

# Debate as a Pedagogical Practice: A Case Study from Finland on Teaching International Law

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## I. Introduction

Although debate is one of the most traditional teaching and learning methods, if not the oldest, going back to the ancient educational cultures in Greece and Rome, it has lost ground in modern university pedagogy. We argue that when practiced with a firm pedagogical base, debate is a form of experiential learning and, as such, well in tune with contemporary educational psychology. We aim to show that debate is an especially suitable approach to teaching law and thus of interest to the international community of legal education. Law studies still follow a rather traditional teaching pattern of lectures and seminars in many countries, and this may be the case particularly for teaching international law even in the U.S. universities where more interactive models are otherwise common.

Debate itself is obviously an essential form of communication for academic culture. It can be argued that the kind of collective inquiry we now know as scientific research was born out of the traditions that the Greeks initiated through their practice of dialectical (*dialektike*) and rhetorical skills (*rhetorike tekhnē*) in debating, thinking and teaching.<sup>1</sup> The Romans inherited those traditions and gave debate a central place in the education of a speaker (*orator*) and a lawyer.<sup>2</sup> Later, dialectic and rhetoric formed two parts of the *trivium* within the medieval educational system of the seven liberal arts (*septem artes liberales*). The debate tradition was thus transmitted to the modern European intellectual

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1. See, e.g., ARISTOTLE, RHETORIKĒ; GEORGE A. KENNEDY, *A NEW HISTORY OF CLASSICAL RHETORIC* (1994).
2. See, e.g., CICERO, *DE ORATORE*; Michael Mendelson, *Everything Must Be Argued: Rhetorical Theory and Pedagogical Practice in Cicero's De Oratore*, 179 J. EDUC. 15 (1997).

cultures when academic curricula and pedagogy began to take shape within early modern universities.<sup>3</sup>

Today we see remains of these original debating traditions in many academic activities, particularly in oral examinations, although they are relatively rare in Finland, and the highly formalized debates in academic disputations, such as the doctoral defense. In addition, there is a vibrant scene in the anglophone world of competitive college debates<sup>4</sup> and speech clubs, and while these interests reached Finland relatively late, students now organize debate clubs as extracurricular activities in Finnish universities as well.<sup>5</sup> Furthermore, some teachers use debate in different teaching strategies, e.g., the Socratic method or staged debates. Debate and argumentation have been frequently recommended for civic education across the curriculum.<sup>6</sup> However, debating has not been popular in Finnish university pedagogy, even though it has had some presence in high school teaching of late.<sup>7</sup>

This qualitative case study investigates the use of debates in university teaching by presenting an international law course developed over three years through cooperation between a subject matter specialist and a pedagogical expert. We analyze the experiences of the class, also using student feedback as a source of insight. We found that the approach generated a number of benefits in motivation, interest and relevance of learning. The approach also supported active and cooperative studying and contributed to better learning outcomes. Based on our case observations and findings, we argue that to generate these enhancements to learning and to avoid pitfalls of debating, debate and argumentation should be fully integrated into the course and embedded as a comprehensive pedagogical and communicative practice, instead of using debates only as a decontextual and instrumental teaching method.

In Finland, as in many other countries worldwide, the prevalent mode of legal education, consisting of lectures and exams, with its shortcomings and alternatives, has been much discussed.<sup>8</sup> One common thread of the proposed

3. See LEENA KURKI & TUUKKA TOMPERI, VÄITTELY OPETUSMENETELMÄNÄ. KRIITTISEN AJATTELUN, ARGUMENTAATION JA RETORIIKAN TAITOT KÄYTÄNNÖSSÄ [DEBATE AS A TEACHING METHOD. THE SKILLS OF CRITICAL THINKING, ARGUMENTATION AND RHETORIC IN PRACTICE] (2011), 28–40; T.O. SLOANE, *ON THE CONTRARY: THE PROTOCOL OF TRADITIONAL RHETORIC* (1997).
4. The two major examples are the World Universities Debating Championships ([www.wudc2020.au.edu](http://www.wudc2020.au.edu)) and the World Schools Debating Championships ([schoolsdebate.com](http://schoolsdebate.com)).
5. See, e.g., HELSINKI DEBATING SOCIETY, <https://www.helsinkidebating.fi/> (2023).
6. See Joe Bellon, *A Research-Based Justification for Debate Across the Curriculum*, 36 ARGUMENTATION AND ADVOC. 161 (2000); Michael J. Hogan et al., *Speech and Debate as Civic Education*, 65 COMM'C'N EDUC. 377 (2016); Michael J. Hogan & Jessica A. Kurt, *Civic Education in Competitive Speech and Debate*, 53 ARGUMENTATION AND ADVOC. 83 (2017); Leslie Wade Zorwick & James M. Wade, *Enhancing Civic Education Through the Use of Assigned Advocacy, Argumentation, and Debate Across the Curriculum*, 65 COMM'C'N EDUC. 434 (2016).
7. KURKI & TOMPERI, *supra* note 3, at III–22.
8. See, e.g., Suvianna Hakalehto-Wainio, *The Challenges in Teaching Law—Tori Law as an Example*, JURIDISKA FÖRENINGENS TIDSKRIFT 269 (2009); Sari Lindblom-Ylänne & Johanna Niemi-Kiesiläinen,

alternatives seems to be the variation of the interaction structures of learning in order to develop the multiple competencies relevant to lawyers. The adopted pedagogical augmentations include moot courts, simulation exercises, law clinics and other similar forms of modeling real-life interaction.<sup>9</sup> The use of debate in legal education is situated within general trends of development in universities. A similar search for new pedagogical approaches in higher education to encourage active learning and to support a broader set of skills and dispositions has established itself in many countries in recent years, both in educating academic professionals<sup>10</sup> and in social and political sciences.<sup>11</sup> Especially relevant for our interests are innovative approaches that include, for instance, using drama and holistic approaches in legal studies,<sup>12</sup> simulations of real-life negotiations or procedures in politics and law,<sup>13</sup> and experiments with debating in diverse disciplines,<sup>14</sup> which are all typically instances of collaborative learning.<sup>15</sup>

*Success in the Examination of Procedural Law*, 26 RETFÆRD 59 (2003).

9. E.g., Sari Lindblom-Ylänne et al., *What Makes a Student Group Successful? Student-student and Student-teacher Interaction in a Problem-based Learning Environment*, 6 LEARNING ENV'TS RSCH. 59 (2003).
10. Jennifer A. Gundlach & Jessica R. Santangelo, *Teaching and Assessing Metacognition in Law School*, 69 J. LEGAL EDUC. 156 (2019); Helen J. Heaviside et al., *Bridging the Gap Between Education and Employment: A Case Study of Problem-Based Learning Implementation in Postgraduate Sport and Exercise Psychology*, 3 HIGHER EDUC. PEDAGOGIES 463 (2018); Laura Mebert et al., *Fostering Student Engagement Through a Real-World, Collaborative Project Across Disciplines and Institutions*, 5 HIGHER EDUC. PEDAGOGIES 30 (2020).
11. Elia Elisa Cia Alves et al., *A Framework for Active Learning in International Relations: The Case of the Challenge Game*, 17 J. POL. SCI. EDUC. 123 (2021); Bidisha Biswas & Virginia Hauffer, *What Can I Do with this Class? Building Employment-Related Skills in International Relations Courses*, 16 J. POL. SCI. EDUC. 67 (2020).
12. C. F. Huws, *Exploring the Fairness of New Legislation and Legal Proceedings Through the Use of Theatricalised Court*, 53 THE L. TCHR. 298 (2019); Sophie M. Sparrow, *Teaching and Assessing Soft Skills*, 67 J. LEGAL EDUC. 553, 563 (2018) (arguing that in order to teach practice-related “soft skills” for legal profession “we can engage students in complex real-world problem-solving simulations, such as using case studies as professors routinely do in medical and business schools.”); Aspasia I. Tsaoussi, *Using Soft Skills Courses to Inspire Law Teachers: A New Methodology for a More Humanistic Legal Education*, 54 THE L. TCHR. 1 (2020).
13. Shanna A. Kirschner, *Simulating Negotiation in Protracted Conflicts*, 16 J. POL. SCI. EDUC. 430 (2020); David B. Oppenheimer, *Using a Simulated Case File to Teach Civil Procedure: The Ninety-Percent Solution*, 65 J. LEGAL EDUC. 817 (2016); Lucy West & Dan Halvorson, *Student Engagement and Deep Learning in the First-Year International Relations Classroom: Simulating a UN Security Council Debate on the Syrian Crisis*, 17 J. POL. SCI. EDUC. 173 (2021).
14. Claire Abernathy & Jennifer Forestal, *The Use of Debates in Political Science Courses*, 17 J. POL. SCI. EDUC. 343 (2021); Ruth L. Healey, *The Power of Debate: Reflections on the Potential of Debates for Engaging Students in Critical Thinking about Controversial Geographical Topics*, 36 J. GEOGRAPHY IN HIGHER EDUC. 239 (2012); Xioshan Li et al., *Debate: A New Approach for Improving the Dialectical Thinking of University Students*, 58 INNOVATIONS IN EDUC. AND TEACHING INT’L 95 (2021).
15. Jodi S. Balsam, *Teaming Up to Learn in the Doctrinal Classroom*, 68 J. LEGAL EDUC. 261 (2019); Angela Mae Kupenda, *Collaborative Learning in the Constitutional Law Classroom: Adapting the Concept of Inevitable Disagreement in Seven Steps*, 68 J. LEGAL EDUC. 284 (2019); Melissa H. Weresh, *Assessment, Collaboration, and Empowerment: Team-Based Learning*, 68 J. LEGAL EDUC. 303 (2019).

In this article, we present the case, the process and the findings for a comprehensive overview of this approach. We begin by outlining the course structure and flow. We then discuss essential aspects of this approach, from debate as argumentation to debate as pedagogical drama and experiential learning. We then draw conclusions from the iterative assessment and feedback built into the course. Assuming that teaching law in a Finnish university bears similarities with many other law schools around the world, we suggest that the ideas developed here are widely applicable elsewhere. Throughout the article, we highlight essential pedagogical features of debating and give suggestions along the way for others who are considering this approach.

## II. The Case: International Law Specialization Course

Based on the wealth of previous research and our prior experiments on a smaller scale, we presupposed that debate could have many strengths, not only for the legal profession in general, which calls for oral argumentation and negotiation in many different settings, but especially for lawyers addressing issues in international law, which are more debatable, fluid, and politically charged than cases relating to national legislation. Our case study, a specialization course in international and global law, was designed to lean heavily on debates as fundamental to the course completion requirements and to student assessment.

From the beginning, it was agreed that the objective should be a thorough implementation of the debating approach. This led to fully collaborative planning and teaching by two teachers, and the course was resourced so that both teachers could participate throughout the process and be present in most of the classes. This more profound adoption of debate also meant that the course was co-designed from the perspective of debating starting from the first class, with the idea of merging the content and the method.<sup>16</sup> It was structured to take full advantage of debate as a *practice* with its many different aspects: as a cultural and philosophical tradition; as education for critical thinking, communication and argumentation; as a form of inquiry and deliberation; as a focal point and motivational source for studying; as a structure for cooperative group learning; and as a basis for course completion and grading.<sup>17</sup>

The course is offered at the bachelor's or post-bachelor's level, carries twelve credits in forty-five hours of classes and accepts up to twenty-four students. Most students were at an advanced stage of their law degree (third year in the Finnish system). The course was offered in a more traditional format in earlier years, consisting mainly of seminar meetings and independent readings; the students would prepare and present seminar papers with designated commentators. In this article, we make some comparisons between the debate course and these

16. See also Andrew L. Oros, *Let's Debate: Active Learning Encourages Student Participation and Critical Thinking*, 3 J. POL. SCI. EDUC. 293, 293-294 (2007) (pointing out that the teaching approach based on "structured debate differs in several important respects from the more casual debate instructors often employ as a discussion tool," as "it is integrated into course design and introduced at the beginning of the course as a core component of student learning").

17. See also KURKI & TOMPERI, *supra* note 3, at 122-9.

previous experiences. The data for this research is derived from our course design and curriculum documents, our personal notes as teachers of the course, our discussions and reflections of the development of the course through the three years (2017–2019), the assessment materials and results, and the student feedback we collected through an anonymous web query after each course.

#### *A. Course Introduction and Orientation of Students*

Because we wanted to immerse students in debate as a practice, we started the course with an orientation to the debating experience and to the history and tradition of academic debate. The first meetings focused on two objectives: (1) the introduction to the substance of the course topic “Issues in International and Global Law” and (2) the orientation to debating both in theory and practice.

Practical orientation to debating included short demonstrations and simulations of debate and argumentation with participatory action-based activities: for example, paired improvisation in free associations, small group spontaneous give-and-take in making and defending suggestions, and group activities in forming chains of argumentation. While the students introduced themselves, the purpose of these warmup debates was twofold: (1) to build up the group spirit, create a secure atmosphere, and increase oral engagement in class (aiming to shape the social dynamics, interpersonal rapport and communication); and (2) to start identifying argumentation structures and the omnipresence of argumentative speech in social interaction while learning to distinguish between quantitative and qualitative argument premises and to contrast subjectivity versus objectivity applicable to different debate topics (aiming to teach argumentation).

The students were then offered a synoptic historical introduction to the origins and trajectories of dialectic, rhetoric, argumentation and inquiry at the heart of Western intellectual culture.<sup>18</sup> The first meetings also included theoretical orientation to the basics of argumentation forms and debating skills. The main part of the course was then organized around debates and preparing for them in small group cooperative learning circles.

#### *B. Debates*

In the first iteration of the course, two main rounds of debates were offered: After the first third of the course we held “practice debates” and then conducted the final debates at the end of the course. For the second iteration of the course we held a round of shorter “case debates” in pairs or teams of three during the second week, and these debates were conducted more as a kind of seminar discussion around a legal case than as a formal debate. In the third iteration we dropped this round of preliminary case debates because the students preferred to start preparing for the practice debates as soon as possible. In any case, during the first two weeks of the eight-week-period, the students debated spontaneously, in pairs and small groups, just to get the feel of oral argumentation and

18. KURKI & TOMPERI, *supra* note 3, at 27–46.

to lower the tension of the debate situation; these debates were short and the issues simple.

After the first two weeks, teachers assigned the themes (albeit with student input) and teams for the practice debates requiring home preparation. The practice and the final debates were conducted in teams of three to four students. The groups were mixed up during the course to expose students to a variety of team partners. The lists of possible topics for both the practice and the final debates were compiled by the teachers beforehand, but the students had a lot of say on what the issues eventually were.

Debate issues were initially presented as questions for inquiry, and once the sides were drawn for each debate, the question was formulated as a claim, thesis or proposition to be defended or rebutted.<sup>19</sup> The formulation of the debate topics is crucial<sup>20</sup> because the pedagogical potential of the debate is largely determined by the issue itself; it should be *central* for the substance, *open-ended* enough to allow for a deepening debate and a realistic disagreement, *fair* for both pro and contra parties, and relatively *unambiguous* to prevent confusion and loss of focus. However, this does not mean that the topic should be entirely predefined, for the disputes on the definition and demarcation of the issue are usually an essential feature of the debate. We also found that molding controversial topics receiving public attention into claims that discouraged easy stereotypes served to increase motivation and quality of preparation. Some examples of topics used in the course were:

- Finland should legally recognize Palestine as a state.
- Autonomous vehicles should be permitted in international traffic.
- The Paris Climate Convention will help to reverse climate change.
- Catalonia is entitled to independence.
- Finland should immediately ratify the ILO Convention No. 169 to protect Indigenous and tribal peoples.
- The decision-maker must not pay attention to any quantitative quota when deciding on individual applications for the refugee status even if the government sets such quota.
- The rules of international humanitarian law apply to cyberwar.
- Diplomatic immunity causes harm.
- Armed drone attacks violate rules of war.

The debate procedure<sup>21</sup> with order and timing is roughly summarized in Table 1.

19. In the British and American debate traditions, debate topics are often formulated as (policy) proposals or (parliamentary) motions. In Finland, debate topics are usually presented simply as claims or theses.
20. See Bellon, *supra* note 6; Jack T. Tessier, *Classroom Debate Format*, 57 COLL. TEACHING 144 (2009).
21. The traditional Anglo-American debate formats are the cross-examination, the value debate, the Lincoln-Douglas, and the parliamentary (policy) debate. The most common nowadays in competitive debating is usually called the “worlds style” and based on the British parliamentary debate. NEILL HARVEY-SMITH, *THE PRACTICAL GUIDE TO DEBATING, WORLDS STYLE/BRITISH*

**Table 1. The Debate Procedure**

- The first round of arguments, prepared in advance (each speaker's turn max. 4 min.): 1. defending (affirmative) speaker, opening statement; 1. opposing (negative) speaker, opening statement; 2. defending speaker; 2. opposing speaker; 3. defending; 3. opposing; (4. defending; 4. opposing).
- A short break (5-10 min.) for reflection and discussion of strategy within teams.
- Free debate (ca. 20 min. in the practice debates, ca. 30-40 min. in the final debates): Team members request the floor and take turns as the chair assigns the turns in the order of requests; very short points of information or rebuttals may be given, departing from the speaking order.
- A short break (ca. 4 min.) for the teams to deliberate on their concluding points.
- Concluding speeches (max. 5 min.) by the defending team first and then the opposing team (teams were free to decide whether all team members take a turn or only one of them speaks).
- Questions from the audience (the rest of the student group) for the teams.
- Debriefing the teams (asking the debaters to comment on the experience and their sentiments, and what they themselves think of the issue immediately post-debate); debriefing with regard to emotional aspects is worthwhile, because the debates are often intensively affective experiences.
- And finally, general discussion with the teachers participating, commenting and answering possible student questions on the issue.

All the final debates in each of the three years turned out to be thoroughgoing, in-depth examinations of the issues at stake. Overall, around one and a half hours were reserved for each practice debate and a full two hours for each final debate, and many took even more time when the debriefing and the final discussion were included. The effort and depth of learning that the students showed in the final debates were remarkable, particularly compared with learning outcomes in earlier years of teaching the course in the traditional seminar format.

### *C. Cooperative Group Work in Studying for the Debates*

The most decisive phase for learning is what goes on before (and after) the debates, although the debate situation itself is significant as a communal event offering motivational focus and building personal and professional confidence. The debate creates the target and incentive for well-organized and effective cooperative learning, and the teachers have to create support and give guidance during the phase of preparation and study.<sup>22</sup> In our course, the teams or groups were formed twice (2017, 2019) or three times (2018) for each of the actual debate rounds. We did not let students stay with their closest colleagues but instead used random selection to ensure that they received experiences of working with varieties of persons and styles.

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PARLIAMENTARY STYLE (2011). However, in Finland, this kind of more straightforward debate format is typically used, also in the competitive debates. KURKI & TOMPERI, *supra* note 3, at 118-22.

22. See Oros, *supra* note 16; Tessier, *supra* note 20.

We gave students some basic guidelines on studying for the topics, preparing for the teamwork in debates, and organizing their study groups effectively, but all the practical procedures and forms of studying and communicating were left to the groups to decide among themselves. In addition, in the early stage, each group had a meeting with a university librarian who guided them in researching international law. Midway through preparing for the final debates, each group had a supervision meeting with the teachers in which they had the opportunity to present any questions. The better group members had studied and prepared themselves for the counseling, the more pertinent and insightful questions they could devise and so benefit more from the meeting. The best-prepared groups steered the supervisory session with their questions on substance and debate strategy, whereas those who had prepared less expected the teachers to steer the meeting, which was done mainly through Socratic-style leading questions. Additionally, all the information and materials were stored in a digital learning environment, and the students could send questions for teachers (and for rest of the group to see) in the discussion forum at any time.

This cooperative work and teacher guidance for studying for the cases and debates is essential for building a concentrated learning environment in such a course. The encouragement, expectations, and scaffolding that the students get from the teachers and their peers are the decisive drivers for higher standards of studying and learning.<sup>23</sup> They ensure that the target is a high level of competence in the debated topics, and the students understand that they will not be able to pass the course through improvisation and eloquence. Learning has to be demonstrated in front of the whole class in the debates, which creates positive peer pressure. Obviously, this has to be balanced by structuring the social dynamic of the group and getting the students to know one another before proceeding to the debating phase, as we did by laying the groundwork in the warmup and team-building exercises in the first sessions. Also, all of the debates (the warmup, the practice, and the final ones) produce immediate feedback mixed with emotional and substance debriefing. So, from beginning to end, this kind of teaching approach requires special attention to the group dynamics and collaborative practices, and their affective aspects.<sup>24</sup>

23. JOHN D. BRANSFORD ET AL., *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL* (2000), 233–239; Ard W. Lazonder & Ruth Harmsen, *Meta-Analysis of Inquiry-Based Learning: Effects of Guidance*, 86 REV. EDUC. RSCH. 681, 681, 706 (noting that research “has consistently shown that inquiry-based learning can be more effective than . . . more expository instructional approaches as long as students are supported adequately”, and finding that “inquiry-based teaching practices should employ guidance to assist learners in accomplishing the task and learn from the activity”, and that teachers should “create guided learning environments that give learners enough freedom to examine a topic or perform a task on their own.”); NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *HOW PEOPLE LEARN II: LEARNERS, CONTEXTS, AND CULTURES* 1–7 (2018).

24. Suzy Jagger, *Affective Learning and the Classroom Debate*, 50 INNOVATIONS EDUC. & TEACHING INT’L 38 (2013).



### III. Debate as a Practice with Dimensions of Argumentation and Drama

#### A. *The Elements and the Levels of Legal Argumentation*

Students' learning argumentation within the context, corpus, and traditions of international law was our central aim. By way of orientation, we introduced some basic principles of argumentation, but beyond the opening weeks, most of the studying and learning was organized around cooperative teamwork in preparing for the debates. Thus, students learned to deepen their understanding of argumentation through the hands-on practice of examining and researching how they could best defend their side of the issue. As students realized early during the orientation phase, this does not entail getting to know only one's own side of the debate in detail. To argue effectively, the debaters must prepare for counterarguments and dig deep to find their opponents' strengths and weaknesses. This is the renowned principle of learning dating back to antiquity, i.e. to argue *in utramque partem*, from and for both sides of an issue—the pedagogical idea greatly emphasized by Cicero and the other Roman authors on oratory.<sup>25</sup> Many students reported as early as the team supervision session that they had mapped their opponents' strongest arguments and devised strategies for responding in ways that would redirect the debate to their own strong points. In the post-debate debriefing, many students shared their views on which counterarguments they had most feared and how they felt they had succeeded in maneuvering around them.

The introduction to argumentation started with some elementary ideas on how to construct a compelling argument. The simplest outline of components of an argument was given as a combination of four elements: claim, warrant, impact, and audience.<sup>26</sup> In an argument, a *claim* is presented, supported by a *warrant*, and argued to have some *impact* that makes the argument significant and worth listening to by a particular *audience*. This thumbnail sketch was made more robust with some slightly more developed and detailed models of the argumentative structure, particularly Stephen Toulmin's analysis of practical reasoning. Toulmin's model has six basic elements, distinguishable in all of the more developed arguments: claim (what is being defended), grounds/data (information, main foundation for the claim), warrants (justification, i.e., evidence and reasoning that links the grounds to the claim), backing (background assumptions explaining and supporting the warrants), qualifications (e.g., modalities like "by definition," "always," "usually," "on average," "probably"), and rebuttals (e.g., reservations and anticipations of counterarguments).<sup>27</sup> Students were not required to apply this or any other specific model in the debates or their written summaries, but

25. CICERO, *supra* note 2, at III.80.

26. See, e.g., OTTO F. BAUER, FUNDAMENTALS OF DEBATE: THEORY AND PRACTICE (1966); AUSTIN J. FREELEY & DAVID L. STEINBERG, ARGUMENTATION AND DEBATE: CRITICAL THINKING FOR REASONED DECISION MAKING (2005).

27. See generally STEPHEN TOULMIN, THE USES OF ARGUMENT (1958); STEPHEN TOULMIN, ALLAN JANIK & RICHARD RIEKE, AN INTRODUCTION TO REASONING (1984); RICHARD D. RIEKE ET AL., ARGUMENTATION AND CRITICAL DECISION MAKING (2005).

these were offered as exemplary frameworks to help them explore the many different elements of argumentation and scrutinize their issues from as many points of view as they could devise.

We also referred to Kenneth Burke, whose theories help explain argumentation as communication and “drama” in symbolic action.<sup>28</sup> One of Burke’s central insights is the importance of looking for what he called “terministic screens,” somewhat similar to what authors in antiquity discussed as “*topoi*” (gr. sing. *topos*), meaning the shared and commonly accepted points of reference that are used in communication to ground our perceptions: to reflect, to direct, and to deflect the attention of the audience.<sup>29</sup> Crucial are the ultimate motives revealed in the most powerful terms that organize our thinking (the “god-terms,” as Burke calls them)—for instance, the most fundamental values for a particular audience or a community. This notion inculcates the idea of “back-chaining” the arguments—working back from the more conspicuous aspects of an argument or an issue to the fundamental or meta-level considerations that are not always immediately visible.<sup>30</sup> As there is no unequivocal constitutional base on which to lean in cases of international law, the task of searching for deeper sources of support spurs the students to more profound studying, learning, and thinking. Declarations, treaties, conventions, and precedents are obviously necessary points of reference but not sufficient as such. The students have to start thinking about the whole tradition of international law, its role in history (including colonialism), the prevailing reality of international relations, the meaning of legal theory and legal discourse, the consequences of different interpretations, the underlying ethical and epistemological questions, and, eventually, the fundamental existential problems of human life in its relations within culture and nature. We also frequently explored multiculturalism and learned to check cultural stereotypes—the debate setting seemed to naturally support this kind of questioning and criticism.

We must add that these pedagogical choices did not signal a particular preference for the rhetorical approach in legal argumentation theory. There is obviously a wide range of options for the more abstract analysis of legal theory and philosophy, but as legal pedagogy, debate is compatible with any theory that regards argumentation as a communicative practice within an interpretive community.<sup>31</sup>

In the debates, the arguments and argumentation levels multiplied rapidly. Our analysis of the debates (and the written assignments) shows that students

28. KENNETH BURKE, *A GRAMMAR OF MOTIVES* (1945); KENNETH BURKE, *LANGUAGE AS SYMBOLIC ACTION* (1966).

29. BURKE, *LANGUAGE AS SYMBOLIC ACTION*, *supra* note 28, at 45–46.

30. KURKI & TOMPERI, *supra* note 3, at 67.

31. *E.g.*, FRANS H. VAN EEMEREN & ROB GROOTENDORST, *A SYSTEMATIC THEORY OF ARGUMENTATION: THE PRAGMA-DIALECTICAL APPROACH* (2004); EVELINE T. FETERIS, *FUNDAMENTALS OF LEGAL ARGUMENTATION* (2017).

deployed at least four levels of argumentation, as described in Table 2. The rarest were the arguments on level (1) and the most common were those on level (3).

**Table 2. Levels of Argumentation**

1. Fundamental argumentation	I.e., meta-level values and axioms
Social and individual goals	E.g., what is the meaning and (ultimate) purpose of law/international law?
<i>Raison d'être</i> of science	E.g., what is the meaning and ultimate goal of (legal) science?
'Deep'/structural issues	Social contract, nature of technology, the relationship of human to nature, dialectical tradition, coloniality, etc.
2. Policy argumentation	I.e., law in society approach, multidisciplinary
Reasonability, proportionality, legitimacy	E.g., what is the social goal, purpose, aim that argument X serves?
Re-/distributional effects	Who are the winners and losers?
Balancing test	Weighing pros and cons
Root causes or symptoms	
Short-, middle-, or long-term actions/impacts	E.g., which time span is the most important here?
"Slippery slope" arguments	"If we give one finger, then we lose the hand"
3. Norm-based argumentation	I.e., legal sources
Treaties	Black-letter law
Customary law	<i>Opinio iuris</i> and behavior of legal subjects
Legal principles	
<i>Ius cogens</i>	Peremptory norms, absolute norms (no derogation permitted)
Case law	Precedents, analogies, jurisprudence
Legal literature	
Legal and nonlegal morality	<i>Ex aequo et bono</i> , fairness

4. Fact-based argumentation	I.e., <i>empiria</i>
Empirical knowledge	
Historical knowledge	
Statistics, probabilities	
Efficiency estimates	
Big Data	

The most intriguing finding, however, was that, on average, the debating students had many more levels of argument and a better grasp of the pro and con arguments than most master's thesis writers in the same subject, although the latter had been taught (in seminar mode) these similar argumentation levels and asked to show them in their theses. Law students proved to be good debaters and were able to find and grasp more interdisciplinary arguments in the debates than they would normally do in traditional courses. For instance, they were more conscious of using statistical, social, and economic arguments in the debate than were students who had been in the same course without the debating approach.

After the debates, the class discussed and analyzed the argumentation. Both teachers gave feedback on argumentation, the conduct of the debate, and legal substance issues and identified the possible use of different argumentation tools, which students could then, of course, use in their written summaries. These tools included, for instance, distributional analysis, deconstruction, de-/recentering, de-/recoupling, denaturalization, de-/reification, de-/remystification, framing/reframing, internal/immanent critique, use of metaphors and narratives, othering, situating, genealogization, and so on.<sup>32</sup> These sorts of tools, ranging from modern analytic modes to rhetorical observations and postmodern deconstructive approaches, were presented as possible ways to understand what happens in the debates. We did not restrict the students' choices; all that was expected was that they showed (with the help of the sessions, the textbooks, and all the sources they found) ways of illuminating the debated issues in a well-reasoned manner.

### *B. The Element of Drama and Simulation in Debate*

As mentioned in passing above, in reference to Burke's rhetoric, *drama* is one of the experiential characteristics highlighted by the debate situation.<sup>33</sup> In contrast to written compositions that are often very formal, detached from the writer's persona and checked many times over before they are handed in, the debate takes place in oral communication right in the moment. It inevitably

32. This unpublished list is a result of pedagogical discussions among legal teachers within the Institute of Global Law and Policy (Harvard Law School), in which one of the teachers of the present course participates.

33. KURKI & TOMPERI, *supra* note 3, at 21-23.

directs attention to the personal presence and characteristic traits (including manners and mannerisms) of the speakers. In comparison with the traditional seminar presentations, interaction in a debate situation is much more fluid and spontaneous and calls for a measure of creative responsiveness. This personally felt dramatic dimension provides both an attraction and an anxiety factor for the students when they contemplate whether to register for the course.

Depending on the unique learner qualities of each student, the drama of the debate can seem attractively exciting, or excessively so. Also, law students in Finland and elsewhere have diminished amounts of oral skills training in their curricula, making them wary of a course in which their evaluation is based mainly on oral debate performance. To alleviate any anxieties about the oral performance, several actions were taken as described above. We emphasized that the grading was based on demonstrating subject knowledge and argumentation skills. Also, we assured the students that debates were to be given as much time as needed to allow everyone to demonstrate substantive knowledge—unlike in more strictly timed debates, such as in competitions.

Nevertheless, it remains a question how the elements of rhetoric and drama relate to learning disciplinary skills, in law, for instance. One answer is provided by Boggs, Mickel, and Holtom, who argue that new pedagogy is turning away from narrowly knowledge-based learning to interactive, experiential approaches because “[i]nteractive drama increases student engagement and explores complex issues....”<sup>34</sup> Having conducted theatrical drama-based learning in their managerial science courses, they conclude that “[t]hese sessions result in highly energized students wanting to participate in lively discussions. Because the vivid scenes are so memorable, the students are able later to connect them effectively to...theory.”<sup>35</sup> Similarly, West and Halvorson report, in their case study of international relations classrooms, that “students’ emotional reactions are an important catalyst for metacognitive reflection.”<sup>36</sup> In our courses, it was likewise evident in many debate topics that “students’ critical reflection on the tensions between political and moral [and in our case, legal] reasoning” was “often spurred by their emotional responses.”<sup>37</sup>

Our students also seemed elated, especially after the longer debates. Discussions were lively; there were many more smiles; there were no dozing faces, even in the audience; and the mutual feedback among teams and the audience was exceptionally encouraging. Arguments in the debates were, on average, much sharper, more concise, focused and multifaceted than in regular PowerPoint-type slides presentations in the seminars. It seems that the drama element of debate provided the kind of experiential input that can stimulate memory, empathy,

34. James G. Boggs et al., *Interactive Drama*, 31 J. MGMT. EDUC. 832, 832 (2007).

35. Boggs, *supra* note 34, at 832.

36. West & Halvorson, *supra* note 13, at 185.

37. West & Halvorson, *supra* note 13, at 185; *see also* Gundlach & Santangelo, *supra* note 10.

deeper critical engagement and understanding, motivation, humor, and positive attitude toward learning, teachers, course requirements, and other students.<sup>38</sup>

#### IV. Assessment and Feedback

##### *A. Course Requirements, Assessment, and Learning Outcomes*

Completing the course required participation in the practice debates and the final debates, active participation in the preparatory joint sessions, cooperative teamwork in pre-debate studying, and two short argumentative papers summarizing one's own debate and one of the other observed debates, both in the practice and in the final debate rounds. The weight distribution of these elements in grading was fifty percent for the final debates, twenty-five percent for practice debates and active participation in classes, and twenty-five percent for written assignments.

Because the final debates carried the bulk of the weight in assessment, we recorded them on video in order to review them if needed, and also to respond to potential student requests for a reassessment. These recordings were made available to students so that they could review their own performance and continue learning from the experience, with safeguards to respect student privacy rights. To increase the reliability and impartiality of assessment, the students' performances in the debates were first graded independently by the teachers, after which we compared notes and evaluations and discussed the final assessments.

In addition, students were asked to submit short written assignments analyzing the strengths and weaknesses of the arguments in the debates. The students were asked to discuss three to five legal doctrinal points. For students who felt less secure in oral expression and whose thought processes extended beyond the debates' end, these also offered a fair chance of amending or adding on to their performances. The papers on the practice debates were expected to be written in "IRAC"-style case analyses summarizing the issue (I), the rules (R), the application (A), and the conclusion (C), presented as the student best understood these to fit a particular debate topic. The final debates were then summarized in a freely chosen form of argumentation analysis that students felt most effectively (at the same time as concisely and as comprehensively as possible) captured the main arguments of the debated issues, using source literature, with specific reference to the relevant doctrines of international law found in

38. See also Huws, *supra* note 12 (finding that theatricalised court enabled students to experientially explore their emotional response and better understand how emotions, moral and legal considerations intertwine); Jagger, *supra* note 24, at 38 (noting how the case study results "support the view that debating the ethics of familiar topics trigger affective characteristics and are beneficial in developing levels of student engagement, critical analysis, flexibility of thinking and motivation to learn"); Oros, *supra* note 16 (finding that structured classroom debates provided a useful tool to encourage balanced participation and engage students in critical thinking).

the textbooks. In this way, we wanted the students to practice argumentation analysis and thinking through the debate form in these written assignments.<sup>39</sup>

Students' learning results and grades accordingly were up to thirty percent to thirty-five percent higher than in the more traditional seminar format for the course. This improvement of the learning results was not only an observation we made as teachers. Students also consistently reported in their anonymous feedback that studying for the debates had been a more effective, motivating, and even—in a good sense—slightly pressurizing way of learning than methods used in other courses. Over the three iterations of the course, there was not one dropout, which is another notable achievement compared with more ordinary teaching methods in this laborious (twelve-credit) course conducted intensively in an eight-week time frame, during the middle of the darkest winter period.

### *B. Student Feedback*

The student feedback was, on average, more positive than in traditional courses. In addition to end-of-the-course anonymous written feedback forms online, we welcomed continuous spontaneous feedback. With increased communicative interaction, feedback also became notably more active than in more monological teaching modes.

The online feedback query included many practical and pedagogical topics to help us develop the course further. Table 3 lists four items and the distribution averages of the responses from student feedback for the three years of the course (2017, 2018, 2019). The responses for these, as for other items, as well as the open-ended questions, were overwhelmingly positive, as can be seen in the averages. These reported experiences by the students themselves correlate to the above-average learning results that we have pointed out previously.

39. See also Oros, *supra* note 16, at 298 (noting the usefulness of requiring a written component in addition to the debate, to evaluate individual performance and to reward quality writing and careful argument analysis); Tessier, *supra* note 20 (finding that requiring students to write a report about debates they witnessed improved the effectiveness of the debate approach and increased student learning).

**Table 3. Anonymous Feedback Query Responses**

Query Item	2017	2018	2019
The course was interesting, in comparison to other courses on the same level (1 = a lot less; 5 = a lot more)	4.5	4.3	4.5
The course was useful, in comparison to other courses on the same level (1 = a lot less; 5 = a lot more)	4.2	4.6	4.3
Preparing for the debates felt meaningful and motivating (1 = strongly disagree; 5 = strongly agree):	4.5	4.3	4.5
I would willingly participate in another course organized in the debate format (1 = strongly disagree; 5 = strongly agree)	4.2	4.3	4.7

Several recurring comments were expressed by the students in the anonymously written open-ended feedback responses: the increased motivation, the constructive and positive feeling of slight pressure of studying and learning to be able to show new competence in front of the group, the feeling of interest and relevance in how the new skills and knowledge were applied, the initial doubts in the beginning of the course that dispersed quickly, and the call for more of these kinds of courses in the curriculum. Quite a few also commented that they found the course entertaining and even had fun, although they worked a lot, too. To illustrate, the below comments from different individual students are representative and were picked almost at random among the responses:

“I was very pleased with the course and I think the debate and presentation skills are essential for a jurist. I would welcome more courses like this in legal studies because we get way too little practice in oral delivery and performance.”  
 “I was really positively surprised how well the debating functioned as a learning method and how good the course was overall. It was also great to notice how enthusiastic and motivated all the other students were too.” “The level of my own motivation in studying for the debates surprised me because I felt a positive kind of pressure to be well prepared to show, in a real situation, what I have learned about a topic.” (2017)

“For the first time during the five years of my legal studies, I got the feeling that finally something real was demanded from me as a student: I had to think for myself and improve my skills of compiling legal knowledge and grasping the wider picture of issues.” “The format was refreshing and it made learning really interesting.” (2018)



“The alliance of law and rhetoric was well suited to this purpose, and it was good to have two teachers in the course.” “I had my doubts in the beginning but they were soon effaced as the course turned out to be as entertaining as it was instructive.” (2019)

A strong impression of intellectual stimulation emerges in many of the responses: The approach seems to succeed in challenging students intellectually while offering enough support for learning.

Of course, every approach fits the capacities and dispositions of some students better than others. We were prepared to meet some protests of discomfort at the emphasis on oral communication, because Finnish discursive culture is known to be reserved, even stereotypically timid. This was reflected in the responses that commented on the initial intimidations or doubts when the course syllabus was introduced to them. However, over the three iterations of the course, only two students reported being left feeling that they were unable to show their competencies fully. The written assignments had been designed to offer the more literarily oriented or introverted students a chance to compensate for their perceived shortcomings in oral debating.

### **V. Conclusion and Discussion: Why Debate?**

Every self-reported case study faces questions of reliability, of teachers not being impartial observers but practitioners within the action, carrying the pedagogical and ethical responsibility at the same time as collecting data and making observations.<sup>40</sup> One traditional response to these questions is to note that the outcomes surprised us too: We had anticipated a much more complicated process (with students objecting, dropping out, and having trouble with the group work or the debating situations).

One paramount and obvious explanation for the results we observed is the cooperation of a professor of law and a pedagogical expert, the extra teaching resources we had available, and the thorough co-planning and co-design of the course.<sup>41</sup> It turned out to be the right choice to trust the potential of debate and

40. When designing the course early on, we decided to study it as a case study in pedagogical development. This helped to guide our data collection and our mutual dialogue in evaluating the process and modifying the implementation of the course throughout the years. Although case-based findings have their limitations, we believe that the three-year span of the experiment and our intersubjective reflection on it brings to light some more general factors and patterns. Our self-understanding of the research process was based on the teachers-as-researchers tradition of reflective practitioner action research. *See, e.g.*, VIVIENNE BAUMFIELD ET AL., *ACTION RESEARCH IN EDUCATION* (2017); GERALD J. PINE, *TEACHER ACTION RESEARCH* (2009).

41. To temper the smooth overall impression, we can point out a retrospective caveat: We felt that the presence of two teachers was crucial. In particular, if the sole pedagogical approach of the course is debate, as in our case, the teachers must play multiple roles to facilitate the process. We suspect that stripping roles and elements would have stripped learning outcomes, too. The teacher participation during the three years varied. In the first year, the law teacher was present at one hundred percent of the classes and the pedagogical expert at seventy-five percent. In the second year, at ninety percent and fifty percent respectively; and in the third year, because of faculty funding restrictions, the presence of the pedagogical

build the course entirely on debating and argumentation. However, as we have pointed out, for the benefits of emotional motivation for cognitive interest and intellectual engagement to materialize, the socio-emotional support element is crucial (for social dynamics, rapport, warmup, debriefing) throughout the course, and teachers must be aware of the potential emotional strain.<sup>42</sup>

Criticisms directed toward the use of debates in teaching are various and well known: for instance, that debates foster harmfully adversarial and competitive attitudes, favoring self-assured and vocal students; that debates reinforce dualisms, and lead to oversimplification, knowledge misrepresentation, and ignorance of the multiplicity of perspectives.<sup>43</sup> These charges, however, are based on a very narrow view on how debate can be used in teaching, and they disregard the pedagogical supports that can and must be built around the debating situations. We aimed to embed the students in an experience of taking part in an important communicative practice and tradition that is omnipresent in our societies, in politics, in law, and in science. We hoped that they would see the deeper purpose of the debate and argumentation format and not think of it as a gimmick used as just an instrumental method of teaching. When understood in this way as a comprehensive *communicative and pedagogical practice*, this approach entails orientation, introduction to the history of the tradition, collaborative studying, support for the group dynamics, continued guidance and scaffolding by the teachers, warming up and debriefing for the debate situations, emphasizing knowledge and argumentation instead of competition, and foregrounding vivid communication and concentrated listening instead of trickery and wordplay. It comprises several phases of preceding preparation and subsequent reflection,

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expert was reduced to thirty percent of the classes. The learning results measured in grades dropped slightly in the third year (though still remaining notably higher in comparison with the previous courses with traditional methods). Correlations and generalizations should not be drawn from the case, but the observation leads us, at least, to think that to produce the experiential course—including the elements of drama—without compromising advanced level legal substance learning and fair, continuous evaluation, the commitment of at least 1.5 teachers might be suggested. However, we argue that the return on investment in achieving more learning outcomes and better grades with 1.5 times the regular teaching resources would be sustainable, since to organize separate courses for skills (e.g., oral presentation and argumentation) and substance (e.g., law) not only requires more resources but also misses the integration of skills and substance in the same experiential learning unit. Also, we must note that the course has not been conducted in this mode since the years reported here, because of the restrictions and switch to digital and distance learning at the university following the COVID pandemic.

42. KURKI & TOMPERI, *supra* note 3, at 122–31; Joseph P. Mazer, *Associations Among Classroom Emotional Processes, Student Interest, and Engagement: A Convergent Validity Test*, 66 COMM'C'N EDUC. 350 (2017).
43. E.g., Jean Goodwin, *Students' Perspectives on Debate Exercises in Content Area Classes*, 52 COMM'C'N EDUC. 157 (2003) (discussing students' possible preconceptions, where debate is associated with negative emotional qualities like aggressive style and where competitiveness can be perceived as unpleasant, and which teachers must therefore be prepared for and know how to respond to); see also generally DEBORAH TANNEN, *THE ARGUMENT CULTURE: MOVING FROM DEBATE TO DIALOGUE* (1998); Nancy Rennau Tumposky, *The Debate Debate*, 78 CLEARING HOUSE 52 (2004) (claiming that debate fosters a confrontational classroom environment and oversimplifies and misrepresents the nature of knowledge by presenting issues as dichotomies).

also in written form. Although the debate situation is the experiential focus of all this, *we argue that it is the entire course process, analyzed in this case study, that makes the approach really work as a pedagogical practice.* Debating itself is a real-life experience distinct from purely academic forms, i.e., lectures, seminars, examinations, and essay-writing. In our view, debate in this sense is also a form of simulation of real situations, often found effective in education<sup>44</sup>—modeled not on any single institution, but more robustly on debating as a general communicative practice within social and discursive interaction.

When used with a thought-out design, it is clear that debating relates to many essential anchors and props of learning that have been long recognized in educational psychology.<sup>45</sup> The factors of interactive pedagogy, challenging tasks, and encouraging students' independent thinking, all clearly features of the case, most probably contributed to engagement, experiences of self-efficacy, and peer relatedness in student-to-student academic support, influencing students' intrinsic motivation positively and promoting better learning results.<sup>46</sup> The debate functions as a purposeful focal point motivating the study to apply skills in practice. Preparing for the debates stimulates the students' metacognitive reflections on what they know and need to learn. All the knowledge content must be understood in the context of a relevant conceptual framework created by the issue, the argumentative objective, the debate situation, and the cooperation within the study groups. Cooperation in the teams helps students discuss and compare their respective understanding and leads to meaningful learning dialogues on the subject. The pro and cons reflections support the development of dispositions for critical thinking and an inquiring mindset. The debate situation requires students to organize knowledge in ways that facilitate retrieval and application. Most importantly, the process itself, throughout the course,

44. See, e.g., Augustine Hammond & Craig Douglas Albert, *Learning by Experiencing: Improving Student Learning Through a Model United Nations Simulation*, 16 J. POL. SCI. EDUC. 441, 451-454 (2020) (demonstrating that "simulations and experiential learning overall, adds significantly to student knowledge" and enhances "student skills, especially higher ordered skills that are essential to employability"); Huws, *supra* note 12 (finding that theatrical simulation of court proceedings enables students to better understand real life legal processes); Kirschner, *supra* note 13 (presenting evidence that role-playing simulation enhances student understanding of protracted conflict situations and negotiations); Oppenheimer, *supra* note 13, at 817 (pointing out that "two big sources of student frustration are (1) their inability to view the course materials in a context that makes them seem real, and (2) our failure to engage them through active learning" and showing how to effectively address the problems by using simulated court cases); West & Halvorson, *supra* note 13 (finding that simulating UN Security Council negotiations is highly effective in engaging students' interest, motivation, conceptual understanding and emotional reactions).
45. For overviews of current knowledge on effective active learning, learning to learn and the development of metacognition, see generally, e.g., BRANSFORD ET AL., *supra* note 23; Dunlosky et al., *supra* note 23; Gundlach & Santangelo, *supra* note 10; NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *supra* note 23; LAURA POMERANCE ET AL., *LEARNING ABOUT LEARNING: WHAT EVERY NEW TEACHER NEEDS TO KNOW* (2016); DANIEL T. WILLINGHAM, *WHY DON'T STUDENTS LIKE SCHOOL?* (2009).
46. Matt Shin & San Bolkan, *Intellectually Stimulating Students' Intrinsic Motivation: The Mediating Influence of Student Engagement, Self-efficacy, and Student Academic Support*, 70 COMM'C'N EDUC. 146 (2021).

demands that the students begin to assume responsibility and ownership of their studying in defining the goals of learning and monitoring their progress metacognitively.<sup>47</sup>

Another essential aspect seems to be the way debate generates the sense of meaningfulness of studying law. It offers some correction for the shortcomings of traditional teaching methods, especially the lack of applicability of learning often felt by the students. The skills developed in debate are highly relevant for lawyers. Although the course used as a case study in this paper emphasizes legal and argumentative substance, the form (rhetorical and negotiation skills) and substance are intrinsically intertwined. In this regard, the current mode of legal education often leaves room for improvement. According to the Finnish annual survey of university graduates who have taken their master's degree five years earlier, there is a clear gap between the practical relevance of communication and interaction skills and how the law students acquire them during their studies (see Table 4).

**Table 4. The Importance and Development of Cooperation, Negotiation and Presentation Skills**

(Information service of the Finnish National Agency of Education, [www.vipunen.fi](http://www.vipunen.fi), last visited June 18, 2021)

Skills	Importance of the Skill in the Respondents' Work as a Lawyer (scale 1-6)	Development of the Skill During the Respondents' Law Studies (scale 1-6)
Cooperation Skills	5.1	3.2
Negotiation Skills	4.7	2.4
Presentation Skills	4.7	3.0

In conclusion, we argue that debate has not lost its value in academic education, despite its ancient origins. The practice of debate instills a nondogmatic, inquiring attitude to knowledge and the ability to understand and apply knowledge rather than only retain it. As a dramatic mode of interaction, it engages the debater's personality, bringing their way of being and acting into the communicative pedagogical experience. As a tradition, the debate elaborates the heart of science as communal inquiry—to reason together and to engage in academic critique—in an experiential, holistic, and purposeful manner.

47. See also Patti Alleva & Jennifer A. Gundlach, *Learning Intentionally and the Metacognitive Task*, 65 J. LEGAL EDUC. 710 (2016) (highlighting the benefits and importance of intentionally learning about learning and developing metacognitive skills in legal education); Gundlach & Santangelo, *supra* note 10 (reviewing the role of metacognition in law studies, demonstrating some evidence of the benefits of metacognition for law students and demanding that metacognitive skills be taught systematically in law schools).