

2.7. PROBLEM SOLVING CASE STUDY (HARVARD LAW SCHOOL METHOD)

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In 2007 *Todd D. Rakoff* and *Martha Minow* wrote the pioneering essay ‘A Case for another Case Method’ calling legal education to move away from the traditional Case Method, developed by Christopher Columbus Langdell in 1871, towards a more innovative approach on case studies.⁴ This essay marked the beginning of the Harvard Law School’s ‘Problem Solving Case Study’ Method. Harvard Professor Joseph William Singer summarised the idea of the ‘problem solving case study method’ as compared to the established ‘case method’ as follows:

“The old Langdellian case method asks students to read judicial opinions; we do that to teach students how to interpret cases, to read the law, to consider alternative rules of law, to make arguments on both sides of contested questions, to understand the judicial role and legal reasoning. Such cases start at the end when the facts are decided, the legal issues identified and narrowed, and a ruling of law announced and defended.

The problem solving case method focuses on the case at the very beginning—before the facts are all known, before the parties’ goals are clarified, before the legal issues have been narrowed, before the dispute has crystallized or run its course. This problem solving case method asks students to consider who the client is and what their goals are or might be, what the facts are and what facts the lawyer needs to find out, what various legal rules affect the client’s ability to achieve the client’s goals, and what options might be available to help the client achieve her goals ethically and within the bounds of the law.”⁵

The aim is to familiarise law students with the practical scope of the theoretical content taught at University in a sense that students are not merely studying the law, but are confronted with real life cases. Other than the traditional case study types the students find themselves at the beginning of a legal dilemma which unfolds itself subsequently and most of the time in the position of a practicing lawyer vis á vis a client rather than in the position of a judge. While, e.g. in Germany the entire law curriculum at university is deliberately designed to equip students with the ‘qualifications for the office of judge’⁶, the fewest students end up pursuing a career as

⁴ *Todd D. Rakoff, Martha Minow, A Case for Another Case Method, Vanderbilt Law Review, 2007, Vol. 60, p. 597, available at: [https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g_sent=1&collection=journals\(7/6/2023\)](https://heinonline.org/HOL/Page?handle=hein.journals/vanlr60&div=27&g_sent=1&collection=journals(7/6/2023)); the latter terminology shall be used here to avoid terminological confusion with the case studies introduced in the other templates.*

⁵ *Joseph William Singer, How Law Professors Can Write a Problem Solving Case, 20 August 2013, available at: <http://blogs.harvard.edu/hlscasestudies/2013/08/20/how-any-law-professor-can-write-a-problem-solving-case/>*

⁶ In German: ‚Befähigung zum Richteramt‘.