case was ongoing at the time she taught a civil procedure class, and the general circumstances of the case were already familiar to her students. She required all of her students to attend the trial. She then worked with her students to analyze aspects of the trial and connect their observations of the case to the rules they were then studying in class. She found this particularly useful in demonstrating some of the more sophisticated rules of civil procedure since the actual case provided a base of knowledge that was common to all of her students and was able to illustrate an important legal principle relating motions to dismiss in a way that they could observe firsthand.

Summary of Theme A and Supporting Data Patterns

Participating faculty members described and/or demonstrated a diverse array of teaching methods as they sought to create linkages between what they taught and things that their students already knew. They included: using existing student knowledge, from selected students'

professional experiences, to supply information or perspectives to peers; using existing student knowledge to provide information or perspectives from another academic discipline (e.g., the sciences, philosophy) to understand a legal issue; using student knowledge gained from other law school classes to learn a concept central to their class; and encouraging students to consider different or opposing viewpoints and perspectives, to understand a concept new to them, by drawing on knowledge they had gained previously in other parts of their lives.

Additionally, participating faculty members designed and used substantial classroom exercises to draw on students' prior knowledge; provide contextual information about course material to "humanize" the people involved; and use aspects of current events or popular culture to link course material to things that students already knew.

Perhaps surprisingly, this type of teaching was very common for these participants—all of the participants said that they engaged in it to some degree, and at least five said that they have designed substantial exercises that very deliberately drew on things students already knew.

Barriers to and Faculty Concerns About Teaching That Draws on Students' Prior Knowledge

Theme B and Supporting Data Patterns

All (14 of 14) participating faculty members identified one or more barriers to their teaching in a way that draws on things that students already know, believe, or feel. Considering these barriers, faculty members expressed a variety of concerns or hesitations about the possibility of teaching in this way.

All 14 participating faculty identified one or more obstacles to their teaching in a way that draws on things that students already knew. They expressed a variety of concerns or hesitations about the possibility of teaching in this way (and I explore these concerns individually below). Some of the barriers they mentioned related to a concern for their students.

In particular, some participating faculty members expressed reluctance to place students in a position during class whereby the student(s) may feel an obligation to share viewpoints on issues that may be controversial. They also expressed reluctance to ask students to represent the views of a particular racial, ethnic, gender, cultural or other group to which they belonged or were aligned. Some faculty members expressed concern about the difficulty of engaging students in discussions about issues that may be deeply personal and/or meaningful.

Finally, a subgroup of participating faculty members felt that there was not enough class time, or that classes were too large, to engage in teaching that drew on students' prior knowledge. Some faculty members also expressed concerns about the need to cover particular material during the semester (especially applicable to material that is typically tested on the bar examination. They spoke of how such requirements limited the possibilities for teaching in a way that they perceived to be more time-consuming than traditional law school pedagogical methods.

Pattern B1. Nearly half (6 of 14) of participants said that one barrier to teaching in a way that draws on student prior knowledge was the possibility of creating a situation in a classroom whereby a student feels an obligation to participate based on their membership in a particular racial, ethnic, gender, cultural or other group, or to represent the views of such a group. These faculty members viewed such situations as potentially placing a burden on students—particularly students of color—to share knowledge or experiences that others may not have by virtue of their identity. As a result, these faculty members said they were hesitant to encourage discussion or participation in ways that might make students of color, or members of other identity groups, feel an obligation to share their experiences. For example, Prof. Newman noted:

> I think really a lot of focus, for good reason recently, has been thinking about race and inclusion in the classroom and how to construct a classroom that is inclusive. I think that's where bringing in other people's experiences can foster inclusion, but can also foster marginalization, can also foster a feeling of just too much focus on me. Not me as the professor, but on the student who's being invited in.

Here, Prof. Newman noted his interest in asking students to bring their experiences into the classroom; in doing so, he sought to be inclusive. But at the same time, he also worried that doing so could create the opposite effect of making these students feel even more marginalized. In other words, for Prof. Newman, worried about the risk that some students (such as Black students) may feel forced to comment on issues of race that arise in legal cases, regardless of their interest in offering any such comments, and/or that their broader views, beyond those pertaining to race, will not be fully valued.

Other faculty members expressed similar concerns. For instance, Prof. Fulks noted that during one of her property class sessions, the following occurred:

> We discussed a doctrine that seemed pretty facially neutral. When there's a partition of a tenancy in common, two or more people hold the property as common owners and they want to end their relationship, does the court sell it or divide in kind? It turns out that there's implications for the fact that the court wants to sell it generally, for the loss of African American land ownership in the South because there's lots of different heirs and then one heir's shares are bought out and then the person who buys it as a speculator, basically forces a sale of everything and so they all lose their land. We read a short news article about it and then I was like, "Well, how did this contribute? How does this doctrine contribute to the loss of Black land ownership in the South?" I noticed that everyone who spoke up about it was White. I don't think there's more than two or three Black people in my class of sixty, and it's a bit awkward because you don't want to put people on the spot, but you do wonder are they thinking about it more or less? Does this have particular resonance for themselves?

Here, Prof. Fulks noted an interest in fostering participation from a racially and ethnically diverse group of students and including their perspectives in class discussions. This was particularly poignant given the subject matter, which related to the way that judicial policy in the American South has disproportionately affected Black landowners. But despite such

disproportionate impacts, Prof. Fulks had serious concerns about asking Black students to serve as representatives for the Black Southerners, or Black people more generally. While she felt that drawing on these students' own feelings could be important to the classroom discussion (and that Black students' voices and perspectives might be particularly important), she was reluctant to explicitly encourage their participation.

Other faculty members, such as Prof. Earle, were reluctant to ask students who are members of a particular cultural group to represent the viewpoints of that group. Prof. Earle noted the following based on his contracts class:

> There's a really interesting case about whether two Korean Americans entered into a contract engaged in certain behavior that anyone in Korea would've understood as "Oh, you're being a nice person, but you're not necessarily committing yourself." Those I need to address, but again, I would not call on a student who had the relevant characteristic if I knew that relevant characteristic and say, "Well, what about your culture?" Because that would be potentially embarrassing a student and it would require the student to become the spokesperson for her culture.

Here, Prof. Earle noted that there are cultural differences that might affect how people of different nationalities understand when they have entered in a binding agreement. Such differences may have material impacts on contract formation and enforceability in the American legal and cultural context. However, Prof. Earle explained that he would be reluctant to call on a student whose background and experience could potentially help make the point to offer their perspective. For him, *the cultural difference itself* is an appropriate topic for class discussion and analysis—but requests for participation and interpretive commentary from someone who might possess personal knowledge about that cultural difference should be carefully thought through.

Pattern B2. A few participants (4 of 14) said that one barrier to teaching in a way that draws on students' prior knowledge is fear of offending students in the context of discussions about sensitive topics like race and gender. Faculty members expressed concern

that students may find certain things said during such discussions inappropriate or insensitive. Some faculty members referred to this as part of "cancel culture"—or a situation in which a faculty member comes to be ostracized due to something they say or do that is deemed unacceptable by students and/or others.

For example, Prof. Diaz noted his belief that the current atmosphere at his institution impacts the way certain issues are discussed:

> …the atmosphere around race and gender and sex is so fraught now that conversations of this sort tend to be stilted and wary and tense, especially in a class that's being recorded. I have colleagues, I will tell you right now who will just not touch it because they believe they [the faculty members] will get canceled, and I know people say that…[t]hat's how it is now. That just is not true to say that it's not like that, it is….

Here, Prof. Diaz described a reluctance to engage in discussions that relate to issues like race and gender. In his view, certain faculty members may avoid engaging in such discussions because they are concerned that doing so in a way that offends students will affect their reputation or career. To Prof. Diaz, this has a significant negative impact on his and others' ability to teach in a way that engages students' prior knowledge because it discourages them from initiating discussions of race and gender as they bear on subject matter learning.

Prof. Earle made a related observation regarding his contracts class:

> Now, of course, again in today's politically charged atmosphere, sometimes you get students who get very upset when they think you're using examples that do not resonate with their experience. They've grown up into economic conditions that are different and law school cases don't necessarily relate to their experiences, and sometimes when those law school cases do, they relate in negative ways.

Here, Prof. Earle said that the failure to fully explore the social and economic context of a certain case might upset or offend students. The excerpt above related to his teaching of a particular case regarding unconscionable contracts (these are contracts that are so unfair that they suggest some sort of abuse or severe power imbalance in their formation). The case, *Williams v. Walker-*

Thomas Furniture Company, involves an unconscionable contractual agreement that is enforced by a business against a low-income woman. The case raises issues involving gender, race, and socioeconomic status—including by highlighting important power imbalances and raising concerns about potential stereotypes of litigants—and, according to Prof. Earle, it is important to students that these issues be discussed in the classroom. However, such discussions can be fraught since they are often sensitive and deeply personal.

Notably, Prof. Diaz, Prof. Earle, and other participating faculty members considered the current educational environment to be particularly challenging and, at times, said that they find it difficult to engage in class discussions regarding sensitive issues. Additionally, these and other participants also said that, in their view, students sometimes refrain from sharing their own views or experiences for fear of offending others. For instance, Prof. Kacey noted of her constitutional law class that

> …we just touch on so many very highly sensitive areas that students are very often, they silence themselves. They are afraid to say something against affirmative action because they don't want to give offense. They are afraid to say something in favor of affirmative action because they think they're stereotyping themselves. I'm teaching *Roe v. Wade* tomorrow. Nobody in my class is going to say a word against abortion. It doesn't necessarily mean they don't feel that way, but they're not going to be willing to say it. I feel like the fact that we deal with such contentious issues means that people do have strong views, but that often leads to self-censorship of experiences.

Here, Prof. Kacey noted her view that students may decide not to share their own views, perspectives, and/or experiences if they feel those may be unpopular or offensive to others. For her, this hesitation has a negative impact on her ability to draw on students' prior knowledge and experiences in the classroom.

Pattern B3. Most participants (9 of 14) said that one barrier to teaching in a way that draws on students' prior knowledge is lack of class time and large class size. They viewed such teaching as time-consuming and difficult to carry out with large groups. More

than half the faculty participating in this study expressed concern about being able to cover certain subject matter (particularly in areas that are commonly tested on bar examinations) in the relatively limited time of a class session.

For example, Prof. Kacey, teaching constitutional law, described her interest in hearing about students' own experiences relating to school diversity, including diversity at their own K-12 schools and in college. She was also interested in students' prior experiences with affirmative action. She noted:

> I would've loved to hear more about their experiences, but just, I'm very limited on time…. Again, I don't have enough time to have the luxury of really digging into [student experiences]…. When I've had more [time available], I would start with current events and talked about that for ten minutes. Since I'm very pressed for time, part of my complaints here is that since I've been teaching con law [this course] was reduced from six credits to five and now to four. It's not enough time to get out the basic things I need to get out.

For Prof. Kacey, limited course time and related concerns about covering all of the targeted material discourage the use of students' prior knowledge. This is true even though she explicitly noted her interest in seeking out such prior knowledge and integrating it into her teaching. In her view, this type of teaching takes significant time—time that she needs in order to cover the full scope of material set out for this course. Indeed, the relatively limited time overall for the class seems to create a significant barrier to teaching in a way that draws on things that students already know.

Prof. Jepsen shared similar concerns, noting that she has limited time in which to teach the required subject matter and must also contend with large class sizes: "In the one-hour classroom, I think the classes are just too big. Again, with that fairness thing, I'm always reluctant to open up the floor in a way that allows some students to maybe occupy the stage for a while and excludes other students." Here, Prof. Jepsen expressed concern not just about limited

time, with regard to the content coverage issue, but also about how allowing one student to share an experience or perspective, for example, curing a class discussion, can make others feel excluded. This is in contrast to use of the more traditional Socratic method, in which one student occupies class time to the exclusion of others but which does not privilege a specific student's experience.

Prof. Jepsen also expressed an interest in teaching her torts class in a way that explores the kinds of social issues that might engage students. But she noted the following:

> I guess in the class, like torts, I'm also conscious of teaching to the bar because we have this real problem with bar passage. There was this source of pressure on me to make sure that I was getting through all the subjects that they needed to know for the bar. If I were designing torts to teach it the way I would naturally teach it, it would probably be much less focused on multiple-choice questions and the bar exams, than it would be on those questions about values of society, values of the students, and that broader sense of justice. I'm really interested in that. It's just, in some classes, there's just not enough room.

Here, Prof. Jepsen described her concern about covering all the material in her syllabus since students will need to know it for the bar examination. In her interviews, she noted that covering all the material was particularly important to her, given challenges that students at her institution have faced passing the bar examination. As a result, she is reluctant to teach in a way that might be more time-consuming than a typical lecture-based approach—even if drawing on students' prior knowledge might come more naturally to her and would likely engage students' prior knowledge to a greater degree than traditional teaching methods.

Summary of Theme B and Supporting Data Patterns

All 14 participating faculty members identified one or more barriers to their teaching in a way that draws on students' prior knowledge. Additionally, all faculty participating in this study expressed a variety of concerns or hesitations about the possibility of teaching in this way. Notably, some of these barriers and concerns reflected an

unwillingness to engage in sensitive or controversial discussions for fear of being ostracized. But other concerns reflected a strong desire to have such discussions—though tempered by the realities of first-year law school teaching such as limited instructional time and large class sizes.

The Importance of Teaching That Draws on Students' Prior Knowledge

Theme C and Supporting Data Patterns

All (14 of 14) participating faculty members believed that teaching in a way that draws on things that students already know, believe, or feel is valuable by, for example, contributing to students' learning or development as lawyers and/or to their own teaching practices.

Specifically, nearly all (12 of 14) said that teaching in this way leads to better opportunities for student learning. Additionally, nearly all (11 of 14) participating faculty members believed that teaching in a way that draws on things that students already know can make students better lawyers.

Pattern C1. Nearly all (12 of 14) participating faculty members stated beliefs that teaching in a way that draws on things that students already know, believe, or feel leads to better opportunities for student learning. These participating faculty members believed that the teaching methods described above in Theme A help students to better understand course subject matter. Some faculty members believed that such teaching helps students to better understand legal doctrine. For others, it is helpful in demonstrating to students how the doctrine is shaped by, and shapes, broad societal forces.

To begin, Prof. Lynn described the benefits of student engagement in learning activities that relate doctrine to their own knowledge and lives in her property class. She provides students with supplemental readings and other learning resources that relate to property, but also uses

material that addresses ways that property ownership is linked to wealth, the racial wealth gap, and other important social issues:

> I like that real people aspect of some of these alternative resources. The one about redlining gives background on history, but then it also connects to the racial wealth gap and how housing is the primary way that Americans build wealth outside of the very upper class, and that being in various ways not just through redlining but being excluded from the housing market has had these intergenerational repercussions, which is really not discussed at all in the book. I wanted to bring in those ideas so that we could talk about them in class and just so the students would understand that mortgage law seems like this very dry technical subject, but it has this immense policy impact and economic impact in our society.

For Prof. Lynn, the value of teaching in a way that draws on students' prior knowledge—at least in part—allows students to better understand otherwise abstract doctrine, and to connect that doctrine to a larger social, political, and economic landscape.

Similarly, for Prof. Fulks, teaching her class in a way that engages students' sense of fairness, morality and ethics has a variety of educational benefits:

> [I]f your question is, does it help them then know the doctrine better, possibly, because I think it asks them, it could increase the stakes of them caring about it, and I think if you care about it morally or emotionally, you're more likely to remember it and to the extent that it highlights the stakes, like who's the winner, who's the loser, I think you probably understand the rule a little bit better too because you see what's going on.

For Prof. Fulks, teaching in a way that engages students' sense of morality and emotions might help her students learn the doctrine at issue. For her, this sort of learning, which asks students to make personal moral commitments to the subject matter, encourages students to become invested in the subject matter. This, in turn, might allow for better comprehension and recall.

Prof. Atkins, in his constitutional law course, described the benefits of providing supplemental material that, in his view, helps his students gain the historical knowledge that they need to better understand the social context of certain U.S. Supreme Court decisions:

> I teach these cases during our discussion of the judicial power. [The students] can't understand what these cases, how to harmonize these cases unless they understand that that's part of the broader power struggle that's going on between the court and the other branches in the late 1860s. That's why I do it. You can't really understand the law if you don't understand where it came from; all you end up with is a series of disembodied rules. That's not so bad in a sense, at least [you know] what the rules are, you know how they apply today. But I just don't think you understand constitutional law unless you understand why they did what they did when they did it.

For Prof. Atkins, contextual historical knowledge is critical to fully understanding constitutional law (indeed, during his interview, he expressed a firm belief that such knowledge is so important that he is willing to use relatively limited class time to teach it to this students). This prior academic knowledge, historical in this case, provides a framework for students to consider the political, social, and other forces at play and how these might have impacted the Supreme Court's decision making at various times throughout American history.

Finally, Prof. Diaz noted that drawing on students' prior knowledge may enhance class-wide learning:

> [Drawing on students' prior knowledge] allows the [rest of the] class sometimes to find out information that I can't share with them. I wouldn't be able to deliver that information to them. They learn something [from that student], they learn additional context for a rule of law that we're studying. I think that's so valuable. I think it really supplements their learning experience.

For Prof. Diaz, things that a particular student already knows can supplement other students' opportunities for learning by providing new information that the teacher cannot provide because the teacher does not have such knowledge. By sharing their prior knowledge, a student might be able to enrich or improve fellow students' learning.

Pattern C2. Most (11 of 14) participating faculty members stated beliefs that teaching in a way that draws on things that students already know, believe, or feel helps students prepare to become practicing lawyers.

For nearly all participating faculty members, the benefits of teaching in a way that draws on things that students already know are not confined to helping students learn legal subject matter. For them, teaching in this way also helps students prepare to become practicing lawyers by developing their professional identities.

For instance, for Prof. Bern, teaching that encourages students to draw on their own values and sense of identity is particularly important for her constitutional law students. She noted:

> I still remember that part of law school where I felt like I had to give up all of who I was to figure out how to be a lawyer. I don't really want students to feel like that…. I often tell students, "Sometimes those personal stories are how you relate to your client, not what you told them about a case." Maintaining your humanity, it could be key in your legal practice. That's part of why I want students to draw upon it. I want students to draw upon it so that they understand the uniqueness of their voice, and thus, the arguments that they will ultimately make in practice, and how so much again, across, regardless of your race, your gender, your background, you have a unique perspective. The way you consume law is differently, and therefore, the way you output is different. Our profession needs as many different viewpoints as there are people practicing law, and so I want them to feel confident that when they get into practice, they don't have to mimic the senior attorney or the partner that they're working for, that they can be themselves, with their brain and with their perspective and really good lawyers. That there is no one formula for doing this job, other than zealous advocacy for your client and all of what that entails.

Here, Prof. Bern described how she teaches in a way that encourages students to maintain a strong sense of their own personal identities and viewpoints on the law. In her view, students' personal identities can inform their professional identities and thereby shape the way they approach and solve legal problems. For these reasons, she consistently teaches in a way that encourages students to draw on their own values when discussing cases—a practice that, in her view, can help to develop creative, effective, and authentic lawyers.

For other faculty members, it is important to teach in a way that draws on students' prior knowledge because doing so encourages students to consider the societal implications of existing legal doctrine—and how to approach potential reform. For example, Prof. Newman noted:

> I want students to feel like what I'm teaching them is giving them something that actual lawyers use…sometimes I'll play the question and I'll say to students, "Okay, how should we think about answering this question?" I want them to feel like, "Oh, I might be able to grapple with this question that the Supreme Court justice just asked this advocate." I think that's helpful to them as they think about their mastery of material…. As much as law school can be removed from practice, I think there is a role for law school to help them be good lawyers. By good lawyers, I don't just mean lawyers who can make good arguments, I mean, lawyers who reflect on their role in the law and how the law changes.

For Prof. Newman, it is important for students to have an opportunity to consider how they might use their legal knowledge in an applied setting. It is also important to him that his class helps to develop future lawyers who will be thoughtful about how the law affects society. He reinforces this sort of thinking through an approach that encourages students to engage their own sense of fairness and morality while studying doctrine.

Other faculty members are similarly concerned with developing ethical lawyers. For Prof. Lynn, teaching in a way that draws on students' prior knowledge helps her students consider the law's impact on real people and communities:

> I feel like I have an obligation to show my students how the law actually affects people and communities because they're going to be lawyers. They may not be property lawyers devising restrictive covenants or something like that, but they're going to be doing something for their clients and I want them to think about the bigger ramifications of their actions. I think that's part of being a professional, and being an attorney is not just blindly, like a mechanic applying law to the problem you're presented.

Here, Prof. Lynn expressed her view that teaching in a way that helps students to contextualize legal rules by understanding their impacts on actual people is an important part of her students' professional development. She has developed a variety of class activities, some of which I described above, that draw on students' prior knowledge to develop this ability to consider the implications of legal rules on clients and communities.

For Prof. Grey, it is important for students to be able to make arguments rooted in the applicable legal rules as well as ethics and morality:

> What I do want them to know is how to argue or that they should be making arguments on different levels. One of them is strictly technical doctrinal, and another one is what's right and wrong in the world. Letting them decide for themselves what is right and wrong in the world but don't forget to make that argument, when you have a close case between the doctrinal points, you're going to want to move up a level. You can be operating in terms of fairness or equity or whatever you want to style it, morality. You still would not ever want to go to court with a judge and completely leave out anything except here are the rules because that'll get you nowhere.

For her, teaching in a way that asks students to draw on their own sense of justice and morality prepares them to make strong arguments rooted in legal principles/rules as well as fairness. Indeed, she expressed repeatedly in her interviews that the use of fairness arguments, which she helps students develop and practice during her class, is simply good lawyering strategy.

Summary of Theme C and Supporting Data Patterns

All (14 of 14) participating faculty members stated beliefs that teaching in a way that draws on things that students already know is valuable to their students and to their teaching. Most importantly, nearly all said that teaching in this way leads to better opportunities for student learning; it helps to develop students' sense of professional identity, prepares them to become practitioners, and facilitates student learning. Notably, there is also widespread agreement that teaching in this way helps to prepare more ethical and moral lawyers—an important outcome for the legal profession.

Effects of Subject Matter on Teaching That Draws on Students' Prior Knowledge

Theme D and Supporting Data Patterns

All (14 of 14) participating faculty members said that the nature of the particular subject matter that they teach influences their ability to draw on students' prior knowledge and/or the approach they use to do so.

All participating faculty members said that they believed that the nature of the subject matter they teach bears on their ability to draw on things students already know, believe, or feel (students' prior knowledge). These participating faculty members often said that certain law school subject matter areas are (or, at least, seem to students to be) less relevant to students' lives and experiences than others. For example, in general, most American law students are likely to be more knowledgeable about abortion (which is generally covered as part of constitutional law courses) than rules governing land ownership and transfer (covered in property courses). Participating faculty members said that it is difficult to link legal topics that are distant from students' life experiences (in this case, matters of land ownership and transfer), to issues with which students are familiar.

Importantly, though, some participating faculty members who teach subject matter distant from students' lives (for example, the law of property) have nonetheless made concerted efforts to create such linkages. They may do this by highlighting the potential contemporary relevance of a topic (such as how land ownership relates to ongoing legal controversies, or to current events about natural resources), then considering the practical implications for students and their lives.

Pattern D1. Most (8 of 14) participating faculty members said that certain law school subject matter areas are (or seem to be) less relevant to students' lives and experiences than others, making use of this teaching approach less viable for them.

Most participating faculty members said that certain law school subject matter areas are (or seem to be) largely irrelevant to students' everyday lives. Prof. Diaz, for example, said that the subject matter he covers in his course on legislation and regulation often seems foreign to his students—and he finds it difficult to identify knowledge from other parts of their lives to draw on

to aid in his teaching. His course focuses on careful reading and interpretation of statutes, which is something that students generally have little experience with. He noted:

> It's hard to explain some of the stuff in a straightforward way because it's not something that [the students] encounter in day-to-day life. None of them read statutes in day-to-day life. They might read a contract or a lease agreement but a lot of them coming straight from undergraduate haven't done a lot of that either and certainly not carefully. Now I think about their backgrounds a lot less and, in part, because statutes I think [are] so foreign to their experience and they probably don't have any thick intuitions about how statutes ought to be organized [which is a topic that Prof. Diaz addresses through lectures during his class].

For Prof. Diaz, the topic of legislation and regulation is focused on documents (statutes or laws) that have a formal and highly particularized structure and meaning. These seem to him to be foreign to students' experiences. He noted that certain other kinds of documents, such as contracts or lease agreements (which students learn about in other courses), may be more familiar to students, given their widespread use in everyday life. Indeed, because statutes—and their close reading and interpretation—are not something most students have encountered before, he finds it challenging to connect course material to students' lives or experiences.

Prof. Grey expressed similar concerns about property in the following exchange excerpted from an interview:

> Prof. Grey: The basic structural part of property law doesn't really lend itself to that. What's on mainly their minds and my mind is just getting these foreign concepts nailed down as tools with which they could then go onto more ethical problems.
>
> Interviewer: It seems like you may feel then that the very nature of the subject matter has an impact on the ability to teach in the way that I'm describing.
>
> Prof. Grey: Well, yes, I think constitutional law, for instance, has got different—I mean, some of it's technical, but there are a lot of just not only big political moral issues, but judges deciding on political and moral grounds without much law there, since they can change it as they wish. Property is a different subject, where you are given a set of titles that date back to the beginning of the United States.

In this exchange, Prof. Grey noted that property might seem unfamiliar to students because it consists of rules relating to land and personal property ownership, and many students may find such material foreign to their own lives. To her, other first-year doctrinal classes like constitutional law, are more closely connected to students' lives because those courses cover issues that often dominate contemporary social and political discourse. She noted that this difference makes it more difficult to create connections between property and students' lives.

Pattern D2. Most (10 of 14) participating faculty members who teach subject matter that, to them, does not appear to be connected closely to students' lives and experiences make concerted efforts to forge such connections, despite the challenge. They do this by highlighting the contemporary relevance of such material and its practical implications for students, despite the content's seeming foreignness.

Some participating faculty members, especially those who teach subject matter that may not seem closely connected to students' lives and experiences, made concerted efforts to create such connections, despite this difficulty. They did this by highlighting the potential contemporary relevance of such material and its practical implications for students. By engaging in such efforts, faculty members helped students to understand how subject matter that may seem highly technical, esoteric, or out of date might actually relate to students' personal and professional lives.

For instance, Prof. Lynn noted that she makes deliberate and repeated efforts during her property class to explain to her students how seemingly dated subject matter might actually relate to their lives. She noted:

> I feel like I do that [make these connections] in my property class because I feel like it's very easy for students to see property as this disconnected experience from their lives. Maybe when we do landlord-tenant law they feel it relates to their experience, but a lot of it seems like outside of their grasp and much of the doctrine is extremely esoteric. You

> spend two classes talking about wild animals and capturing them. This seems absurd and so I do try to make those connections explicitly so that they can see why they're doing what they're doing, why I'm asking them to do what they're doing and how it would relate to their lives in their real lived experience currently in the past and in the future.

Here, Prof. Lynn described an approach that is highly concerned with helping students to understand how esoteric rules in property might actually relate to students' own lives and interests. Using an example from a well-known case in property from the early 1800s, *Pierson v. Post*, Prof. Lynn explained that the rule to determine who owns a wild animal in a particular situation initially seems quite irrelevant to students' lives. But, as she noted in interviews, the case has contemporary relevance in areas like environmental conservation and natural resources. For example, she said that she explains to her students how contemporary litigation regarding the ability of mining and/or drilling companies to extract natural resources from certain land draws on principles developed in this and similar cases.

Prof. Harris undertakes similar efforts in her civil procedure class, though her focus is on helping students see how seemingly abstract rules of procedure might come into play in various applied legal practice settings. She noted:

> These are procedural rules, so it's a lot of trying to breathe life into them and have them think not just about this rule right now, but how this might apply in other situations and how they can use the rules to be a Civ Pro ninja. There are lots of times, today was a perfect example of it, we were in a summary judgment case where somebody's attorney failed to file a motion for an extension or more time to let me go out and get some more engaged in some more discoveries, so I can come back and introduce some evidence to oppose summary judgment. They just didn't do it and instead, referenced what they said in their complaint and that was the end, and this person had a great case. They're really good cases that just blow up because somebody didn't know their civil procedure. I think I spent a lot of the year trying to get that across to them.

Here, Prof. Harris illustrated the potential consequences of following (or failing to follow) certain rules of civil procedure. Her approach is designed to equip her students with practical

knowledge that will allow them to enter legal practice with both doctrinal and strategic knowledge of civil procedure.

Prof. McEwing, teaching legislation and regulation, described student skepticism about the usefulness of the material covered during her course. She noted:

> There are a lot of students who have a tendency to say, "I don't even know why I need to take this course. Why do I need to learn about how judges interpret statutes and why do I need to learn about how administrative agencies function and think about separation of powers issues and all these things?" I ask them like, "What is it that you feel like you want to do in your career?" Some of them are like, "Well, I want to work in the criminal justice system. I don't need to know any of this." I'm like, "Of course, you do because there's agencies that operate in the criminal justice system. Also, you're going to be making arguments about statutory interpretation. That's something that lawyers do all the time." I try to connect that to specific examples that they might encounter over the course of their career.

Here, Prof. McEwing noted that some of her students feel, at least initially, that the course does not relate to their professional interests or their other classes. Prof. McEwing responds by asking them questions about their professional aspirations and then provides specific examples of ways in which the subject matter in her class is likely to relate to their interests. By doing so, she hopes to make the subject matter feel more relevant to them.

Summary of Theme D and Supporting Data Patterns

All (14 of 14) participating faculty members said that the subject matter they are teaching bears on their ability to draw on things students already know, believe, or feel (students' prior knowledge) and/or the way they approach such teaching. Further, most of the participants noted that certain law school subject matter areas are (or seem to students to be) less relevant to students' lives and experiences than others. Notably, faculty members in classes like property expressed concern that their subject matter may seem foreign to students, contrasting this with topics pertaining to constitutional law which, they said, tend to be closer to what students know about given current attention to topics such as abortion, affirmative action,

and gender. Despite such challenges, participating faculty members who teach subject matters that are distant from students' experiences nonetheless make concerted efforts to create such linkages.

Limited Institutional Support for Teaching That Draws on Students' Prior Knowledge

Theme E and Supporting Data Patterns

Most participating faculty members (13 of 14) indicated that their institutions have not meaningfully supported efforts to teach in a way that draws on students' prior knowledge. They did, however, identify other sources, both inside and outside the institution, that support such teaching.

Almost unanimously, faculty members said they receive no formal institutional support to develop their ability to teach in a way that draws on students' prior knowledge (even when this is broadly defined). But faculty members say that they have identified alternative forms of informal support to do so, for example, through talks with colleagues and family members.

Pattern E1. Only 1 (1 of 14) faculty member said that their institution formally supports their efforts to teach in a way that draws on things students already know.

Of the 14 faculty members, only one said that their institution has meaningfully supported their efforts to teach in a way that draws on things that students already know. For example, Prof. Jepsen noted an overall lack of professional development relating to teaching:

> I guess I'm continually alarmed by the fact that we are released into the classroom [chuckles] with as little training as we receive. I don't think that lawyers are natural teachers, and yet, our profession plonks us into the classroom and says, "You can do this, go do it." We don't really receive a ton of ongoing training about teaching.

In Prof. Jepsen's view, her institution offers little support or instruction relating to teaching—let alone support for teaching in a way that draws on students' prior knowledge. She repeatedly

expressed discomfort with being charged to teach large doctrinal classes with no formal training in teaching. In her view, the lack of professional development opportunities for law school faculty is a failing of both her own institution and legal education broadly.

Similarly, Prof. Fulks noted a lack of professional development relating to teaching (including teaching that draws on students' prior knowledge). When asked to describe whether any institutional efforts exist at her law school to support teaching in a way that draws on students' prior knowledge notes, Prof. Fulks noted:

> I don't think there is here. I think [there had been] controversial incidents of race in the classroom. There was more like, "We need to bring in a bias trainer"…but frankly, those kinds of trainings are usually so obtuse. It's like you mispronounce the Asian student's name, what can you do about this? Usually, the trainings I find are a little bit too blunt to really get at it.

For Prof. Fulks, the professional development offerings at her institution do not address the sorts of topics that would provide her with actionable and substantive teaching support. Indeed, in her view, the support that is offered lacks nuance and specificity. For Prof. Fulks, trainings to support her efforts to teach in a way that draws on students' prior knowledge would require a more sophisticated approach to faculty professional development.

Pattern E2. Half (7 of 14) of the participating faculty members identified resources outside of their institutions that support their ability to draw on students' prior knowledge.

Half of the participating faculty members said that they relied on sources other than their own institution for support in learning to teach with attention to students' prior knowledge. Such sources included: family members with experience in teaching, faculty colleagues (particularly those from academic success and/or legal writing backgrounds), and professional development opportunities taking place outside of their institutions. While the sources mentioned were highly varied, I present a few notable examples here.

First, Prof. Harris has an approach to teaching that draws heavily on students' prior knowledge and was developed with significant support from family members with expertise in the field of education—a domain quite apart from legal studies. She noted:

> I come from a family of teachers, my father was a teacher, my sister is a teacher in Canada. I feel like they are the two, my father was and now my sister is really the finest teacher I know. Just really creative, really flexible and passionate, and ambitious, or at least in how they treat their craft. I was raised by a teacher. Every night at the dinner table, it was like a new classroom. Truly I think, more than anything, that was the training ground for me. Watching my dad teach and talking with my sister, who has much more formal training in pedagogy…I think that that was the origin [of teaching in a way that draws on students' prior knowledge].

Here, Prof. Harris credited her family members, who had formal training in pedagogy (training that she lacks), with providing her with inspiration and a model for teaching. Professor Harris described her current teaching as firmly and deeply rooted in the approach of these family members.

Prof. Lynn identified a colleague as a source of support for teaching in a way that draws on students' prior knowledge:

> For a very long time on our faculty, the head of our Academic Success Program was really focused on a lot of these issues, particularly around how inclusiveness and sending these signals enables learning of straight doctrine. She and I, just by happenstance, we're very close personally and so, that's been a really big influence on me accepting that as an important part of teaching.

Prof. Lynn specifically credited her colleague with encouraging her to incorporate elements of students' prior experience into her teaching. Notably, the colleague described here comes from an academic success background (and as described elsewhere earlier in this dissertation, the academic success field has a long history of teaching in a way that draws on students' prior knowledge). Here, Prof. Lynn seems to have benefitted from her friendship and informal mentoring relationship with a faculty colleague steeped in a teaching philosophy that is particularly concerned with students' prior knowledge. It is notable that although both these

individuals work in the same institution, the offering of support came not through formal institutional channels or with institutional support, but rather outside these, through their personal friendship.

Finally, some faculty members credited experiences from their time as legal practitioners with supporting their efforts to teach in a way that draws on things that students already know. For example, Prof. McEwing noted:

> I would say that actually, I feel like a lot of the trainings that I got as an attorney [supported my teaching in this way]. We had so many trainings about being a legal services attorney. Make sure that you're really explaining things to your client at a level that they understand it because these are big choices that they're making. They really need to get it. We had a lot of trainings on communications and respecting the fact that your client is coming at us with a much different level of knowledge than you are. I feel like that actually set up my own experience. I feel like a lot of those trainings that I had set me up to be able to teach in this way.

For Prof. McEwing, professional training during her time as a practicing lawyer, as well as her practice experience itself, helped her to teach in a way that uses students' prior knowledge. More specifically, these experiences taught her the importance of understanding a client's level of prior knowledge and considering the implications of such knowledge to explain difficult legal concepts.

Summary of Theme E and Supporting Data Patterns

Most participating faculty members said that their institutions have not meaningfully supported or promoted, particularly through professional development programming, their efforts to teach in a way that draws on students' prior knowledge. They did, however, identify various other sources of support for such teaching. These included family members with pedagogical expertise, faculty colleagues (through the channel of personal friendship), and experience and/or training from their time in practice.

Faculty Personal Characteristics and/or Elements of Faculty Life Stories That Influence Their Teaching

Theme F and Supporting Data Patterns

Of the 14 faculty members in my study, I identified seven with particularly strong views of teaching that draws on students' prior knowledge, or who said that they engage in such teaching with greater frequency or at greater depth than others.

Of this group of seven, six teach at broad-access institutions. I identified this subset through a systematic analysis of interview transcripts, class observations, and documents, as described above. Indeed, this subset of seven faculty members, which I refer to collectively as *Committed Faculty Members* for the purposes of this theme, demonstrated and/or said that certain personal characteristics and/or elements of their life stories influence their teaching. These characteristics and/or elements included: (a) an emphasis on students' well-being and success, (b) education at non-elite law schools, and (c) significant legal practice experience.

Pattern F1. Emphasis on Students' Well-being and Success. All (7 of 7) of the Committed Faculty Members spoke about their intense care for their students and expressed a significant interest in their well-being and success. Of course, other participating faculty members also expressed care for their students. But the members of this group did so, in interviews, at a much greater frequency and with more intensity.

The members of this subset expressed an unusual degree of care for, and concern about, their students' success, well-being, and personal motivation. For instance, Prof. Ivy noted:

> I…feel like I'm very student-centered, which I learned from academic success, I think, in the sense that I really care about the students, and I think that they sense that or see that or know that in the classroom. I know that all faculty care about their students, but I feel like that's more of a thing. I feel like I really focused on that in the classroom and that they know that…. I feel like I pay attention to what else is going on in their lives, whether it be at school or in the world, and I incorporate that in the classroom from time to time. I care a lot about mental health. I talk about that a lot in ways that at least the feedback I've

> gotten makes it—I think I'm a good role model in that way, in terms of easing stereotype types about mental health and mental health problems.

Here, Prof. Ivy expressed a deep sense of care and concern for her students, particularly their mental health and well-being. She noted her efforts, which she expanded on in an interview, to ease any stigma they may have related to seeking mental health treatment when they need it. Notably, she said that her focus on students and their well-being stems from her earlier work in academic success—a special area of law school instruction focused on supporting students academically through supplemental teaching, tutoring, and other resources. As I described in detail earlier, academic success programs have a long history of drawing on students' prior knowledge and experiences to aid their learning.

Prof. Harris also expressed particular care and concern for her students and their well-being and success, noting:

> There are students who struggle. In a way, I have learned to value them, sometimes even more, because the older I get, the more I realize that it has not so much to do with aptitude, but what people were taught, how they were taught. What kind of support systems they had when they were growing up…. [e]ven if a student is not highly successful at law school, that doesn't mean that they don't have something to offer and would be really great legal advocates once they graduate. I really enjoy working with those students as well and helping them find some new confidence in themselves…. I want them to feel like they can talk with me, I will do what I can to point them in the right direction.

Here, Prof. Harris expressed a particular interest in students who struggle academically and said that she makes a special effort to encourage them and provide them with resources and support to help them be successful. She also serves as a frequent "go to"—someone who is known on campus for being a person that students can talk to about academic setbacks or other concerns.

Additionally, Prof. McEwing noted:

> I just think it's really important for [the students] to know that just because I happen to be a law professor doesn't mean that I didn't struggle to understand some of the concepts that they're trying to struggle, or that they're struggling with. I talk to them about some of

> the things that I did as a student and I know that that's not going to work for everybody because they all learn differently and they all are able to deal with information in different ways, but I think it's really important to think about the tools that I used as a student.

For Prof. McEwing, it is important that her students know that she struggled with law school at times. She tells her students about her law school experience, including that she found certain courses difficult, so that they will not be discouraged if they have difficulty understanding a certain concept or perform poorly on an assessment. Indeed, it is particularly important that students can draw on her experience for motivation or inspiration as they navigate the difficulties of law school.

Finally, Prof. Bern expressed a similar level of care for her students:

> I'm still first-generation. I don't have any kids, as I'd say. I think many students, regardless of their race, their gender, whatever, they've dealt with animus, discrimination, bias, and exclusion. Finally, I think, you know lawyers in the law profession could use a lot of therapy. I think to the extent that I, as part of what I bring to the classroom is understanding that a lot of people in my room are either struggling with mental health or they will be once they become lawyers leaves a profound impression, seeing that in my community and my family. So much of your persona as a professor is that you're this very intellectual person, but so much of what makes you successful is the things that everyone can relate to about you.

For Prof. Bern, being a first-generation student and a woman of color gives her the ability to understand and relate to the life experiences of some of her students in unique ways. She is also particularly attuned to their mental health and well-being. Some of this care for her students is motivated by her experience with members of her own family and community, who have struggled at times with mental health and well-being.

Pattern F2. Faculty Education at Non-Elite Law Schools. Most of the Committed Faculty Members (6 of 7) were educated at non-elite law schools. For these purposes, non-elite means law schools outside the Top 14 in the 2023 edition of the *U.S. News and World Report Best Law School Rankings*. Several of these faculty members said that it is significant that they

attended non-elite law schools and that having done so has helped them to identify with their students. For example, Prof. Harris, an alumnus of the institution where she teaches, noted that her education at a non-elite legal education sets her apart from most of her colleagues in legal academia:

> I think that makes me unusual, at least compared to most typical members of the academy, many of whom didn't really have—I don't know how to put this. Maybe they don't have some of the same experiences. Maybe they have been more successful or more performing in a way that was expected of them, more traditional in their upbringing…. I think that people on our faculty who have come up through Georgetown or Harvard or Yale, not that there's anything wrong with that. By God I would have loved to do that myself, but when it was time for me to apply to colleges, I wasn't ready for anything like that. I had no idea what I was doing. [laughs] I guess that makes me different from some other teachers or professors that students have, in that maybe I understand the people who make the mistakes. Maybe I understand the people who learn the hard way, or who have their own atypical path, and I think that's right. I think I have empathy for the misfits and the outsiders. This is getting way too dramatic, but I guess if I represent anything, I think it's that there's more than one way to do this.

Here, Prof. Harris drew an important distinction between herself and her faculty colleagues who attended elite law schools. In her view, her experience allows her to better identify with her students and their struggles—especially those who find law school to be difficult. For Prof. Harris, this connection impacts her teaching because it provides her with a good understanding of the realities and challenges of her students' life and learning experiences. Additionally, she noted that her own professional journey might even serve as an inspiration for students at non-elite institutions or others who might consider a non-traditional career path.

Other faculty members provided similar insights. For example, Prof. McEwing noted that she attended the same non-elite school where she now teaches, which gives her valuable insight into the student experience at the school:

> I have had a lot of the professors that they're going to encounter [when I was a student at this institution] so I know the way that they teach. I have said to students like if you have questions and I mean who knows maybe it's been a long time since I was in law school so maybe their teaching is different now, although I know for some of them their

> teaching hasn't changed one iota. I think that they might feel comfortable coming and asking me questions even about their other classes and their other professors. I have always told them like, "If you have questions, you should go talk to your professors, that's what they're there for. They get paid to be there to answer your questions. You should definitely go talk to them and if you still have questions come and talk to me but I'm going to answer this in the way that I think you could approach it or that I think might be successful in that class...."

Here, Prof. McEwing noted that, when she was a student, she took classes taught by some of the same faculty who are currently teaching her students. As a result, she is familiar with these faculty colleagues and their teaching from a student's perspective. She uses this familiarity to help current students who may have questions or are struggling academically as they take courses with some of the same professors who taught her years back. In this way, her experience as a former law student informs her current teaching and advising.

Pattern F3. Drawing on Legal Practice Experience in Teaching. Most (6 of 7) of the Committed Faculty Members have significant (more than 3 years) full-time legal practice experience outside academe. Participating faculty members with significant full-time practice experience said that they draw on this base of knowledge, in legal practice, to make connections between course material and practical lawyering skills and knowledge. For example, Prof. Ivy noted:

> …I think my strength in teaching civil procedure is that I was a civil litigator, although it feels farther and farther away each year or what civil practice is actually like anymore. I feel like that gives me some credibility with them, so I try to bring that up from time to time. I also feel it's a way to make it more concrete for them in a way that civil procedure, more than the other first-year subjects, I think is hard to visualize if they don't have any background in the law, which most of them, of course, don't.

For Prof. Ivy, her experience as a practitioner gives her credibility with her students. But it also allows her to connect course material to "real-life" lawyering. In her interview, she described how she frequently discusses course material in the context of her practice experience—and I observed this several times during my observations of her teaching. She used examples from her

own professional experience to illustrate how seemingly abstract doctrine and rules can come into play in contemporary cases.

Similarly, Prof. Bern noted:

> …[I have learned to find] ways to bring in the skills of lawyering into the classroom, which for students, depending on their faculty, you may have a lot of faculty who practice for a while, a lot of faculty who may not have. I was by the time on a tenure-track job practicing for ten years, which meant I was a little long in the tooth, apparently. I'm just now getting to the point where I've been teaching longer than I've been in practice, but I'm still a lawyer, as I tell my students. Just finding ways to impart that knowledge too. In practice, this is how it really works. This is how maybe you want to make the argument and how do you struggle with cases that you don't get. Well, convincing them to lean into all of the uncertainty of law, convincing them that in one day, all these cases that don't make any sense are going to be really great for you in a case because you can carve out your own place, and you have a lot to work with…. [m]y experiences as a law clerk are often things that students want to know about, but also, well, what is it like in real practice, as they say. Much of the modeling is about experiences.

For Prof. Bern, her time as a public interest lawyer enabled her to teach her students how principles from her constitutional law class were applied in actual cases she has litigated. She noted that her students often ask about her practice experience—they seem to have a particular interest in hearing from her about how course material can be used in applied lawyering contexts. Interestingly, in contrast to most full-time law school faculty members, Prof. Bern continues to identify as a practicing lawyer (despite having been in legal academia for about a decade) and, during her interview, noted that this identity influences her teaching by encouraging her to demonstrate connections between doctrine and practice-oriented scenarios on a frequent basis.

Summary of Theme F and Supporting Data Patterns

For the purposes of this theme, I identified a subset of participating faculty members who expressed particularly strong views regarding the importance of using student prior knowledge in their teaching and who demonstrated or said that they engage in it with greater frequency or in greater depth than others in the study sample. I labeled this group, which include 7 of the 14

participants, *Committed Faculty Members* for the purposes of this analysis. My analysis of their interviews, teaching observations, and professional and instructional documents suggested that some of their personal characteristics and selected elements of their life stories influence their teaching, and this too is how they portrayed themselves as teachers. These characteristics and life-story elements included: (a) being drawn to emphasize students' well-being and success, (b) having been educated themselves at non-elite law schools, and (c) having had significant legal practice experience outside of academe. Faculty members in the latter category (c) said that having a significant base of knowledge about legal practice helps them to illustrate otherwise abstract doctrine with real-life examples. These faculty members also said that their prior professional experience gives them credibility with their students and helps them explain how legal rules can be used strategically in practice.

Propositions

Based on the foregoing themes and patterns, I present below several propositions that, in the spirit of my modified grounded theory approach (see Chapter 3), generalize to broader substantive and/or conceptual claims which I call propositions. I define a proposition as a statement that reframes the outcomes of a study (e.g., the data-based patterns and themes that my limited study yields) as a broader addition to knowledge, thus as "generalizing" to the substantive or conceptual base of what is known about a topic of study (see Luker, 2009; Neumann & Pallas, 2015). Although developed through analysis of the data collected for a particular study—namely this study of law school professors teaching with attention to learners' prior knowledge—these statements are generalizing but also, and necessarily, *propositional* in that they propose what one may expect to see or find about how law school faculty, broadly, may

treat and engage with students' prior knowledge (see Luker, 2009; Neumann & Pallas, 2015) as they teach doctrinal knowledge

I generated the following propositions by analyzing the data from my study, as presented in the preceding themes and patterns, and comparing them to existing literature on law school teaching and learning, the learning sciences, and other relevant literatures (all described in detail in a previous chapter). The discussion of propositions below tacks back and forth between statements of proposition and data themes and patterns, showing connections between them.

Proposition 1

As the preceding section indicates, a notable amount of first-year doctrinal teaching by participating faculty drew on students' prior knowledge to support students in learning complex legal material. As indicated earlier, all 14 of the participating faculty teach in a way that draws on students' prior knowledge. Moreover, my data analysis indicated that such teaching may happen in a wide variety of ways (documented throughout my analysis section), and that professors use prior knowledge to help their students learn. One additional point merits attention, though: Study participants indeed teach in this way (I both witnessed it and heard them talk about it in interviews), but for the most part, they do not explicitly name or identify themselves as doing so. Thus, the proposition that emerges from this overall observation is that law professors can—and, possibly, a good number do—teach by drawing on their students' prior knowledge, yet these professors may not claim this as a feature of their teaching. While they may well do it, they may not fully understand or appreciate the significance of what they are doing in searching out and using students' prior knowledge toward helping their students understand new ideas.

The fact that such teaching can (and certainly, in my cases, does) occur is important since conventional belief holds that law school faculty in doctrinal courses often focus on subject matter without sufficiently attending to students, and especially to what students already know (Mertz, 2007; Sullivan et al., 2007) toward helping them learn. The current study, however, shows that such teaching can, and in the represented cases, does occur.

Proposition 2

The preceding proposition indicates that teaching in a way that draws on students' prior knowledge can and, in the context of my study, does occur. However, my analysis also made the point that such teaching is by no means likely to be easy for professors to carry out. This was evident in the words of the faculty participating in my study. Many described significant barriers to, or stated concerns about, the possibility of teaching in a way that draws on students' prior knowledge. These concerns and/or barriers included: hesitation to engage in sensitive or controversial discussions, limited instructional time, large class sizes, and a large amount of material to cover in a course. Thus, a second emergent proposition may be stated as follows: Law school faculty may encounter significant barriers to teaching in a way that draws on their students' prior knowledge.

Such concerns and barriers have been described in the higher education literature; for example, Neumann and Pallas (2019) provided a thoughtful discussion of the often-lacking resources, time, and support for such teaching, and Schön (1987) provided thorough and wide-ranging consideration of some of these and other challenges. But these have been the subject of less attention in the law school context. As a result, this proposition has the potential to advance discourse in the legal literature and in law schools themselves about the desirability of drawing on students' prior knowledge in law school classrooms as well as approaches to so doing.

Proposition 3

The preceding proposition indicates that professors may perceive significant barriers to teaching in a way that draws on students' prior knowledge. My study adds still more to this claim, and I add it here as an additional proposition: Such teaching is likely to be particularly challenging in subject matter areas that are distant from students' everyday lives, meaning that prior to enrolling in law school, students have had little opportunity to interact with that subject or the challenges that it addresses and poses (e.g., the content of courses on Property, or Legislation and Regulation). Yet despite this, law school faculty can (and a number of those in my study do) develop strategies for overcoming this challenge—for example, by highlighting the potential contemporary relevance of an otherwise esoteric legal topic (for example, discussing how land ownership relates to ongoing legal controversies), then considering the practical implications for students and their lives.

Proposition 4

The preceding propositions lay out some of the barriers to, and challenges associated with, teaching that draws on students' prior knowledge. In addition to these, my analysis suggests that law schools appear to offer virtually no formal support (from campus sources) for this kind of teaching. Faculty members participating in my study reported receiving little such support. Despite this state of affairs, the majority of study participants said that such support, delivered perhaps through professional development programming or similar efforts, would be important and they see great potential value in it.

Thus, an emergent proposition may be stated as follows: At this time, law schools may not be providing meaningful institutional support for teaching that seeks to draw on students' prior knowledge, despite its significant potential usefulness in supporting students' learning.

Indeed, based on my own experience working in law schools, and my observations about the kinds of professional development that major law schools in this area tend to fund and promote, such teaching is not well-supported. To be clear, my own view is that this lack of support is not due to law schools and other institutions being opposed to this type of teaching (I discuss this issue in greater detail in the next chapter). Rather, the faculties and leaders of these institutions may not understand what such teaching is, or how it works—even though some faculty members may already be engaging in it. Or a law school's leadership and/or faculty might be concerned if they feel that such teaching might adversely impact bar examination passage rates by, for instance, sacrificing coverage. This might be more of a concern at broad-access law schools where bar exam passage rates are an area of serious focus.

Of course, as I have discussed throughout this dissertation, there are exciting and increasing efforts to teach doctrinal classes in new ways (for example, through case files that expose students to actual legal documents in the classroom). But the idea of teaching course material by starting with students' prior knowledge (and using that as a base for the learning of new content) is, as best I have been able to determine, not supported or discussed. My sense, based on this study, is that systematically supporting such teaching is worth thinking seriously about, perhaps especially so since some proportion of professors already appears to be making efforts to do it on their own.

Proposition 5

As described in detail above, I identified, in the closing phase of my data analysis, those participating faculty members who expressed particularly strong views regarding the importance of using students' prior knowledge in their teaching, and who demonstrated or said that they engage in it with greater frequency or in greater depth than others in the study sample. I labeled this group, which includes 7 of the 14 study participants, *Committed Faculty Members*. Notably,

6 of the 7 Committed Faculty Members teach at one of the two non-elite/broad-access law schools participating in the study. Another way to view this is that of the 9 faculty participants teaching in the two non-elite institutions, more than half (6 of 9) are counted in the Committed Faculty Members group, whereas only one of the 5 faculty teaching in the study's two elite law schools fall in this group. The resulting picture is that the non-elite law school may be a site that is ripe for featuring teaching that is attentive to students' prior knowledge.

While I did not set out to study the four participating law schools themselves, this pattern suggests that faculty at broad-access law schools may be in the lead in developing pedagogical practices involving instructors' use of students' prior knowledge. To be clear, this does not mean that such teaching does not (or cannot) occur in elite law schools—but it does appear to be a modality (in fact, a powerful one) for faculty in broad-access institutions.

Additionally, there appear to be personal characteristics and/or aspects of the personal life histories of Committed Faculty Members that encourage them to teach in ways that draw on students' prior knowledge (and/or to particularly value such teaching). In the context of my study, these included: having significant experience in full-time legal practice; demonstrating a high degree of care for students and their well-being; and having been educated at non-elite law schools. It is possible, of course, that non-elite law schools tend to attract such faculty, or that faculty with these characteristics are drawn to teach in non-elite, as opposed to elite, institutions.

Based on the foregoing analysis, an emergent proposition may be stated as follows: Those doctrinal law school faculty members most committed to teaching in a way that draws on students' prior knowledge may tend to work at broad-access law schools, and may also share certain features of their life stories—for example, having significant prior experience in full-time

legal practice, being inclined to care for students and being attentive to their well-being, having been educated themselves in non-elite law schools.

Notably, faculty in broad-access law schools appear to have figured out a way to lead in the development of teaching methods that draw on students' prior knowledge and, thus, have something important to share with faculty in more elite schools. This may be, at least in part, a result of the willingness of non-elite law schools to hire faculty members with non-traditional backgrounds (like those who attended broad-access law schools themselves) and/or who have a greater degree of practice experience than traditional entry-level faculty members.

I note here that pursuing and supporting teaching that draws on students' prior knowledge should matter a great deal to elite institutions as well since these schools are increasingly interested in enrolling a diverse student body—and some of their students, including those that these institutions purposefully recruit, may not have the kind of cultural capital, including academic background, they need to be successful. Teaching that draws on these students' prior knowledge, whether unique to them or to all students (as via popular cultures), might be a way to address that challenge while also broadening (and deepening) the knowledge of students from more elite backgrounds. Indeed, such teaching seems likely to be important for democratizing teaching and learning in elite institutions.

Conclusion

The foregoing analysis drew on data collected from interviews with, class observations of, and documents regarding 14 participating faculty members, as described in this chapter and in chapter 3. My analysis revealed that participating faculty members *do teach in a way that draws on students' prior knowledge*. They do this with the intent of using that knowledge to help their students step toward understanding legal knowledge. In addition to describing the most common

approaches to teaching in this way, the analysis also revealed obstacles to such teaching, or faculty concerns about doing so. As expressed by participants, such obstacles and concerns pertained to difficulties in effectively drawing on student knowledge and experience that is sensitive, personal and/or controversial in nature; as well as large class sizes, subject matter coverage concerns, and limited instructional time. The analysis also suggested that there is a lack of formal institutional support for such teaching. Importantly, the analysis showed that most participating faculty members believe that personal characteristics and/or elements of their own life stories influence them to teach in a way that draws on students' prior knowledge. These characteristics and/or elements included: (a) an emphasis on students' well-being and success, (b) being educated themselves at non-elite law schools; and (c) having had significant legal practice experience. Finally, the analysis revealed that the study participants saw the kind of teaching featured in this study as valuable for their students and as increasing their students' opportunities to learn legal subject matter.

Collectively, the sample-based data patterns that I described and documented above provide a base of support for claims that speak to the utility of instructional methods that draw on students' prior knowledge in the teaching of doctrinal classes. The analysis culminated in five propositions, including that some law school faculty, teaching doctrinal classes, may be doing so in ways that draw on students' prior knowledge occurs though they may not be identified as such; faculty members may face significant barriers to and concerns about teaching in this way; such teaching may be particularly challenging in subject-matter areas that are distant from students' everyday lives; there may be little to no formal institutional support or professional development related to this type of teaching; and faculty members most committed to such

teaching may be those who work at broad-access law schools, have substantial experience in full-time legal practice, and/or are drawn to caring for their students.

Having presented the findings of my study, I now turn, in Chapter 5, to implications for practice, policy, theory, and further research.

Chapter 5: Discussion of Findings and Implications

Introduction

I am an educational researcher, a law school administrator and teacher, and a lawyer by training. In this chapter, I bring my knowledge from all of these roles to bear on making sense of the findings reported previously. This chapter proceeds as follows. First, I review the research and analytic questions. Second, I briefly summarize key findings. Third, I offer additional discussion of findings that, in my view, are of particular import. Fourth, I discuss implications of these findings for law school institutional policy and leadership, faculty practices and professional development, future research, and theory. As part of the section on implications for theory, I reflect on the study's conceptual frames (discussed in Chapter 2) and offer an additional frame for guiding future studies and law school improvement efforts.

Research and Analytic Questions

As noted earlier, I was guided in this study by a set of guiding questions (research questions) devised early in the research process, as well as analytic questions formulated during the later stage of data analysis. As Neumann and Pallas (2015) have explained, research questions guide overall study design and data collection, while analytic questions help to link insights from the data collected with the original research questions.

The research questions that guided the study are as follows:

1. In their teaching, how do full-time doctrinal law faculty search for, and sometimes create, linkages between the subject matter they teach and their students' existing knowledge, experiences, and values in ways that support the students' learning of the subject matter?

2. How do full-time doctrinal law faculty who search for, and sometimes create, such linkages describe their reasons for so doing?
3. What do full-time doctrinal law faculty who search for, and sometimes create, such linkages identify as factors that support or promote their so doing?

The analytic questions guiding the data analysis that sought to respond to these research questions are as follows:

1. What teaching methods do law school faculty members participating in this study describe and/or use in the classroom as they seek to create linkages between what they teach and things that their students already know, believe, or feel, thus building on their prior knowledge?
2. What do the participating law school faculty members say are barriers to their teaching in a way that draws on things that students already know, believe, or feel? What concerns or hesitations, if any, do they express about the possibility of teaching in this way?
3. How do these faculty members talk about the value of teaching in a way that draws on things that students already know, believe, or feel? For those who say it has value, what do they say that this approach to teaching accomplishes?
4. How, if at all, do the faculty members describe the way(s) in which the legal subject they are teaching influences their ability to draw on things students already know, believe, or feel?
5. How, if at all, do faculty members describe institutional efforts to support or promote teaching that may draw on students' prior knowledge and experiences? What other sources of support do they describe?

6. What, if any, personal characteristics and/or elements of the life stories of participating faculty seem to relate to their use of student prior knowledge in their teaching?

Summary of Findings

Analysis of the study data yielded a variety of notable findings. I summarize these findings here (and they were reported in detail in the preceding chapter).

First, the study findings showed that a significant amount of first-year doctrinal teaching by participating faculty draws on students' prior knowledge to make connections to course material. All 14 of the participating faculty teach in a way that draws on students' prior knowledge. Such teaching may happen in a wide variety of ways (documented throughout the preceding chapter), and the professors use this prior knowledge to help their students learn. While study participants regularly draw on students' prior knowledge as they teach (I both observed it in the classroom and heard them talk about it in interviews), they rarely explicitly named this as a distinct practice; this means that they rarely identified themselves as so doing. Thus, while law professors can teach by drawing on their students' prior knowledge—and that some do—they may not claim this as a feature of their teaching. In other words, they may well engage in such teaching, but they may not fully understand or appreciate the significance of what they are doing in searching out and using students' prior knowledge toward helping them understand new legal ideas.

Second, participants described significant barriers to or stated concerns about the possibility of teaching in a way that draws on students' prior knowledge. These concerns and/or barriers included: hesitation to engage in sensitive or controversial discussions, limited

instructional time, large class sizes, and a large amount of material to cover in a course as an obstacle to teaching in ways that are themselves time- and effort-intensive.

Third, data from this study suggested that such teaching is likely to be particularly challenging in subject matter areas that are distant from students' everyday lives, meaning that prior to enrolling in law school, students have had little opportunity to interact with that subject matter (such as, for example, the law of property). Yet despite this, the data suggested that law school faculty can (and a number of those in my study do) develop strategies for overcoming this challenge—for example, by highlighting the real or potential contemporary relevance of a topic, then considering the practical implications for students and their lives.

Fourth, my analysis suggested that the institutions in which my study participants work offer virtually no formal support for this kind of teaching to their faculties. While I did not seek to confirm this with institutional administrators and did not myself survey the institution's professional development offerings (doing of these was beyond the scope of my study), it seems likely, based on study participants' comments, that such is the case. Despite this state of affairs, the majority of study participants said that such support would be important, for example, toward helping faculty learn how to teach in ways that could help them draw on knowledge that students already held.

Fifth, the study participants who I classified as most deeply committed to teaching in a way that draws on students' prior knowledge (because they discussed or engaged in teaching that draws on students' prior knowledge more frequently and at a high degree of intensity) tended to work at broad-access law schools. These faculty members also have certain professional and/or personal characteristics in common—for example, having significant prior experience in full-time legal practice, being inclined to care for students and being attentive to their well-being, and

having been educated themselves in non-elite law schools. Notably, faculty in broad-access law schools in this study appear to have figured out how to use students' prior knowledge in their own teaching—that is, as they taught.

While these findings, emerging from a limited study, cannot be generalized to all law faculty or to teaching in law schools broadly, they can serve as starting points for inquiry into what good law school teaching may entail—and importantly, for design of professional development programs and teaching improvement policy. I discuss such matters later in this chapter but turn first to elaborate on findings that I view as particularly noteworthy.

Further Discussion of Notable Findings:
Success of Broad-Access Law Schools and Democratization of Legal Education

Below, I draw special attention to some features of this analysis that seem to me to be particularly important in advancing knowledge in the study of law school teaching and its improvement.

First, though I designed the study in a way that would allow me to observe teaching differences between types of law schools (elite and broad-access), identifying institutional differences was not my primary focus. Nonetheless, institutional differences emerging from my analysis do stand out and, thus, are worthy of further comment. Most notably, faculty in the two broad-access law schools in my study seem to have figured out, seemingly with little direct support from formal professional development programs, how to teach in ways that draw on students' prior knowledge. I conclude this based on my observations of their teaching and their discussion, in interviews, of how they accessed and used students' prior knowledge in their teaching. As such, these faculty, and others like them, are well positioned to share their teaching practices—both within their institutions and beyond, including in elite law schools. To underline

this point, I also note that very few of the faculty teaching at the two elite law schools in my study made use of students' prior knowledge in their teaching.

This finding is, perhaps, contrary to what one might expect. Conventional knowledge is that faculty and administrators at broad-access law schools spend much more time thinking about the bar examination, including how to prepare students to succeed on it, than at elite institutions. Indeed, doing so is viewed as desirable at broad-access schools. American Bar Association (ABA, 2022) data showed that students at elite schools pass at rates close to 100%. Indeed, in my experience, broad-access law schools are particularly concerned with ensuring that faculty members who teach courses that are tested on the bar exam cover the subject matter the exam will address. Given this, one might imagine a situation where—given the felt need to cover the broad range of bar-tested material and the finite time available in a standard semester—a law school, its leadership, and many of its faculty could oppose a teaching approach (like one that draws on students' prior knowledge) if they believe it could have an adverse effect on students' bar pass rates. Teaching that draws on learners' prior knowledge might pose serious concerns for broad-access law schools for whom low pass rates loom as sources of stigma with significant professional, financial, and personal consequences for students.

Faculty members in my study mentioned this issue often and noted that teaching that draws on students' prior knowledge is difficult to enact, given the significant amount of time that it takes to carry it out well, coupled with the pressure to cover the bar-tested doctrinal subject matter fully and thoroughly. Yet somehow, and despite this constraint and others like it, faculty members at these institutions (and certainly those in my study) still manage to find ways to uncover and draw on things that students already know to make connections to legal subject matter in the classroom. As suggested earlier, I did not position law schools themselves as my

study's unit of analysis, and it is hard to know how pervasive such teaching is in my study institutions. But what I learned from selected faculty at two broad-access institutions speaks to those particular faculty members' potential for success in helping their students learn core legal knowledge. I acknowledge that this finding is ripe for further empirical study; in closing this study, I find myself pondering whether a broader study would bear this out and, if so, what could account for the promised success (measured, for example, by performance on the bar exam and/or improvements on student learning assessments) of this approach to teaching. Based on my study data, I suggest factors such as the following: institutional willingness to hire faculty members with non-traditional backgrounds (for example, those who attended broad-access law schools themselves) and/or who have more experience in legal practice than do traditional entry-level faculty members without such background. Moreover, faculty such as these seem to express a greater-than-usual degree of care for their students and student well-being.

In sum, this study suggests that something special around teaching—especially teaching that links to learners' prior knowledge—may be going on at broad-access law schools. That "something," if indeed it exists, merits further study. I consider this claim later in my discussion of directions for future research.

A distinct but related feature of these findings is their bearing on an aim of law school education that is especially meaningful to me: the *democraticization* of education broadly—and in this case, of legal education in particular.

As I noted in the preceding chapter, pursuing and supporting faculty to teach in a way that draws on students' prior knowledge should matter to all law schools. Yet the faculty in elite schools may face a unique challenge. These schools—though stating the desirability of enrolling a diverse student body (Sloan, 2021) and, in some ways, succeeding in so doing (Krinsky,

2022)—may also worry that students representing non-traditional demographics will not bring to their legal studies the kind of cultural capital, including academic background, that may help students to succeed in law school.

Cultural capital, as first articulated by the French sociologist Pierre Bourdieu (see, for example, Bourdieu, 1986), generally refers to knowledge or familiarity with cultural objects and practices that are valued by the elite who control access to important social institutions like schools (Davies & Rizk, 2018). For Bourdieu, cultural capital is arbitrary—part of a system imposed by those in power to preserve their advantages.

Drawing on this concept, related (though distinct) notions of cultural capital have emerged to describe ways that socioeconomic status and culture may influence the knowledge and resources available to particular students. In this context, cultural capital relates to knowledge and experience that are actually useful for achieving academic and professional success in law school and the profession. For instance, certain students from lower socioeconomic backgrounds may be more likely to: lack financial resources to purchase expensive supplemental study guides while in law school; lack access to expensive summer and/or extracurricular programs that prepare undergraduates for the study of law in advance of law school; and/or lack family or social networks that include lawyers, who can be a source of valuable internships and law school-related advice and guidance. This lack of certain types of knowledge, resources, and/or experiences may place students at a relative disadvantage to other students who do currently have (and have previously had) access to them. Indeed, entering students who do have access to such resources and/or experiences may have an advantage in their academic and professional development efforts (Davies & Rizk, 2018), compared to students who do not.

Teaching that pays special attention to and draws on the prior knowledge of students who do not have the kind of cultural capital described above may be a way to address some aspects of the aforementioned challenges and disadvantages. Such teaching might help to provide specific knowledge about law school and the legal profession and, importantly, demonstrate the utility of previously unarticulated prior knowledge that may not initially seem valuable in law school. For instance, students who lack a family or social network that includes lawyers may have other kinds of life experiences (like, for example, helping family members to navigate an immigration proceeding) that, when surfaced, can provide them with valuable start-up knowledge relating to certain legal practices (for example, pertaining to immigration, an area of substantial interest at the current time). It must be noted too that this approach also could help to broaden (and deepen) the learning of students from elite backgrounds, thereby expanding all students' opportunities to learn. In this view, one may imagine broad-access schools as important engines of economic and social mobility, and as a stimulus to aims of democratization of learning in law schools and, potentially, of legal practice itself.

Considered against this backdrop, teaching that draws on diverse students' varied prior knowledge seems to matter—I suggest greatly—in current efforts to democratize legal education, particularly its teaching and learning, and in all types of law schools. I suggest that teaching that purposefully attends to and draws on learners' prior knowledge has the potential to enrich the academic experiences of all law students, though it may hold special promise for and resonance with students from non-dominant cultures. What all this further suggests is that an openness—and a commitment—to teaching that draws on students' prior knowledge may advance efforts to make high-quality legal education more accessible to greater numbers of students. In particular, such teaching might be helpful to those who typically do not bring to their legal studies forms of

cultural capital that are valued by dominant law school cultures. In doing so, such teaching might thereby also advance the field's growing desires to democratize legal education and entrance into the legal profession.

I must note, in closing this section, that the above-described perspective on democratization aligns closely with the work of the late Mike Rose, a celebrated teacher and scholar with a particular interest in the education of working-class and underserved populations. In his book *Back to School* and elsewhere, Rose (2012) made a case for democratizing higher and postsecondary education through, among other proposals, significant investments in community colleges and other "second-chance" institutions. Rose wrote:

> The democratic philosophy I envision would affirm the ability of the common person. It would guide us to see in basic-skills instruction the rich possibility for developing literacy and numeracy and for realizing the promise of a second-chance society. It would honor multiple kinds of knowledge and advance the humanistic, aesthetic, and ethical dimensions of an occupational education. (pp. 141-142)

For Rose, the educational opportunities offered by remedial and vocational programs should be as intellectually rich and engaging as those found elsewhere throughout higher education. Moreover, he resists the too-frequent separation of skills training and more traditional academic education visible in much of present-day higher education.

I cannot help but wonder why the case that Rose made in the preceding statement is not also applicable to law schools. To be clear, I am by no means suggesting that broad-access law schools are the same as second-chance institutions like community colleges or other institutions that provide vocational training. But they might share some defining features. Broad-access law schools serve the large majority of law students who will be entering the legal profession:

According to my analysis of ABA (2022) data, the 50 highest-ranked schools[1] enrolled 37,445 (32.5% of the total enrolled) Juris Doctor students as of the Fall 2022 semester, compared to 77,661 (67.5% of the total enrolled) for all other accredited law schools, which are those I consider broad-access. These students at broad-access law schools come from varied backgrounds, and their institutions are often local or regional with a focus on preparing students to pass the bar and become practitioners. Broad-access law schools also typically enroll students from lower socioeconomic backgrounds at higher rates than more elite schools.

Rose asked, in effect, how teaching practice (or skills) might be reshaped to meet the needs of that larger proportion of students now in postsecondary education. I think we might ask the same question of law schools (and broad-access law schools, in particular): How might we further enrich our classroom instruction in doctrinal courses (as well as in clinics, skills courses, and elsewhere) in ways that better serve our students?

In some important ways, efforts to answer this question are already underway. As I have described throughout this dissertation and detailed in my findings, numerous and significant efforts are going on at law schools across the country to draw on the rich and varied knowledge that students bring with them to the law school classroom. But, in my view, these efforts need to be better identified and supported. Possibilities for providing such support are described below.

Implications

Implications for Law School Institutional Policy and Leadership

The findings from this study have important implications for law school institutional policy and leadership.

[1] As discussed in an earlier chapter, these rankings, produced by *U.S. News & World Report*, are imperfect measures and, according to many commentators, deeply flawed. As I explained earlier, however, they remain a reasonable way to make distinctions between elite and broad-access institutions.

As discussed above, teaching that draws on students' prior knowledge has the potential to play a role in the democratization of legal education. By drawing on knowledge that students already hold, such teaching might be framed so as to offer students useful insights on what it means to succeed as a law student in both broad-access *and* elite institutions. Regardless of their institution's status as elite or broad access, faculty members participating in this study were almost unanimous in asserting that such teaching expands students' opportunities to learn doctrinal principles and subject matter, in this way, helping to create more knowledgeable future lawyers. In short, teaching that attends to and draws on learners' prior knowledge appears to be critical for a variety of compelling reasons. Thus, law schools and their leaders would be well advised to encourage and support it.

Law schools can start by providing significant institutional support for the design and implementation of professional development programs and other initiatives that recognize the importance of such teaching and help faculty learn how to plan and enact it (and, for those who already teach this way, to do so more often and more effectively). Importantly, such professional development programs should explicitly address the barriers described in Chapter 4 (such as hesitation to engage in sensitive or controversial discussions, limited instructional time, large class sizes, and a large amount of material to cover in a course). This might be done, for example, through reducing class sizes and would almost certainly involve hiring more faculty (or increasing the teaching loads of existing faculty) to allow for teaching in smaller sections. I appreciate that such an approach would also require added resources to fund this additional teaching and might very well force institutions to raise the price of tuition or divert resources from other areas.

Institutions should also consider how to recognize and incentivize teaching that draws on students' prior knowledge. This could be done through organizing conferences that address such teaching practices, providing course credit/relief to encourage faculty to pursue ways to learn how to use such practices, and/or developing other new initiatives that advance such teaching and make it more accessible to faculty. Additionally, though this study was limited to doctrinal teaching, the literature shows that clinical faculty, academic success teachers, and other law school personnel tend to teach in ways that draw on things that students already know (Lustbader, 1996; McClain, 2018; Mlyniec, 2012; Sturm & Guinier, 2003, 2007). This group of faculty and other law school personnel who are equally committed to this kind of teaching could serve as important resources for institutions wishing to tap existing institutional knowledge for professional development programming. Such programs could support faculty in learning to teach in ways that draw on students' prior knowledge, and in learning to deploy related student support practices.

Beyond providing more and better institutional support for such teaching, there are other steps that law schools can take to encourage and facilitate it. Study findings suggested that faculty who teach in this way tend to share certain characteristics and/or elements of their life stories. This insight suggests several strategies that could be built into long-term institutional plans to improve support for law school students' learning. For example, institutions could consider the following in their faculty and academic administration hiring processes: (a) prioritize hiring faculty and academic administrators with significant legal practice experience; (b) prioritize faculty and academic administrator candidate pools that include people with a broad range of academic backgrounds; and (c) prioritize faculty and academic administrator candidates who demonstrate high levels of care for their current or future students. Institutional

leaders—like Deans, Academic Deans, and Appointments Committee chairs—would need to appreciate and have an interest in encouraging this type of teaching or would need to be convinced of its value (I address the issue later in the chapter).

Law schools should, of course, continue to prioritize the hiring and development of the most promising legal scholars. However, law schools also must be serious about supporting all faculty members' professional development as *teachers*, even as they grow as scholars. Indeed, to be clear, efforts to hire faculty members who teach, or are open to learning to teach, in a way that draws on students' prior knowledge do not denigrate the importance of legal scholarship. But law school leaders should carefully think about how to recruit and hire faculty members who are also likely to engage in the type of teaching described in this study. Moreover, law schools should provide appropriate resources and support to *all* faculty who engage in such teaching or are open to trying to do so.

Next, my findings suggest that from a broad legal education policy perspective, elite law schools could be encouraged to look to broad-access institutions for ideas and inspiration in teaching improvement. My findings suggested that faculty at broad-access law schools may engage in teaching that draws on students' prior knowledge more frequently and at a higher degree of intensity than those at elite institutions. This suggests that faculty at broad-access law schools may be in the lead in developing pedagogical practices for drawing out and using students' prior knowledge in teaching law school subjects. As I noted previously, elite law schools are increasingly interested in enrolling a diverse student body—and some of their students, including those who these institutions purposefully recruit, may not bring forms of cultural capital, including academic backgrounds, valued in modern-day legal academe. Teaching that draws on these students' prior knowledge, whether unique to particular students or

common across student groups (as via popular cultures), might be a way to address this challenge while also broadening (and deepening) the knowledge of students from more elite backgrounds.

As such, I suggest that the faculties of elite law schools should consider looking to the faculties of broad-access institutions to learn from their teaching practices. The deans of these institutions, and others in academic leadership positions, might be well positioned to facilitate such conversations. This could happen in many different ways, for example, by: establishing formal programs for discussion of teaching practices across different types of law schools (e.g., via a continuing seminar or a conference, convened in-person or virtually) positioning elite schools to hire faculty members or academic administrators from broad-access schools to work on professional development programming; or other initiatives to teach this pedagogical modality to faculty at elite institutions. Whatever the actual mechanism to accomplish this goal, it is clear that the leaders of elite institutions would benefit from efforts to learn from the pedagogical practices of their colleagues at broad-access schools.

Implications for Law School Faculty Practice and Professional Development

This study has significant implications for law school faculty practice and professional development viewed as extensions of the policy and leadership initiatives presented above.

First, as I have already noted, and based in part on my own prior experience and on interactions with colleagues throughout the United States, the type of teaching at issue in this study appears to be happening already, though no doubt to varying degrees, at law schools across the country. However, it is rarely explicitly named. Faculty members who are already teaching by drawing on their students' prior knowledge may not fully grasp or appreciate the significance

of what they are doing and its potential for improving student learning[2], and in the long run, hopefully, advancing students' careers. This makes it difficult to develop and/or refine the ability to teach in this way. Thus, an important implication for faculty practice is that professors should aim to identify, openly, their approaches to teaching that may draw on students' prior knowledge. The simple recognition and naming of what they are already doing might allow them to better consider ways to improve and/or expand their own practices, seek support, and share what they learn about such teaching with colleagues. In doing so, they stand to broaden others' interests in the approach and potentially their use of it (as one of my study participants did, they could consider collaborating with colleagues on joint programs or course offerings that aim to draw on students' prior knowledge). Through explicit recognition of this sort of teaching, those faculty members who already teach with attention to students' prior knowledge might themselves consider how to do so more often, or perhaps more creatively.

Second, although this study suggested that teaching that draws on students' prior knowledge has strong potential to help students learn challenging legal content, such teaching is difficult. Faculty members need significant support to learn how to do it and to overcome the kinds of barriers that will, inevitably, arise. For example, faculty will need substantial exposure to varied forms of such teaching to identify approaches that work, given the different subject matters they teach, their students' unique needs, and their own talents and proclivities. In particular, they will need to learn how to lead and moderate discussions about issues that can, at

[2] I acknowledge that research on the effects of this kind of teaching on students' learning has not been explicitly studied in law schools, but drawing on research on comparable teaching in K-12 education, this seems highly likely. This is especially true given my study participants' claims about its effects. I address this need for further research on what students may gain from such teaching in your later section on suggestions for future research.

times, become deeply personal for their students (like race and gender, for example) and in ways that are sensitive, respectful, and productive.

Any professional development programming in this area will need to consider the kinds of coverage concerns expressed by many of the study participants—such as the real need to teach material that will be tested on the bar exam or that students will need to have mastered to do well in later coursework. Teaching in ways that draw on students' prior knowledge *does* consume time that typically would be devoted to disseminating content more directly to a class (as through lecture). To respond, professional development programs could be designed to feature advice and, possibly, pedagogical modeling by faculty members who have managed to balance these competing imperatives successfully.

Implications for Future Research

This study's findings provided notable insights into teaching and learning in legal education. As the preceding discussion indicated, the findings from the study have significant implications for institutions and faculty. But additional research is needed to understand more fully the use and effectiveness of law school teaching that draws on students' prior knowledge.

First, it would be useful to conduct a similar study that included a larger number of law schools and faculty members. This study included four sites and 14 faculty members. A larger sample of participants from across the country would allow for a larger data set and could provide a more expansive picture of teaching practices currently in use and attuned to drawing out students' prior knowledge, then using this information to enhance students' academic learning. A larger study also could allow for increased representation of institutions and faculty members (for example, constructing a study sample that purposefully includes racially and ethnically diverse faculty members). This study included two broad-access and two elite schools.

Future research could include larger numbers of both these types of institutions to allow for more in-depth analysis of differences and similarities in teaching. Such a comparison might, further, invite consideration of other institutional features (e.g., rural vs. urban, small vs. large) that could possibly shape professors' efforts to teach with attention to students' prior knowledge. Future work could also contrast public institutions in states that have banned or restricted the consideration of "sensitive" topics like Critical Race Theory with those located in states that permit such teaching.

Second, it would be useful for future research to capture and examine student perspectives on teaching that draws on those students' prior knowledge: How do students, whose prior knowledge is accessed in teaching, experience this process? What can be learned about such teaching from them? While this study did include classroom observations (allowing me to witness faculty-student interactions), it did not include student interviews. Moreover, the classroom observations I conducted were limited due to concerns about student privacy and confidentiality (these concerns, and how I addressed them, were discussed in Chapter 3). However, insight into students' views, experiences, and understandings of the kind of teaching that is at the center of this study matters if we are truly to understand benefits that students may derive, or possibly new challenges and risks they may face. A study that features students' experiences might reveal how students of varied backgrounds, identities, academic preparation, and the like differ in their experiences of teaching that draws on what they know and bring to the classroom. Students' voices might then offer rich new insights into the kind of teaching examined in this study.

Third, future work could explore varied forms of student prior knowledge, including beliefs about how the law works that may be widespread in society. For instance, it is clear to me

that students have strong conceptions about the law from watching television, movies, and other popular culture/media representations of legal processes (e.g., newspaper accounts of trials). In many cases, such knowledge is incorrect, even misleading. Whether and how faculty members work to surface "incorrect" student prior knowledge of this sort, and how they go about "correcting" it, is an area of interest that deserves further research attention. Moreover, such views may be rife in both elite and non-elite settings.

Fourth, future work could include assessment or evaluation of teaching that draws on students' prior knowledge to determine whether it improves learning outcomes for students. The findings of such assessment or evaluation—if they do suggest better student learning outcomes—could help to encourage policymakers, school leaders and administrators, and others to undertake the types of policy and institutional initiatives I propose in the chapter. While such work has been undertaken in K-12 settings (and to some extent in higher education), it has not been done to any significant degree in law schools.

Finally, future work could move beyond the bounds of doctrinal teaching. This study focused on teaching in doctrinal courses because these courses comprise the foundation of the American legal educational experience and so deserve particular attention. But law schools also offer a vast array of clinical and other courses that seek to support students in mastering legal research, writing, legal advocacy, and other skills central to successful lawyering. Future research could consider whether and how faculty members in these courses seek to use students' prior knowledge to advance subject matter understanding and/or skills proficiency.

Implications for Theory: Reflections on the Conceptual Frames

In Chapter 2, I proposed three frames for conceptualizing this study (pedagogical content knowledge, culturally framed theories of learning and teaching, and convergent teaching). Each

offers a unique perspective on how law faculty search for and create linkages between the subject matter they teach and law students' existing (that is, prior) knowledge, values, and experiences. For faculty who do search for and create such linkages, the frames help them understand what might promote or support such teaching. Here, I reflect on each frame in light of the study's findings and suggest another potential frame.

Pedagogical Content Knowledge. Pedagogical content knowledge draws on students' prior knowledge and experiences and considers various ways to represent knowledge for learning (Shulman, 1986, 1987). In Chapter 2, I noted that this frame might offer a way to consider how students' prior knowledge might be valuable in the classroom and how such knowledge could be used by a skilled instructor to enhance students' subject-matter learning.

This frame proved useful in considering the data and articulating findings. The faculty members in the study who were most committed to teaching in a way that draws on students' prior knowledge were able to provide multiple representations of subject matter, had deep subject-matter expertise, and were thoughtful about the order in which subject matter was presented. These are hallmarks of pedagogical content knowledge. Additionally, pedagogical content knowledge is focused on the subject matter at issue. It requires that instructors (and researchers of teaching) pay close attention to the actual "thing" being taught and describes how instructional attempts to use existent student knowledge (be it academic, cultural, or some other type) might vary based on the nature of the subject matter being taught.

This orientation turned out to be precisely the case in my study. As described in my findings, faculty members said that their ability to teach in a way that draws on students' prior knowledge depended, to a great degree, on the nature of the subject matter and its relation to students' everyday lives. I conclude that pedagogical content knowledge is a useful frame for

analyzing law school teaching, whether in the context of research on teaching or improvement of instructional practice.

Culturally Framed Theories of Learning and Teaching. As I noted in Chapter 2, culturally framed theories of learning and teaching acknowledge and both home and school cultures without subjugating one to the other (Erickson & Mohatt, 1982; Ladson-Billings, 1995). The frame also articulates that teachers who teach in culturally responsive ways (meaning attending especially to the cultures of students' home communities) maintain fluid student-teacher relationships, demonstrate a connectedness with their students, develop a community of learners, and encourage students to learn collaboratively and be responsible for one another. This body of theory also suggests particular ways that these teachers conceive of themselves, others, and knowledge (Ladson-Billings, 2006).

This frame turned out to be tremendously useful. In particular, it helped to illuminate an important finding relating to the personal characteristics of the faculty members most committed to teaching in a way that draws on students' prior knowledge: that these faculty members show an unusual degree of care for their students and their well-being. The special nature of this type of student-teacher relationship, as well as other features of these faculty members' law school teaching, was clearly reflected in this frame. This frame, too, proves useful for analyzing law school teaching, whether in the context of research on teaching or improvement of instructional practice.

Convergent Teaching. Convergent teaching is an approach that requires teachers to attend to subject matter, students, and context simultaneously. It involves intense consideration of the particular subject matter at issue; surfacing of students' relevant prior knowledge, gained from their personal lives, cultures, and prior academic experiences; and approaches to bridging

the gap between such prior knowledge and experiences and the subject matter at issue (these are articulated as three principles that underpin convergent teaching) (Pallas & Neumann, 2019). In Chapter 2, I speculated that this frame would be very useful for this study. First, it captures many of the important insights described by scholars relating to pedagogical content knowledge and culturally framed theories of teaching and learning. It also extends these concepts into a higher education context, which I surmised could include law schools. Convergent teaching seems to represent the "best of both worlds"—a full consideration of the most important insights from the learning sciences with a perspective that includes higher education.

This frame turned out to be critically important. It is highly consistent with the teaching practices of some of the most committed faculty members described in my study. The frame also helped me to identify and describe relevant pedagogical approaches and strategies that I observed in the classroom. Moreover, the frame's description of how teachers surface prior knowledge and bridge the gap between this knowledge and the subject matter at issue helped me to describe some of the most commonly observed (or discussed) approaches. As with the two preceding frames, this one also proves useful for analyzing law school teaching, whether in the context of research on teaching or improvement of instructional practice.

Potential Additional Frame. The previous three frames were extremely helpful in conceptualizing the study and understanding the findings. However, based on my analysis and further reflection, there is at least one additional frame that might have also been useful: communities of practice. Wenger and Lave (1998) coined the term *communities of practice* as part of their study of apprenticeship as a learning model and have since written a great deal on the subject (Wenger, 1998). Instead of conceptualizing apprenticeship as a relationship between a student and a teacher or supervisor, communities of practice recognize the complex web of

interpersonal relationships through which learning happens. Such systems can be observed even in contexts where no formal apprenticeship exists.

Briefly, members of communities of practice exhibit the following characteristics: (a) a shared experience or set of practices for doing work; (b) distinctive identities based on their expertise or performance at work; and (c) participation in a joint enterprise (Wenger & Lave, 1998). Though they can form organically, such communities of practice are encouraged by some organizations to facilitate learning and the transfer of knowledge.

In this study, faculty members seem to be trying to teach doctrinal subject matter, develop students' legal skills and practical knowledge, and instill a sense of professional identity to help students understand the changing role of the law in modern society and their own place in it. This last element—imparting a sense of professional identity and social responsibility—might benefit from a frame that provides insight into professional group membership, belonging, and skills development. As such, this frame, applied to future research, might support deepened conceptualization of faculty members' efforts to unearth, engage, and draw on students' personal, professional, moral, and ethical commitments. In this way, communities of practice might be a useful frame for future studies of this type—and it helped me to make sense of particular patterns in the data.

Closing

I designed this study after years of experience as a lawyer, a law school administrator and teacher, and a doctoral student in higher education. I was, and remain, totally committed to developing knowledge that will support ongoing efforts to improve law students' learning in American law school classrooms—and I view this study as an effort to draw on the education

and learning sciences literature to inform legal pedagogy (and faculty professional development in that area).

I have a particular interest in work that might benefit students at broad-access law schools. As the Senior Associate Dean for Academic Affairs at a law school that serves as an engine of social and economic mobility for many students (a significant number of whom are students of color, first-generation students, and/or students from low-income backgrounds), I have a special interest in supporting and investing in such efforts. Ultimately, my hope is that this study will help to advance research, practice, and institutional policy that seek to enhance opportunities for student learning and that strive to democratize legal education.

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Appendix A: Informed Consent Form

Teachers College, Columbia University
525 West 120th Street
New York NY 10027
212 678 3000

Protocol Title: Law Professors' Use and Conceptualization of Students' Prior Knowledge and Experience in Developing Subject Matter Understanding

Principal Investigator: Matt Gewolb, Doctoral Student
Teachers College, Columbia University
(212) 431-2352, mg3164@tc.columbia.edu

Sponsor: Anna Neumann, Professor of Higher Education
Teachers College, Columbia University
(212) 678-3272, an350@tc.columbia.edu

INTRODUCTION

You are being invited to participate in a research study called, "Law Professors' Use and Conceptualization of Students' Prior Knowledge & Experience in Developing Subject Matter Understanding." The project is being conducted by Matt Gewolb, Doctoral Student in Higher and Postsecondary Education at Teachers College, Columbia University. Matt Gewolb serves as Principal Investigator/PI of this study.

You may qualify to take part in this research study because are a full-time law professor teaching first year doctrinal courses at a participating law school. You are also known to teach in a way that draws on students' prior knowledge and experience, which is the focus of the study.

Four (4) law schools are expected to participate in the study. At each of these schools, approximately 4 members of the law school faculty are expected to participate. Your participation is expected to take about 7 hours of your time—2 hours for an initial interview, up to 4 hours of classroom teaching observations (done over two sessions), and up to 2 hours for a follow-up interview. The teaching observations would take place during your regularly scheduled class time. Your participation would take place during the Spring 2022 semester (and potentially for a short time after the semester), thus between about January and May of 2022.

WHY IS THIS STUDY BEING DONE?

This study seeks to develop knowledge of a teaching practice (i.e., instructional use of students' prior academic, cultural, and personal knowledge) that, in light of established knowledge in higher education and the learning sciences, promises to support students' learning of legal concepts in broad-access law schools. Specifically, this study is an attempt to better understand how law faculty search for and create *linkages between subject matter being taught and law*

students' existing (that is, prior) knowledge and experience. And for faculty who do search for and create these linkages, to help us understand the things that promote or support their teaching in this manner, and their reasons for doing so.

WHAT WILL I BE ASKED TO DO IF I AGREE TO TAKE PART IN THIS STUDY?

If you decide to participate, you will be asked to do the following: (a) Permit me to observe and take notes on your teaching in two class sessions of a certain course (which would be chosen in consultation with you); (b) Participate in two interviews (about 3-4 hours total) which, with your permission, will be audio-recorded; and (c) Permit research use of some of your career and teaching documents like a CV, syllabus, pertinent teaching materials, etc.

During the interviews, you will be asked about your teaching, your pedagogical approaches, and related areas. The interviews will be audio-recorded; audio-recordings of these interviews will be transcribed. Classes that I observe will not be recorded. Observation notes will be written up as well for later data analysis purposes.

To further enhance my understanding of your broader career of learning and teaching, in the past and present, you will be asked to share some career documents (e.g., your CV, one or more course syllabi).

Interviews and class observations will take place at your law school. **Alternatively, interviews and teaching observations may be conducted using video-conferencing technology if you prefer this format, if your institution restricts visitors due to public health concerns, or if I (or my institution) determine that in-person activities cannot be conducted safely.**

Your consent: You may choose to participate in all these activities, in some of them, or in none of them. You may, also, inform me (Matt Gewolb) if particular things you say or write should not appear in project data records and/or in final project reports; these will be removed from written documents (e.g., from the transcript of an audio-recorded interview) and will not appear in final project reports. You also may withdraw from the research, or any of its component activities, at any time. Near the end of this document, you will have the opportunity to designate your preferences concerning participation in each of the above-named research activities. Your own decision to participate in all or part of the research will not be shared with others.

Confidentiality practices concerning the data collected through the activities described above are discussed in a later section of this form.

WHAT POSSIBLE RISKS OR DISCOMFORTS CAN I EXPECT FROM TAKING PART IN THIS STUDY?

This is a minimal risk study, which means that harms or discomforts you may experience are not greater than those you would ordinarily encounter in discussions, with colleagues, about teaching, curriculum, or career issues, or in the course of teaching a class. However, there are some risks to consider. For example, it is possible that you will feel some discomfort on being observed or knowing that your words during one of the above described activities will be

examined closely. It also is possible that despite close masking that a research report containing your words will be traceable back to you, for example, by readers who are familiar with the details of your work, mode of speaking, favored stances on teaching issues, etc. However, as a participant in the research, you do not have to respond to any questions or share any information that you do not wish to share. You also can request that something you say in an audio-recorded interview not be included in public reports. You also can specify the degree to which you would like your identity to be masked. Further, you can end your participation in the research without penalty. It may help to know that this research study is not an evaluation; the researcher is not seeking to assess the quality of any individual's teaching, or the institution's teaching. Rather, it is an attempt to better understand how and why some law professors search for and create *linkages between subject matter being taught and law students' existing (that is, prior) knowledge and experience*.

The principal investigator is taking precautions to keep your information confidential and to limit anyone from discerning your identity – for example, by using de-identified codes and pseudonyms instead of your name, and by keeping all information on password protected computers and in locked files. Additional procedures are at the end of this form.

Because some of the data collection for this study may happen in-person, there are health risks. Due to the evolving nature of the COVID-19 pandemic, there are inherent risks with in-person research. The researcher has put the following precautions in place to support participants:

- **RISK**: Person-to-person exposure is the most frequent route of transmission for infectious viruses and occurs via direct inhalation of respiratory droplets during close contact.
    - Infectious diseases are transmitted from person to person by direct or indirect contact. Certain types of viruses, bacteria, parasites, and fungi can all cause infectious disease.
    - If you have flu-like symptoms (e.g., fever, cough, etc.) please reschedule any in-person meetings.
    - If you experience flu-like symptoms (e.g., fever, cough, etc.) during the study activity, please immediately alert the researcher. The researcher will then stop all study activities. The researcher may provide you with information on where to get a COVID-19 test, or other safety and health information.

- **WAYS TO MITIGATE RISK:** Social distance, wear face covering.
    - Simple preventative measures, such as frequent hand washing, wearing a face covering, maintaining social distance, disinfecting the workspace can cut down on disease transmission.

- **(LIMITED) MANDATED REPORTING:** When required by law, information (including individually identifiable information) related to a research subject's COVID-19 tests results may be reported to a public health authority.
    - If you find out you have tested positive for COVID-19 and recently participated in a research study, please contact the researcher at your earliest convenience.

- When communicating with anyone other than the IRB or the researcher about your symptoms or your concerns about a potential viral spread, you DO NOT have to disclose the study title or topic. The researchers will only share your name and contact information, if appropriate for viral contact tracing.
- The researcher will keep you, the research participant, updated on any next steps as they become available.

WHAT POSSIBLE BENEFITS CAN I EXPECT FROM TAKING PART IN THIS STUDY?

There are no direct benefits to you of participation in the research. Any benefits you derive from research participation are limited, indirect, and cannot be assured. If your participation in the study is motivated, in part, by an interest in advancing knowledge about teaching and learning in law schools, it is possible that your being a part of this study will advance this interest.

WILL I BE PAID FOR BEING IN THIS STUDY?

You will not be paid or compensated for participation in the research. There also are no costs to you of research participation.

WHEN IS THE STUDY OVER? CAN I LEAVE THE STUDY BEFORE IT ENDS?

The study will be over when you have completed the follow-up interview and submitted all documents you have agreed to share with researchers. However, you can leave the study at any time even if you have not completed these activities.

PROTECTION OF YOUR CONFIDENTIALITY

The researcher will institute the following procedures to protect your confidentiality:

- Your name will be removed from all transcripts (of interviews, observation notes, and to the extent possible, submitted documents); your name will be replaced by an assigned code that is not traceable to your identity; the code will be used consistently in work internal to the project. For public reporting (e.g., if something you say is quoted), you will be identified by a pseudonym that is not traceable to your real name or to the assigned project code. Individuals may request that certain things that they say to the researcher and that are recorded as data be masked or not appear in any public reports; the researcher will comply with such requests to the best of his ability.
- The name of your law school will be masked (via pseudonym) in all project reports and presentations.
- Lists linking names of research participants with assigned codes and/or pseudonyms will be stored in password-protected files on my (Matt Gewolb's) computer. A hard copy list will be stored in his office in a locked cabinet.
- The identities of colleagues, friends, relatives, and others in your work or life, and whom you mention, by name, in any of the above-described data collection activities will be masked by reference only to generic role (e.g., partner or spouse, relative, friend,

colleague, law school administrator) and/or pseudonym; the names of such persons will be removed.

- Contributed hard-copy documents that cannot be de-identified per the above procedures (e.g., published books or articles, your CV) will be stored in a locked cabinet in my office. All electronic data will be stored on my password-protected computer, and only I will have access to it.
- I will be certified in protection of the human subjects of research, including confidentiality, and trained to comply with project procedures as herein described. Professional transcriptionists, engaged to create transcripts of audio-recorded sessions, will be required to sign a non-disclosure agreement in which they agree to maintain full confidentiality of audio-recordings and project documents; transcriptionists will agree to return all documentation to the PI and to delete, permanently, all recordings from computers; they also will abide by all confidentiality procedures specified by the PI.

For quality assurance, the study's dissertation sponsor or members of the Teachers College Institutional Review Board (IRB) may review the data collected from you as part of this study. Otherwise, all information obtained from your participation in this study will be held strictly confidential and will be disclosed only with your permission or as required by U.S. or State law.

HOW WILL THE RESULTS BE USED?

The results of this study will be published in a dissertation to partially satisfy the requirements of the doctoral program in Higher and Postsecondary Education at Teachers College. The results may also be published in journals and books or in other publications, and/or be presented at academic and other professional conferences and meetings. I will never reveal your identity, or that of others, or the institution, in any public report or presentation; only pseudonyms will be used in such reports and presentations.

On the following pages, you are asked to indicate your consent to participate in each of the research activities described on the preceding pages. You may choose to participate in all of them, none of them, or some of them.

Please turn to the next page to indicate your consent to participate in the above-named research activities and to permit the researcher to collect and use the indicated data.

Instructions: Please respond to the questions below:

CONSENT TO PARTICIPATE IN TWO INTERVIEWS WITH RESEARCHER, AND TO AUDIO-RECORDING OF THESE INTERVIEWS:

Two interviews with a researcher are part of this study; length of each interview is about two hours. With your permission, these will be audio-recorded.

Below, you can choose to do one of the following: agree to participate in interviews with audio-recording; or decline to participate in interviews.

PARTICIPATION IN TWO INTERVIEWS, AND AUDIO-RECORDING OF THEM.
Please write your initials in the blank immediately preceding your preferred response:
_____ I give consent to be interviewed **with** audio-recording.
_____ I **do not** give consent to be interviewed with audio-recording. Thus, I do not agree to participate in the two interviews.

CONSENT TO BE OBSERVED DURING TWO CLASS SESSIONS:

Researcher observation of two class sessions (chosen in consultation with you) are part of this study. With your permission, I will observe these and will take detailed notes during these sessions.

Below, you can choose to do one of the following: agree to participate in the two course observations; or decline to participate in observations.

PARTICIPATION IN TWO CLASS OBSERVATIONS.
Please write your initials in the blank immediately preceding your preferred response:
_____ I give consent to be observed during two class sessions. Classes will not be recorded but the researcher will take detailed notes.
_____ I **do not** give consent to be observed. Thus, I do not agree to participate in the course observation component of the study.

CONSENT FOR RESEARCHERS TO WRITE OBSERVATION NOTES ABOUT MY WORDS AND ACTIONS AND ABOUT THE SETTING:

The researcher will take observation notes during interviews.
Below, you can choose whether to give consent for a researcher to write observation notes of your words and actions, and the setting, during the interviews.

OBSERVATION NOTES DURING INTERVIEWS
Please write your initials in the blank immediately preceding your preferred response:
_____ I give my consent for researchers to write observation notes about my words and actions, and the setting, during two interviews.
_____ I **do not** consent to researchers writing observational notes about my words and actions, and the setting, during two interviews. No observation notes from interviews will be written for the purposes of the study.

CONSENT TO RESEARCH USE OF MY DOCUMENTS:

This study includes, as data, some documents about participants' professional work and career (e.g., CV, course syllabi, pertinent instructional materials, selected publications).

Below you can choose whether to contribute such documents to the study.

USE OF DOCUMENTS ABOUT MY PROFESSIONAL WORK AND CAREER.
Please write your initials in the blank immediately preceding your preferred response:
_____ I give my consent for the researcher to use documents about my professional work and career in the study.
_____ I do not give consent for the researcher to use documents about my professional work and career in the study.

WHO CAN ANSWER MY QUESTIONS ABOUT THIS STUDY?

If you have any questions about taking part in this research study, you should contact the principal investigator, Matt Gewolb at (212) 431-2352 or at mg3164@tc.columbia.edu.

If you have questions or concerns about your rights as a research subject, you should contact the Institutional Review Board (IRB) (the human research ethics committee) at 212-678-4105 or email IRB@tc.edu. Or you can write to the IRB at Teachers College, Columbia University, 525 W. 120th Street, New York, NY 1002. The IRB is the committee that oversees human research protection for Teachers College, Columbia University.

PARTICIPANT'S RIGHTS

- I have read and discussed the informed consent with the researcher. I have had ample opportunity to ask questions about the purposes, procedures, risks and benefits regarding this research study.
- I understand that my participation is voluntary. I may refuse to participate or withdraw participation at any time without penalty to future services that I would otherwise receive.
- The researcher may withdraw me from the research at his or her professional discretion.
- If, during the course of the study, significant new information that has been developed becomes available which may relate to my willingness to continue my participation, the investigator will provide this information to me.
- Any information derived from the research study that personally identifies me will not be voluntarily released or disclosed without my separate consent, except as specifically required by law.
- Identifiers may be removed from the data. De-identifiable data may be used for future research studies, or distributed to another investigator for future research without additional informed consent from the subject or the representative.
- I should receive a copy of the Informed Consent document.

My signature means that I agree to participate in this study

Print name: _____

Date: _____

Signature: _____

Appendix B: Study Participant Invitation

Dear Professor [Last Name],

I am writing to invite you to participate in a research study.

The study, entitled *Law Professors' Use and Conceptualization of Students' Prior Knowledge and Experience in Developing Subject Matter Understanding*, seeks to develop knowledge that will support ongoing efforts to improve teaching in law schools with an eye toward improving and enriching students' learning. Specifically, this study is **an attempt to better understand how law faculty search for and create *linkages between subject matter being taught and law students' existing (that is, prior) knowledge and experience*.** Research in higher education and the learning sciences suggest that improved focus on this facet of teaching can enhance students' opportunities to learn.

I am conducting this dissertation study as part of my program of work as a doctoral candidate in the Program in Higher and Postsecondary Education at Teachers College, Columbia University.

The protocol has been approved by the Teachers College Institutional Review Board, ID#22-152.

I am inviting participants at four law schools. Your institution has provided me with your name because you are a full-time faculty member who is teaching a 1L doctrinal course, and you are known to teach in a way that takes into account the varied knowledge and experiences that students bring with them to the law school classroom.

Your participation in this study would consist of two interviews (totaling about 4 hours) and two class observations, which would involve me visiting your classroom to observe your teaching. In order to better understand your teaching and professional history, I would also ask you for a copy of your CV and a course syllabus.

Your privacy and confidentiality are very important to me. I will treat all of the data gathered through research activities with the utmost confidentiality, and only I will have access to your identity. Your identity, as well as the identities of all other study participants, will be masked, as will your institution's name. Additionally, pseudonyms and other identity-masking techniques will be used in all writings and presentations about the study. I will also be sharing with you other measures that I will take to further safeguard your privacy and confidentiality.

I hope that you will be willing to participate in this study, thereby potentially contributing to an improved understanding of pedagogical efforts that might improve law students' learning.

Thank you very much for taking the time to consider this request. If I do not hear from you by [INSERT DATE 1 WEEK FROM DATE EMAIL SENT], I will send you a follow-up email or may try to reach you by telephone.

In the meantime, please feel free to contact me at any time. You can reach me at 212-431-2352 or mg3164@tc.columbia.edu.

Best regards,

Matt Gewolb
Doctoral Candidate
Program of Higher and Postsecondary Education
Teachers College, Columbia University

Appendix C: Nomination Solicitation Invitation

Dear_____,

I am writing to introduce a research study regarding law school teaching and to ask for your help in identifying potential study participants.

The study, entitled *Law Professors' Use and Conceptualization of Students' Prior Knowledge and Experience in Developing Subject Matter Understanding*, seeks to develop knowledge that will support ongoing efforts to improve teaching in law schools with an eye toward improving and enriching students' learning. Specifically, this study is **an attempt to better understand how law faculty search for and create *linkages between subject matter being taught and law students' existing (that is, prior) knowledge and experience*.** Research in higher education and the learning sciences suggest that improved focus on this facet of teaching can enhance students' opportunities to learn.

The study, which will take place during the Spring 2022 semester, will include faculty members teaching in four American law schools.

This will be my dissertation study as a doctoral student in the Program in Higher and Postsecondary Education at Teachers College, Columbia University.

The protocol has been approved by the Teachers College Institutional Review Board, ID#22-152.

I have received permission to carry out this study at your institution from [insert title of office of institution granting access to study].

I am writing to you to ask for your help in identifying doctrinal faculty who BOTH: 1) teach first year students, and 2) teach in a way that draws on students' prior knowledge. **Students bring all kinds of knowledge to the classroom—some of it academic, some coming from their lives and worlds—that some law professors bring into their teaching of legal ideas. I am looking for faculty who try to unearth and use this sort of student knowledge in their classrooms.**

You may have a sense of who these faculty are through speaking with them informally, reviewing their course evaluations, observing their teaching, or reviewing teaching observations carried out by other faculty members. You may also have gained a sense of their teaching from their participation in faculty development or departmental meetings, or through other types of interactions.

I am requesting the following from you: **Please nominate full-time faculty members who teach first year doctrinal courses and who you believe teach in a way that draws on students' prior knowledge as described above.** Please also share this request with any colleagues who you believe are qualified to identify faculty.

PLEASE NOTE: Confidentiality of study participants is of the utmost importance to me. I will never include your name, participating faculty names, the names of other study participants, or the name of your institution in any study report. I will also not inform you if any of the people you nominate choose to participate in the study. Public reports of the study will use pseudonyms and other masking techniques to shield identities of study participants and institutions.

I would very much appreciate your responding to this email by either nominating faculty, or letting me know who best to contact with my request.

Please contact me at mg3164@tc.columbia.edu.

If you have any questions about the study or how to nominate faculty, I would be happy to meet with you or to speak on the phone. Please reply to this email letting me know a day and time that would be convenient for such a conversation.

Thank you very much for taking the time to consider nominating faculty for participation in this study. If I do not hear from you by [INSERT DATE 1 WEEK FROM DATE EMAIL SENT], I will send you a follow-up email or may try to reach you by telephone.

Thank you again, and I look forward to hearing from you soon.

All the best,
Matt Gewolb

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(212) 431-2352

Appendix D: Classroom Observation Guide and Field Notes

Participant code:

Code name for this class or generic description:

Date:

Class start time:

Class end time:

Class Location:

Class Topic: (topics discussed, subject matter ideas, assigned readings)

Class Synopsis: (summary of class session, activities, topics)

Pedagogical Methods Employed:

Number of Students:

Class Map: (diagram of the classroom space, if in-person)

Narrative Description of Class:

Teaching Practices:

Lecture: what subject matter?

Discussion/Socratic dialogue between faculty and students: what subject matter? Other relevant interactions?

Mention by faculty member of students' cultures, lives outside of class, identities, communities: How so? Connection to subject matter?

Other related observations:

- How are the students participating? (asking or responding to questions, hands-raised, note-taking, working with classmates, etc.)?

- If class is happing online, how does that fact seem to be impacting the class or any of the above? What assignments, exercises, etc. are students doing in class?

- Describe moments where instructor and students interact. How does it come about? Does instructor prompt it? How do students react? What is the substance of these interactions?

- How does the instructor encourage students' participation during class? If through questions or activities, what kind? How does the instructor respond to students' participation?

- Did faculty member surface any prior knowledge as that might bear on the subject matter being discussed?

If yes:

(a) What is that prior knowledge?
(b) What might be the connection between that prior knowledge and the subject matter at hand?
(c) How does the teacher solicit and/or respond to the prior knowledge?
(d) Does the teacher ever appear to use student prior knowledge gleaned in ways that are not visible in class (he/she knows something about students and uses it, but how teacher gleaned this knowledge isn't clear; note for follow-up interview (#2) after class).

For Post-Observational Field Notes:

- Respond to research questions

- Broader provisional insights

- Items for follow-up interview

- Items for further reflection/ List of things to look for in other sites

- Other things I am thinking/wondering about

Appendix E: Institutional Access Letter

Dear_____,

I am writing to introduce a research study regarding law school teaching and to ask for your permission to carry out research activities at your institution.

The study, entitled *Law Professors' Use and Conceptualization of Students' Prior Knowledge and Experience in Developing Subject Matter Understanding*, seeks to develop knowledge that will support ongoing efforts to improve teaching in law schools with an eye toward improving and enriching students' learning. Specifically, this study is **an attempt to better understand how law faculty search for and create *linkages between subject matter being taught and law students' existing (that is, prior) knowledge and experience*.** Research in higher education and the learning sciences suggest that improved focus on this facet of teaching can enhance students' opportunities to learn.

The study, which will take place during the Spring 2022 semester, will include faculty members teaching in four American law schools.

This will be my dissertation study as a doctoral student in the Program in Higher and Postsecondary Education at Teachers College, Columbia University. The protocol has been approved by the Teachers College Institutional Review Board, ID#22-152.

If you agree to allow me to carry out the study, I will seek IRB approval from your own institution as well.

I am requesting your permission to carry out research activities at your institution with approximately four faculty members from your law school. These research activities would include two interviews, two teaching observations (carried out during class sessions), and the collection of documents like a CV and syllabus from each participating faculty member. I would solicit nominations from you (and others at your institution) for potential study participants who are full-time faculty teaching 1L doctrinal classes. Faculty members' participation will be completely voluntary and will be confidential. Indeed, confidentiality of study participants is of the utmost importance to me. I will never include the name of your institution, participating faculty names, or the names of other study participants. To further enhance confidentiality, I will not inform you or others of which faculty members at your institution ultimately choose to participate in the study. Public reports of the study will use pseudonyms and other masking techniques to shield identities of study participants and institutions.

I would very much appreciate your responding to this email indicating whether you might consider providing access to your institution for this study. If I do not hear from you by [INSERT DATE 1 WEEK FROM DATE EMAIL SENT], I will send you a follow-up email or may try to reach you by telephone. You may reach me at any time to discuss the study further or ask any questions. My contact information is at the end of this letter.

Thank you again, and I look forward to speaking with you soon.

All the best,
Matt Gewolb

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Appendix F: Interview Guides (#1 and #2)

FOR INTERVIEW #1 [pp 2-11]

Note to IRB:

The questions in this interview guide are represented here as best possible at this time. I will be further editing the guide below with an eye to making questions as clear as possible to interviewees; I also will continue to edit and update the guide to assure appropriate coverage of study content (per the research questions stated in Item #4 of the IRB application). Further, I have not yet identified, recruited, or met any study participants. As such, interview questions may need to be further shaped, with some added or elaborated and others dropped or revised; questions may also need to be re-sequenced for clarity. I cannot predict or input such changes at this point in my process.

FOR INTERVIEW # 2 [pp. 12-13]

Note to IRB:

The questions in this interview guide are represented here as best possible at this time. Since these questions will guide the final interview, to be administered very late in the project, and since those questions will need to be based on earlier interviews and on observations I have yet to conduct, I can present here only an initial framework of interview questions. These questions may be modified, some may be dropped, and a number will likely be added depending on the data collected through the course of the study.

INTERVIEW #1

CONFIDENTIAL

CODE:

NAME:

DATE:

TIME:

LOCATION:

PHONE NUMBER AND EMAIL ADDRESS (OR OTHER RELEVANT CONTACT INFORMATION):

Opening

Thank you for meeting with me, and allowing me to learn more about your teaching. Through these interviews and other data that I plan to gather, I hope to learn more about your teaching, including your use of students' prior knowledge to help them make connections to subject matter.

This interview is in addition to other data collection I am carrying out, including observing teaching and reviewing documents like syllabi.

You signed a consent form previously but I'd like to briefly review how I will treat interview data: I will never associate your name with anything that you say in an interview, and I will do my utmost to mask your identity so that readers cannot associate your comments with your identity in public research reports.

I'd like to remind you that your participation in this interview, and in the research overall, is completely voluntary. You are free to end the interview at any time, or to not answer any question. Please also let me know if anything comes up that we should treat as "off-the-record" in any public reports of the research.

[Note to IRB: The following segment will be adjusted if interview is to be conducted over Zoom, given interviewee's preference or the site institution's policies.]

On the consent form you filled out previously, you indicated that I COULD audio-record the interview. I just want to double check that: May I audio-record the interview?

_____ YES _____ NO

If YES: I am going to turn on the audio-recorder now.
[Turn on the audio-recorder].

If NO: I will simply take notes to assure accuracy of what you say.

Please note: if you would like me to stop recording at any time, you can tell me and I will turn off the audio-recorder.

Before we begin, do you have any questions about participating in this interview?

Description of the setting:

Notes on interactions/Other observations:

Notes for follow-up:

I. BACKGROUND [*where possible, I will gather information from CV and confirm information during interview*]

I would like to start by getting some background information about you.

1. It is my understanding that your academic title is _____

   _____.

   [Indicate title, e.g. Professor of Law, Professor of Constitutional Law, etc.]
   [Indicate other titles, e.g., Assistant Academic Dean, Director of X Institute]

2. Is this position tenure track? ___Yes ___ No

   And are you tenured? ___Yes ___ No

   If tenure-track/tenured, ask: In what year were you tenured? _____?

   If tenure-track/not tenured, ask: When will you come up for tenure? _____?

   If not tenure-track, ask: Are you then on a contract with _____?

3. How long have you been here at _____ [*institution*]?

   So that means that you started here in _____ [*year*].

   Why did you come here? [How did you choose to come to this institution? Was there something about this institution that appealed to you?]

   What was your very first position here?

   Have you held other positions here?

Let's now jump ahead to the present time.

4. What courses do you regularly teach? (*Confirm that they are teaching at least one 1L doctrinal class—this will have been also ascertained previously*)

Name of the course	**How often teaches it**	**How long taught it (yrs)**	**Enrollment size**	**Class Year (1L, 2L, 3L, LLM or other)**	

What other responsibilities are associated with your position at this time?

Student advisement:

Research or scholarship:

Public service:

Institutional service:

Administration:

Other:

Let's circle back to your own life and education.

5. Where are you from originally? Did you grow up there (here)?

6. Where did you get your bachelor's degree? In what year? In what field?

Degree:	Field: (Major)	Institution:	Year:

7. What degree in the field of law do you hold?

Degree:	Field: (Specialization)	Institution:	Year:

8. And *other than* the law degree, do you hold other advanced degrees?

Degree:	Field: (Specialization)	Institution:	Year:

9. What is your specialized area of interest and expertise within the field of law?

10. How did you choose that particular area? [When was that?]
    [*If needed:* What do you think it is about _____ (area of expertise) that drew you to it – say, as opposed to your being drawn to something different?]

11. Do you teach in that area, or do you work in other areas of specialization now?
    [*If needed:* Can you tell me more about that?]

II. TEACHING & PERSONAL ORIGINS/MOTIVATIONS AS A TEACHER

I would now like to turn specifically to your role as a teacher, and your personal and professional journeys to this point.

12. When professors are asked how they came to be professors – as their career choice – they typically respond with different stories. Can you tell me about what motivated you to pursue a career as **someone who teaches law**?

    Probe: Law school graduates choose to engage with the law in any of a variety of ways – including by becoming a practitioner. I am asking specifically what motivated you to become someone who teaches law, as opposed to pursuing more traditional legal practice or committing to some other professional role.

13. I see that through your life you have studied in a variety of disciplines. At some point you chose to devote your career to the law as opposed to some other discipline or field. What drew you to the law as opposed to some other academic subject matter?

14. What are some of the things you've learned about teaching as you've gained more experience as a law teacher – that is as you've moved through your career as a teacher? How have you learned these things about teaching?

15. Let's take just one thing you just mentioned. You said you've learned … [repeat close to their wording, clarifying any words that could have multiple meanings].
Could you tell me how you learned this? [Or came to this realization, etc.]

    If they have trouble responding – Maybe we can go back in time when this point of learning became clear to you. When was that? Where were you?

    Note: if they come up with multiple learnings, repeat the above for those that seem most salient.

16. Sometimes in figuring out what to do as a teacher, people reflect on their own experiences of learning as a student. Have you ever found yourself thinking about your own learning experiences as a student in law school, or perhaps at other points in your life?

    If yes:
    - *What do you think about in such moments?*
    - *How so? Or, can you tell me more about that?*

17. People sometimes think about teachers they have had who were particularly memorable. When you are preparing to teach, or just thinking about your teaching, do you ever find yourself thinking about teachers that you had, perhaps in law school or as an undergraduate?

If yes:

- *Can you tell me more about [name of person, or reference they used – may not give name]?*

- *So, what was so special to you about her/his teaching?*

- *Do you have a sense of why [name of person, or as otherwise designated] was so memorable?*

I would like to ask you to reflect further on your teaching and career. Let's first talk about what motivates you to improve your teaching.

18. How would you describe the primary factors or forces that motivate [or otherwise inspire or, perhaps, prompt] you to improve your teaching?

    Probe: How do these factors motivate you to improve your teaching?

You just discussed [insert] as motivating or inspiring you to improve your teaching. Do you think these have changed or evolved over time? If so, in what way?

19. [SKIP IF COVERED FROM EARLIER QUESTION] For some law professors, unique aspects of their own personal backgrounds, or life stories, may influence the choices they make about which career area to pursue (for example choosing legal studies) and what to do with it – for example choosing to teach vs. to practice law. Such aspects of background, or of one's life story, sometimes pertain to one's religion, to one's race or ethnicity, to one's gender, or to one's status as an immigrant, or to other aspects of who we are. Would you say that there are aspects of your background – or perhaps your personal life story – that have influenced your decision to commit to a career as law school professor?

20. For the aspects of your identity that you just mentioned, do they motivate you to teach in any particular way?

    You just mentioned (or earlier you mentioned) that [insert] played a [big, substantial, other] role in your decision to commit to [study of the law, become a law professor, whatever is pertinent]. I now want to refocus this same question onto how you go about teaching itself. Would you say that your background – in this case [relevant aspect] – influences how you enact your teaching – how you make it happen in your role as a teacher?

    Probe: Can you tell me more about that?
    Probe: Can you give me an example?

21. For some people, their work reflects their personal values or views, or other features of their inner life and self. Would you say that this applies to you as a teacher of the law?

    Probe: Could you tell me how so?
    Probe: Can you give me an example?

I'd like to ask you a few questions specifically about your teaching.

22. Different teachers use different methods, or they have different approaches to teaching. Could you tell me about your own approaches to teaching – for example, the methods, or ways of teaching, you often rely on?

    Probe: In legal teaching, we often think of methods as including lecturing, Socratic questioning, seminar-style discussion, and others. Would you say that any of these methods align with your approach? How so?

    For any methods identified, further probe on what they mean by that term/method if not clear.

23. Besides the methods I mentioned, are there others that you rely on? Please describe them.

I would now like to talk about your students: who they are and how you typically get to know them.

24. Professors sometimes talk about their students being similar to or different from themselves.

    In what ways, would you say, are your students similar to you, in background or identity, with regard to how they learn, or with regard to how they enact the law school student role?

    In what ways are they different from you?

25. Assume you are talking with someone who knows nothing about your class or the students enrolling in it. How would you describe the students in your class to that person? How did you learn this about them?

26. Sometimes teachers have a hard time predicting how students will react or respond to a legal idea being taught. Are there any ways in which your students have surprised you? Could you tell me about that?

    - Have you ever been surprised by how students have reacted to an idea or concept that you have presented to them? Can you tell me more about that? [probe for the substantive ideas with detail]
    - Have you ever been surprised in how students have responded to an assignment that you have made? Can you tell me more about that?
    - Are there any other ways that your students have surprised you? Can you tell me more about that?

III. Teaching and Student Prior Knowledge

Students bring all kinds of knowledge to the classroom—some of it academic, some coming from their more personal lives and worlds. Some law professors are known to make space for, or somehow make use of such *outside* **knowledge, in their teaching of legal ideas.**

27. Would you say that this is something that you do from time to time? Put another way, does knowledge that your students *bring with them* to your classroom figure in your teaching?

28. Is this something you do, or try to do, **in the course that I'll be sitting in on soon [name it by title]**? If so, can you tell me about your efforts?

29. Not every professor teaches in the way we have been discussing – trying to bring knowledge from students' worlds and lives into [class, their teaching]. You do, however, do that [or: you have, however, been doing that]. What would you say is the value of your so doing?

    Follow-up as needed: What do you think students get out of it?

30. Can you recall when you first began to teach in a way that considered or used what students already know – that is from their lives and worlds in particular? Could you tell me more about that? When do you think you started doing that? Do you recall what might have prompted you to do that?

31. Sometimes the very nature of the subject matter being taught influences a professor's ability to bring issues related to students' lives into their teaching. The approach we've been discussing – [of so doing, of doing something like that] – works with some legal subject matters, but perhaps not with others. Would you say that this applies in your course on [name the course I will visit]? Can you tell me more about that?

I am interested in learning more about the things that supported or promoted your efforts to teach in the way(s) you just described (*if needed: in other words, in ways that consider the wide array of knowledge that some students bring to the classroom—some of it academic, some coming from their lives and worlds*)

32. I'd like you to think back to any training you have received regarding law teaching. This may have been formal, like through a School-sponsored teaching fellows program, or more informal training and mentoring. Do you remember being taught to teach in this way – that is to bring in knowledge from students' prior learning and lives outside school?

33. Do you think that your colleagues at [institution] are aware of your efforts to teach in this way? Do your colleagues teach in this way? If so, is this ever discussed? [probe for when, where, how, among whom]

34. Is it your sense that other law professors at other institutions teach in this way? If so, have you discussed it with them? [probe for details]

35. As you see it, are there other factors that influence your efforts to teach in this way?

IV. CLOSING

We are now at the end of the interview. Is there anything more you'd like to share with me about your teaching here at _____ [name of institution] – or perhaps about your view of yourself as a teacher?

Thank you very much.

Follow-up as needed re:

- CV
- Syllabus for the course to be observed
- ***Discuss appropriate course sessions to be observed***
- ***Discuss follow-up interview following observations***

INTERVIEW #2

REPEAT CONSENT LANGUAGE FOR INTERVIEW #1 ABOVE

1. As you know, I visited your classes the day that you taught [provide dates for both visits and proceed separately for both]. Did the classes go as you expected them to go? How so?

2. Why do you feel that way? [are there any specific moments/exchanges thatmake you feel that the class was_____?]

3. How did you go about preparing to teach this class?

4. If needed: What did you learn/know about your students in advance of this class in relation to the course material?

5. With regard to my visit when you were teaching [insert concept], I noticed that you [used certain materials – name them, carried out certain activities – name them] If needed: How did you decide which materials [handouts, videos, texts, etc.]to bring into these classes? For each, "Why did you choose X material? What were you hoping to achieve by using it?"

6. If needed: How did you decide which readings/materials to assign to students in advance? Why did you select [insert X material]?
   [repeat as needed for each reading/material].

7. If needed: How did you decide which ideas/topics to focus on in these class sessions?
   [go one by one for each idea/topic]

8. Did you talk to anyone about these lessons? How did he/she contribute to your approach? Why did you talk to [insert person they spoke with]?

9. Why did you [discuss what happened in classes]? Where did you get the ideas to teach_____in this manner?

10. What did you hope would happen when you [discuss what happened in class]? Did it? How do you know that?

11. I noted that a student said [describe relevant comment]. What did you think about what_____student said about_____? What do you think that meant? What does that suggest to you? [as needed]

12. When student_____said_____, and you responded by saying_____, what were you hoping to achieve?

13. Does anything about these classes stand out to you as particularly significant with regard to students' understanding of the material? If so, what and why?

14. If you could do these classes entirely over again is there something you'd do differently
    i. What? How so? Why?

15. As we have discussed, students bring all kinds of knowledge to the classroom—some of it academic, some coming from their more personal lives and worlds. Some law professors are known to make space for, or somehow make use of such *outside* knowledge like this, in their teaching of legal ideas. Do you feel like either of these classes reflected this sort of approach? If yes: Can you tell me how so? What factors influenced your decision to use this sort of an approach in this case?

16. Do you any further thoughts about the classes?