

LEGAL EDUCATION *EN ESPAÑOL*: A PEDAGOGICAL MODEL

Jayesh M. Rathod*

ABSTRACT

Law schools in the United States are pursuing various strategies to prepare their graduates to compete in a global marketplace for jobs. One such strategy is the development of courses and programs designed to equip law graduates with the knowledge and skills needed to serve as effective bilingual advocates. As part of this effort, in recent years, teachers and scholars have engaged in curricular experimentation and ongoing theorizing about the optimal methods and approaches for bilingual legal education. This essay builds upon existing theoretical work and outlines a unique, bilingual instructional model that involves adding an optional credit hour – taught in Spanish or another language – to existing doctrinal courses. Drawing from the literature on language pedagogy and classroom experiences over several years, the essay describes the basic architecture for these courses, specific instructional techniques, as well as some challenges and limitations of this model.

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I. INTRODUCTION

In recent years, U.S. law schools have pursued various strategies to respond to the structural changes befalling the legal profession, and to prepare their graduates to compete in a global marketplace for jobs. One such

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strategy is the development of courses and programs designed to equip law graduates with the knowledge and skills needed to serve as effective bilingual advocates in a range of practice settings. These initiatives have taken different forms, including specialized language and grammar courses (e.g., “Spanish for Lawyers”),¹ doctrinal courses taught entirely in a non-English language,² and programs focused more broadly on cross-language and cross-cultural lawyering.³ Scholars have also published texts designed for these courses, presenting pedagogical models for bilingual instruction in U.S. law schools.⁴

Despite the growing intellectual ferment around this topic, bilingual legal education is still in its infancy in the United States. Although an increasing number of law schools are offering courses in non-English languages,⁵ there is no agreed-upon definition of “bilingual legal education,” nor has there been much scholarly dialogue about the specific competencies that underlie effective bilingual lawyering.⁶ Instead, we find ourselves in a period

¹ See, e.g., *Spanish for Lawyers I*, UNIV. OF PITTSBURGH SCH. OF LAW, <http://www.law.pitt.edu/academics/courses/catalog/5475>, archived at <https://perma.cc/6KFR-LV6N> (last visited Apr. 28, 2017) (“This is a Spanish language course in a legal context, designed to acquaint students with the rudiments of the Spanish language and with Spanish legal vocabulary sufficient to permit an American attorney to communicate effectively with Spanish-speaking clients.”). According to research conducted by the author, approximately sixty such courses are currently being offered at U.S. law schools. The vast majority of these courses are taught in Spanish.

² See, e.g., *Principles of French Law*, AM. UNIV. WASHINGTON COLLEGE OF LAW, https://www.wcl.american.edu/registrar/coursesapp/inf_course.cfm?number=LAW-795FL-001&time=spring_2017, archived at <https://perma.cc/63UU-PFVN> (last visited Apr. 28, 2017); *LAW 258 A DISPUTE RESOLUTION IN LA (in Spanish)*, UNIV. OF MIAMI SCH. OF LAW, https://law.apps2.law.miami.edu/clink/course.aspx?cof_id=1958, archived at <https://perma.cc/D7H7-HU67> (last visited July 2, 2017).

³ See, e.g., *Lawyering in Spanish*, UNIV. OF DENVER STURM COLLEGE OF LAW, <http://www.law.du.edu/index.php/lawyering-in-spanish>, archived at <https://perma.cc/4CB2-8C4J> (last visited Apr. 28, 2017) (“Effective legal representation of Spanish-speaking clients . . . requires a sophisticated set of legal, cultural and language skills. . . . [T]his program is training law students to use language skills in various legal and cultural contexts and at different levels of complexity.”); *Inter-American Program*, UNIV. OF THE PACIFIC MCGEORGE SCH. OF LAW, http://www.mcgeorge.edu/Students/Academics/International_Study/Inter-American_Program, archived at <https://perma.cc/BH2Y-VVSQ> (last visited Apr. 28, 2017) (“The Inter-American Program is . . . designed to graduate bilingual and intercultural lawyers who are competent to work with Latino clients in the United States or on Latin American matters.”).

⁴ See, e.g., VICTORIA ORTIZ, *ESPAÑOL PARA ABOGADOS* (2014); KATIA FACH GÓMEZ, *EL DERECHO EN ESPAÑOL: TERMINOLOGÍA Y HABILIDADES JURÍDICAS PARA UN EJERCICIO LEGAL EXITOSO* (2014); S.I. STRONG, KATIA FACH GÓMEZ & LAURA CARBALLO PIÑEIRO, *COMPARATIVE LAW FOR SPANISH-ENGLISH SPEAKING LAWYERS: LEGAL CULTURES, LEGAL TERMS AND LEGAL PRACTICES* (2016).

⁵ More than 50 law schools in the U.S. are offering approximately 100 such courses in total, based on research conducted by the author. List of courses on file with author.

⁶ S.I. Strong, *Review Essay-Bilingual Education in the United States: An Idea Whose Time Has Come*, 64 J. LEGAL ED. 354, 355 (2014). A handful of authors have begun to theorize about bilingual legal education in the U.S., and offer models of instruction. See, e.g., Vivian Curran, *Developing and Teaching Foreign-Language Courses for Law Students*, 43 J. LEGAL EDUC. 598 (1993) (describing a French for Lawyers course at the University of Pittsburgh, including specific pedagogical techniques); Jayesh M. Rathod, *The Transformative Potential of Attorney Bilingualism*, 46 U. MICH. J. L. REFORM 863, 900–19 (2013) (outlining a set of competencies that underlie effective bilingual lawyering); Adelle Blackett, *Globalization and*

of curricular experimentation, accompanied by ongoing theorizing about the optimal structures and methods for these courses. Scholars engaged in this project have begun to draw upon complementary bodies of work, including research on bilingual legal education in non-U.S. jurisdictions,⁷ and the pedagogies employed to educate international LL.M.s about U.S. legal English and the American legal system.⁸

In this essay, I describe my own approach to bilingual instruction, and outline a model that I have used in teaching two law school courses: Immigration & Naturalization (an immigration law survey course) and Immigrants in the Workplace (an upper-level elective focused on immigrant employment rights). The model, which I label a “hybrid course,” involves adding an optional credit hour to existing doctrinal courses. This additional hour is taught in a non-English language (in the case of my courses, in Spanish), and requires students to harness the substantive knowledge they have acquired in English, and apply that knowledge to common lawyering scenarios with Spanish-speaking clients and colleagues.

I offer this description for the benefit of others who are engaged in bilingual teaching, or are curious about ways to integrate non-English-language instruction. While imperfect, this model is one that others can refine and adapt to different teaching settings. Towards that end, in this essay, I first provide a basic overview of the hybrid course, and outline the pedagogical objectives that led to my course design. In Part II, I describe the specific instructional techniques that I have implemented. I conclude this essay, in Part III, with a discussion of some of the challenges and limitations of this model.

II. HYBRID BILINGUAL COURSES: OVERVIEW & PEDAGOGICAL GOALS

As noted above, I have implemented this hybrid instructional model for two doctrinal courses at American University’s Washington College of Law (“WCL”). For the remainder of this essay, I will focus on Immigration & Naturalization, the immigration law survey course, since I have taught it more frequently, and because it is a course that most U.S. law schools offer.

its Ambiguities: Implications for Law School Curricular Reform, 37 COLUM. J. TRANSNAT’L L. 57, 74–78 (1998) (offering different ways to promote foreign language learning among lawyers). Other works have examined related trends and practices in non-U.S. jurisdictions.

⁷ See, e.g., BILINGUAL HIGHER EDUCATION IN THE LEGAL CONTEXT: GROUP RIGHTS, STATE POLICIES AND GLOBALISATION (Xabier Arzoz ed., 2012) (collection of essays examining trends and practices in Europe and Canada); Strong, *supra* note 6, at 358–60 (describing European initiatives to promote bilingual legal education).

⁸ See, e.g., Jill J. Ramsfield, *Is “Logic” Culturally Based? A Contrastive, International Approach to the U.S. Classroom*, 47 J. LEGAL ED. 157 (1997) (unpacking various aspects of U.S. legal culture that are critical to understand for effective communication); Julie M. Spanbauer, *Lost in Translation in the Law School Classroom: Assessing Required Coursework in LL.M. Programs for International Students*, 35 INT’L J. LEGAL INFO. 396, 413–32 (2007) (describing challenges and approaches relating to English language instruction for foreign-trained LL.M. students).

In this section, I describe the structure and logistics for the course, along with my specific pedagogical goals.

A. *Course Structure and Logistics*

WCL typically offers Immigration & Naturalization as a three-credit-hour course, meeting twice a week. In offering this as a hybrid course, I asked the WCL Registrar to create two sections of the course. Section A is the traditional, three-credit course, and Section B includes the same three credits, plus the optional fourth credit hour, taught in Spanish. Students may register for either section. During the first three hours, all of the students meet together for class sessions taught in English. The fourth credit hour convenes just once a week, after the second class session of that week. Students in the Spanish language section remain in the classroom after the “core” class ends, and we resume class after a 10-minute break. During the Spanish language session, the students and I work with the substantive material taught in the “core” course, and address other relevant topics.

In the course syllabus, I state clearly that students must have some degree of proficiency in Spanish in order to register for Section B. I emphasize that having “basic” Spanish is not enough. At the same time, many students (including both native and non-native speakers) are self-conscious about their language ability, or perhaps just a little rusty – and hence unsure whether their Spanish is strong enough to enroll in Section B. In such cases, I assess the student’s ability through a brief conversation in Spanish. I also encourage these students to sit through the first week or two of class, and gauge whether they can follow the conversation. I then allow them to switch between sections, as needed. In my conversations with students, and in the syllabus itself, I emphasize that I will not grade them on their Spanish language ability *per se*. However, I do insist that students are prepared, participate actively in class, and complete all assignments. I develop a separate syllabus for the Spanish language section, detailing the content for each week’s session, including relevant topics, exercises, and deadlines.

WCL has a wonderfully diverse student body, with a significant number of native Spanish speakers, heritage language speakers,⁹ and others who learned Spanish later in life. The students who enroll in the Spanish language section reflect this diversity, enriching the classroom with multiple dialects of Spanish, and varying levels of experience with using Spanish in legal settings. Notably, demand for this section of the course has been sig-

⁹ A “heritage language speaker” is defined as a “student who is raised in a home where a non-English language is spoken, who speaks or at least understands the language, and who is some degree bilingual in that language and in English” Guadalupe Valdés, *Heritage Language Students: Profiles and Possibilities*, in 96 HERITAGE LANGUAGES IN AMERICA: PRESERVING A NATIONAL RESOURCE 38 (Joy Kreeft Peyton et al., eds., 2001).

nificant. When I offered the course in Fall 2015, 24 of the 51 students in the course as a whole enrolled in the Spanish language section.¹⁰

Finally, in teaching this hybrid course, I have come to rely on a teaching assistant – typically, a WCL student who had enrolled in the Spanish language section during a previous semester.¹¹ Although the student is technically a teaching assistant for the course as a whole, his or her primary responsibilities relate to the Spanish language section. These student teaching assistants help develop content for the weekly sessions and offer useful perspectives on the language and lawyering issues covered in the course. Additionally, as described below, I use many interactive exercises in the course, and the teaching assistant helps run these exercises. Along these lines, the teaching assistant helps observe and provide feedback to students when they are engaged in small group work. Overall, their presence has substantially enhanced the course, and has made teaching this course a collaborative, enjoyable endeavor.

B. Pedagogical Goals and Substantive Focus

The content of the Spanish language section – including the topics covered and activities used in class – is designed to cultivate in the students a set of competencies needed for effective bilingual lawyering. In prior work, I have described a set of knowledge and skills that are critical for any bilingual legal practitioner.¹² My courses at WCL have provided an opportunity to operationalize this vision and to engage in some pedagogical experimentation. These competencies, which I describe briefly below, fall into the following six categories: cross-cultural lawyering; interpreter role and function; knowledge of legal systems; language proficiency; verbal communication skills; and use of paralinguistic behavior (“body language”).

As a threshold matter, the course strives to situate bilingual lawyering within the broader conversation regarding cross-cultural lawyering. Various cultural contexts and influences shape the content and style of one’s communications and likewise operate as filters for the communications that we receive from others.¹³ The theory that one’s language (including its lexical and

¹⁰ Enrollment numbers from previous semesters are varied, but reflect consistent student interest. In Spring 2015, 12 of the 46 students in the course enrolled in the Spanish language section; in Spring 2013, 20 of 42 students enrolled in the section.

¹¹ Team teaching is somewhat common in the context of language instruction, and presents a number of advantages, as well as some drawbacks. See generally Kathleen M Bailey et al., *Some reflections on collaborative language teaching*, in *COLLABORATIVE LANGUAGE LEARNING AND TEACHING* 162–78 (David Nunan, ed., 1992).

¹² See Rathod, *supra* note 6, at 899–919.

¹³ See Julia Ann Gold, *ADR through a Cultural Lens: How Cultural Values Shape Our Disputing Processes*, 2005 J. DISP. RESOL. 289, 297–98 (2005) (“Communication styles, and the meaning attached to nonverbal messages and time also vary across cultures, and are rooted in cultural values.”); Roderick A. Macdonald, *Legal Bilingualism*, 42 MCGILL L.J. 119, 123 (1997) (“Each human language, and each dialect within each human language, is a distinctive symbol system Ultimately . . . all listeners and readers are imperfectly recoding speech or text into their own personal language.”).

grammatical structures) shapes one's world-view is known to linguists as the Sapir-Whorf Hypothesis and has been the subject of extensive debate.¹⁴ Although scholarly views on this topic may differ, in practice, cross-cultural lawyers must be able to diagnose gaps in understanding with their interlocutors and develop habits to both prevent and overcome communicative challenges that stem from cultural difference.¹⁵

The course also covers the work of interpreters and translators and describes both similarities and differences between that work and the tasks undertaken by bilingual lawyers. A bilingual lawyer, just like an interpreter, must develop strategies to convey meaning when a precise analog in the target language does not exist. Similarly, bilingual lawyers, like interpreters, must be conscious of the limitations of their own language ability, to avoid potential ethical lapses.¹⁶ The course also includes content on interpretation and translation techniques because in many cases, lawyers are required to do this work – for example, to translate client documents from Spanish to English, or to interpret the communications of others for the client.

Another goal for the course is to equip the students with basic knowledge about legal systems in Latin America and about the differences between those systems and the common law system in the United States.¹⁷ A client's expectations regarding the U.S. legal system may be influenced by knowledge of the legal system in their country of origin. Lawyers who are knowledgeable about both systems will be able to clearly articulate differences and anticipate the client's possible frame of reference.¹⁸ Knowledge of different legal systems is particularly important when the U.S. lawyer's interlocutor is not a client, but perhaps an overseas lawyer who seeks to understand features of the U.S. legal system. Additionally, U.S. lawyers should be attentive to the narratives – sometimes accurate, sometimes false – that circulate within immigrant communities about the U.S. legal system and immigration-related processes.¹⁹

¹⁴ Paul Kay & Willett Kempton, *What is the Sapir-Whorf Hypothesis?*, 86 AM. ANTHROPOLOGIST 65, 65–67 (1984).

¹⁵ See, e.g., Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (2001).

¹⁶ See Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA L. REV. 999, 1019–24 (2007); Rathod, *supra* note 6, at 886–89.

¹⁷ See Julie Bédard, *Transsystemic Teaching of Law at McGill: "Radical Changes, Old and New Hats"*, 27 QUEEN'S L.J. 237, 253–61 (outlining reasons why lawyers, including those whose work is primarily "domestic," should be educated about different legal systems).

¹⁸ See Rathod, *supra* note 6, at 105–07; Angela McCaffrey, *Don't Get Lost in Translation: Teaching Law Students to Work with Language Interpreters*, 6 CLINICAL L. REV. 347, 397 (2000). Along these lines, one issue that we explore in the course is the difference between a notary public in the United States and a *notario público* in a Latin American country. The latter, unlike notaries in the United States, are typically legal professionals who are authorized to practice law. See Monica Schurtman & Monique C. Lillard, *Remedial and Preventive Responses to the Unauthorized Practice of Immigration Law*, 20 TEX. HISP. J. L. & POL'Y 47, 49 n.2 (2014).

¹⁹ See, e.g., Kati Griffith, *Undocumented Workers: Crossing the Borders of Immigration and Workplace Law*, 21 CORNELL J.L. & PUB. POL'Y 611, 633 (2012) (noting the "news and rumors that travel via immigrant networks").

Another core objective for the course is to teach students the specialized language knowledge needed to talk about law-related matters in Spanish. Most of the students, including native speakers, lack the vocabulary to discuss substantive or procedural legal concepts in Spanish, so the course provides that content. Beyond teaching the words themselves, a goal for the course is to highlight the variability of language, emphasizing the multiple Spanish dialects, as well as differences in legal terminology across Latin America. Additionally, in seeking to strengthen the students' language skills, the course focuses on all four domains of language: reading, writing, listening, and speaking. The course places emphasis on professional writing in Spanish, since most of the students have minimal experience in that realm.

Additionally, the course seeks to encourage the use of different verbal communication skills and to raise awareness about the salience of paralinguistic behavior. Although students often come to the class with an idealized vision of fluid Spanish communication, I emphasize in the course that effective communication may require the use of creative communication strategies, including code-switching (switching mid-conversation between Spanish and English),²⁰ the strategic use of English words or phrases (for clarity or emphasis),²¹ and also the use of idioms and slang that are more understandable to the listener. The course also encourages students to read body language as a complement to spoken communication and to think about the type(s) of body language or physical contact that might be appropriate with different clients and contexts.

Finally, this course design embraces a content-based approach to language teaching.²² This approach recognizes that language learners deploy language in specific personal and/or professional contexts and focuses instruction on a subject matter area linked to one of those realms. The hybrid course I teach is intentionally focused on concepts and processes in U.S. immigration law, and hence attracts students seeking to enhance their language proficiency in that specific context. While the course does deal generally with cross-cultural and cross-language lawyering, and many of the skills are transferrable to other types of legal work, it does not prepare students for competent bilingual lawyering in all subject matter areas.

Each of the above-noted pedagogical objectives connects to a broader, external objective: making these law graduates more competitive and marketable for jobs in the immigration law field. Given the large proportion of

²⁰ See Almeida Jacqueline Toribio, *On the Emergence of Bilingual Code-Switching Competence*, 4 BILINGUALISM: LANGUAGE & COGNITION 203, 204 (2001).

²¹ For example, we discuss how lawyers might use the English term "green card" when referring to permanent residence, since the English term is commonly used and clearly understood among Spanish speakers.

²² In content-based instruction, "language proficiency is achieved by shifting the focus of instruction from the learning of language *per se* to the learning of language through the study of subject matter." Stephen B. Stryker and Betty Lou Leaver, *Content-Based Instruction: From Theory to Practice*, in CONTENT-BASED INSTRUCTION IN FOREIGN LANGUAGE EDUCATION: MODELS AND METHODS 5 (Stephen B. Stryker & Betty Lou Leaver eds., 1997).

clients from Latin America, Spanish language ability is already a requirement for many immigration-related positions. Indeed, when students ask me how they can best position themselves for a career in immigration law, my response is a succinct one: work on your Spanish. Students who have taken the course can share with prospective employers the skills they acquired in this course. Likewise, as a reference for students, I am able to describe their Spanish language ability and their comfort deploying the language in different contexts.

III. INSTRUCTIONAL TECHNIQUES

Over the years, I have used various techniques and exercises to achieve the pedagogical goals outlined above. Some of these goals are achievable through the direct conveyance of information (via a brief presentation or readings), followed by class discussion, and perhaps a short exercise to apply to newly acquired knowledge. For example, when teaching students about the difference between civil and common law jurisdictions, I present a short lecture, provide a handout, engage the class in a discussion, and use simple exercises to reinforce the information the students have just learned.

Apart from this approach, which I intersperse throughout the course, I have used several other techniques, which are common in language and experiential courses and which appear in the literature relating to language pedagogy. These include the conveyance and critical review of key vocabulary; in-class role-plays; written exercises; listening exercises; and a client simulation, which serves as a capstone exercise.

A. *Conveyance and Critical Review of Vocabulary*

For many of the students who enroll in the Spanish language section of the immigration law course, a key objective is to “learn the words” they will need to operate as a Spanish-speaking immigration lawyer. And indeed, knowledge of the relevant vocabulary is critical to effective communication.²³ Towards this end, at the beginning of the semester, I distribute to the students a vocabulary list that I have developed over the years. I emphasize that the list of terms is not static and that students should feel free to recommend additions and even modified translations. In the class, we also critically assess the Spanish language translation of certain terms. During these conversations, students with experience in different parts of Latin America may offer country-specific translations. Likewise, in class, we sometimes examine and comment on the official translation rendered by U.S. government agencies, such as the U.S. Department of Homeland Security. Even the most basic of questions – for example, “How do you say ‘court’ in Span-

²³ D.A. WILKINS, LINGUISTICS IN LANGUAGE TEACHING 111–12 (1972).

ish?” – can yield rich discussions about different legal systems, variations in the Spanish language, the growth of “Spanglish,” and more.

One pedagogical approach for teaching vocabulary is to encourage students to derive meaning from context.²⁴ In the class, I ask students to do precisely this, using news articles or video clips. For example, in many class sessions, I ask students to read a short article in Spanish, relating to a substantive topic corresponding to that class session. Often, I work with my teaching assistant to identify an article that contains vocabulary or idioms that the students likely have not seen before. In addition to asking the students to summarize and reflect upon the content of the article, we discuss unfamiliar terms and phrases, pausing to analyze how some students had discerned the meaning from the context. In a similar fashion, I use short video clips, typically of news stories from Spanish language networks, and ask students to keep track of terms they do not know. I ask students questions about the substantive content of the video clips. And to reinforce the newly acquired vocabulary, I apply a common technique in language learning,²⁵ and ask them to write a sentence in Spanish using several of the words. All of these exercises have the added benefit of strengthening the students’ reading and listening comprehension in Spanish.

B. *In-Class Role-Plays*

One of the most versatile teaching tools has been the use of in-class role-plays. Role-plays, unlike more passive forms of learning, engage students psychologically, and present them with scenarios they are likely to encounter in real life.²⁶ Additionally, because role-plays tend to be relatively brief and informal, instructors can easily craft exercises pegged to different substantive and language-related concepts.²⁷ Moreover, the use of role-plays disrupts the traditional teacher-student classroom dynamic and allows students to participate in a relatively enjoyable form of language learning in a safe environment.²⁸ These exercises also permit peers and instructors to provide constructive feedback.²⁹

²⁴ Hossein Nassaji, *L2 Vocabulary Learning from Context: Strategies, Knowledge Sources, and Their Relationship With Success in L2 Lexical Inferencing*, 37 TESOL Quarterly 645, 645 (2003).

²⁵ See, e.g., EDGAR DALE, JOSEPH O’ROURKE & HENRY A. BAMMAN, *TECHNIQUES OF TEACHING VOCABULARY* (1971); Keith S. Folse, *The Effect of Type of Written Exercise on L2 Vocabulary Retention*, 40 TESOL QUARTERLY 273 (2006) (measuring the relative effect on vocabulary retention of different exercises, including writing original sentences).

²⁶ D.R. Cruikshank & Ross Telfer, *Classroom Games and Simulations*, 19 THEORY INTO PRACTICE 75, 77 (1980).

²⁷ GILLIAN PORTER LADOUSSE, *ROLE PLAY* 5–6 (1987).

²⁸ Rebecca L. Oxford, Roberta Z. Lavine & David Crookall, *Language Learning Strategies, the Communicative Approach, and their Classroom Implications*, 22 FOREIGN LANGUAGE ANNALS 29, 36 (1989).

²⁹ Feng Liu & Yun Ding, *Role-play in English Language Teaching*, 5 ASIAN SOC. SCI. 140, 142–43 (2009).

For virtually every class session, I present the students with a hypothetical scenario in which they must assume the role of a lawyer, discussing an immigration law matter with one or more Spanish-speaking interlocutors. Typically, the students will engage in an attorney-client role-play, but on some occasions, I specify a different interlocutor – for example, an attorney or law professor from Latin America. Occasionally, the role-plays ask the students to deliver a short know-your-rights presentation in Spanish, or to otherwise interact with a group of community members. Apart from strengthening the students’ Spanish language abilities, the role-plays are useful for reinforcing the substantive concepts taught in the “core” course.³⁰

For the lawyer-client role-plays, I typically ask the students to work in pairs, with one student playing the attorney and the other playing the client. I present the students with a hypothetical scenario and ask them to begin their conversations. During this time, my teaching assistant and I will walk around the classroom, so that we can listen to the ongoing role-plays among the pairs, answer questions, and provide feedback.³¹ Typically, we then invite one of the pairs to perform the role-play before the entire class. Thereafter, fellow students offer a constructive critique of what they observed. I offer the students a framework for this critique, suggesting that they focus on three areas: (1) correct use of grammar and vocabulary, (2) substantive legal accuracy, and (3) communication style and body language.³²

On some occasions, when we wish to control the narrative or inject particular issues, my teaching assistant or I will play the role of the client. Likewise, I periodically invite a former student to the class to play the client. In these scenarios, we either allow the entire class to question and interact with the client or ask a pair of students to come to the front of the classroom and serve as the lawyers for that interaction.

There are myriad possibilities for structuring these role-plays to address specific substantive topics or lawyering challenges. For example, some of the role-plays require the students to articulate, in Spanish, particular aspects of U.S. immigration law to a specific audience. During one class session, I presented the students with the following scenario:

Explíqueme a las siguientes personas sobre cómo funciona el sistema de inmigración en los Estados Unidos, sobre la organización administrativa de dicho sistema y el rol que desempeñan las diferentes agencias federales en el mismo.

³⁰ Indeed, students who enroll in the Spanish language section have consistently expressed that the exercises in Spanish allowed them to solidify their knowledge of substantive immigration law. On the whole, students in the Spanish language section tend to perform slightly better on the end-of-semester exam than their peers in the “core” course. Although their work in the Spanish language section could certainly enhance their exam performance, other factors may also be at play.

³¹ For a similar approach to supervising role-plays, see Donna Reseigh Long & Janice Lynn Macián, *Preparing Spanish Majors for Volunteer Service: Training and Simulations in an Experiential Course*, 91 *HISPANIA* 167, 170 (2008).

³² See also PORTER LADOUSSE, *supra* note 27, at 16–17 (offering some reflections on how to structure a post-role-play debriefing).

- 1) *Una abogada colombiana que quiere aprender sobre el tema.*
- 2) *Un joven indocumentado que se salió de la escuela cuando estaba en tercer grado.*

Explain how the U.S. immigration system works to the following people, including the administrative structure of the system and the role of different federal agencies.

- 1) A Colombian lawyer who wants to learn about the topic.
- 2) An undocumented youth who dropped out of school when he was in the third grade.

By making the first interlocutor an attorney, the students faced the challenge of expressing themselves in Spanish with relative sophistication. By then adding the second interlocutor, who has much less formal education, I could introduce the concept of language “register”³³ and how one modulates their manner of speaking in different audiences and contexts.³⁴

The role-plays also address substantive legal issues that often arise in cases involving immigrant clients. For example, this role-play addresses whether one can obtain legal status by marrying a U.S. citizen:

Reynaldo es mesero en un restaurante tailandés. Él es ciudadano argentino y entró sin papeles. Reynaldo quiere inmigrar permanentemente y piensa casarse con su novia, Magda. Magda es ciudadana de los EEUU y trabaja en el mismo restaurante. ¿Es posible que Reynaldo obtenga su residencia por medio de Magda sin salir del país? Explique las cláusulas pertinentes de la sección 245 de la Ley de Inmigración y Nacionalidad.

Reynaldo is a waiter at a Thai restaurant. He is an Argentine citizen and entered without documents. Reynaldo wants to immigrate permanently and is considering marriage to his girlfriend, Magda. Magda is a U.S. citizen and works at the same restaurant. Is it possible for Reynaldo to obtain permanent residence through Magda without departing the country? Explain the relevant clauses of section 245 of the Immigration and Nationality Act.

Another role-play involved the process of sponsoring an immigrant worker for a green card:

Xiomara es una ciudadana de los EEUU y le gustaría emplear formalmente a Luisa, una ciudadana de Honduras, como niñera

³³ Language register is another way to describe language style, to be varied “to accommodate the requirements of social situations. . . . For example, we speak differently to a policeman who has stopped us on the highway than we do to our children. Different language registers reflect who the speaker is addressing, where he/she is, what the social event is, what topics are appropriate and the social relationship between the speakers.” Joanne Volden & Autumn Sorenson, *Bossy and nice requests: Varying language register in speakers with autism spectrum disorder (ASD)*, 42 J. COMM. DISORDERS 58, 59 (2009).

³⁴ PORTER LADOUSSE, *supra* note 27, at 9–10 (noting that role plays are especially valuable for familiarizing students with register).

para su hijo Alfredo. Alfredo es un niño sordo y tiene 8 años de edad. Luisa lo ha cuidado y le ha enseñado el lenguaje de signos por los últimos 3 años.

Xiomara y Luisa llegan a su oficina y quieren saber si Xiomara puede patrocinar a Luisa para una visa permanente. Explique los procesos relevantes.

Xiomara is a U.S. citizen and would like to formally employ Luisa, a Honduran citizen, as a nanny for her son, Alfredo. Alfredo is an eight-year-old deaf child. Luisa has cared for him and has taught him sign language for the last three years.

Xiomara and Luisa arrive at your office and want to know if Xiomara can sponsor Luisa for a permanent visa. Explain the relevant processes.

Yet another role-play requires explaining the immigration consequences of criminal convictions and the contours of different criminal-immigration categories:

Jorge es residente permanente. Recibió su residencia en 2007 por medio de su esposa. No ha salido del país. En 2013, Jorge robó un automóvil y pasó 11 meses en la cárcel. La pena por este delito es un máximo de 2 años.

¿Es Jorge deportable? Explique las secciones relevantes de la INA y también el concepto de delitos de vileza moral.

Jorge is a permanent resident. He received his residency in 2007 through his wife. He has not left the country. In 2013, Jorge stole a car and spent 11 months in jail. The maximum sentence for this crime is two years.

Is Jorge deportable? Explain the relevant sections of the INA and also the concept of crimes involving moral turpitude.

The above examples all relate to substantive immigration law. The Spanish language section addressed other challenges that immigrants encounter in navigating legal processes, including the unauthorized practice of law by *notarios* or other immigrant consultants.³⁵ The following role-play addressed that issue:

Oscar es un salvadoreño que está preocupado de su caso migratorio. Oscar obtuvo la ayuda de una consultora legal porque él creía que podría ser más económico que pagar por un abogado. Oscar le entregó \$7,500 para que ella llenara y some-

³⁵ See generally Andrew F. Moore, *Fraud, the Unauthorized Practice of Law and Unmet Needs: A Look at State Laws Regulating Immigration Assistants*, 19 GEO. IMMGR. L.J. 1 (2004).

tierra una solicitud con inmigración. Oscar se ha informado de que su solicitud nunca fue sometida y está confundido sobre lo que sucedió. Ud. se da cuenta de que Oscar ha sido víctima de un fraude. Explíquele a Oscar sobre el fraude notarial.

Oscar is an El Salvadoran national who is worried about his immigration case. Oscar got help from a legal consultant because he thought it would be cheaper than paying for a lawyer. Oscar gave her \$7,500 so that she would prepare and submit an application to the immigration agency. Oscar learned that his application was never submitted and he is confused about what happened. You realize that Oscar was the victim of fraud. Explain the concept of “notary fraud” to Oscar.

Additionally, the role-plays provided the optimal vehicle to tackle ethical issues that commonly arise when working with immigrant clients. Students often struggle when talking about employment authorization, the use of fake documents, and whether one could or should work without authorization. In class, we explored these issues through this role-play:

Juan, un migrante indocumentado, quiere trabajar, pero no tiene permiso de trabajo. Explíquele a Juan las posibles consecuencias legales de trabajar sin autorización.

Juan, an undocumented immigrant, wants to work but does not have work authorization. Explain to Juan the possible legal consequences of working without authorization.

On a few occasions, I asked a former student to join the class, and to play the client in a series of role-plays. The presence of an unknown individual allowed for greater verisimilitude and permitted exploration of different lawyering challenges. For example, I asked the former student (coincidentally, an actress-turned-law student) to play the role of a very affectionate, chatty client, who warmly greeted the students with hugs. In a subsequent role-play, the same individual would play a client who had suffered domestic violence, and was visibly distraught and withdrawn. These role-plays allowed the class to engage on a range of questions: How do you react, in spoken Spanish, to a client who is visibly upset, perhaps even crying? When, if at all, is it appropriate for a lawyer to physically touch a client, in order to comfort him or her? Does the lawyer’s gender matter? How does one react if a client tries to embrace or hug you? How do cultural differences factor into these scenarios?³⁶ Although such questions rarely

³⁶ These role-plays can also be used to address issues of racial difference and how they are discussed in different cultural contexts. As my colleague Macarena Sáez appropriately noted, the unique histories of race relations in Latin America and in the U.S. are reflected in language usage. Consequently, what is considered offensive in a particular sociolinguistic context may be considered acceptable in another.

have definitive answers, the exercises consistently prompt robust discussion among the students.

As noted above, some of the role-plays situated the students (acting as lawyers) vis-à-vis a larger group of individuals (played by their classmates). For example, this role-play relates to the advantages and disadvantages of working in the U.S. as temporary guest workers:

Están de viaje en Guatemala y hablan con un grupo de trabajadores en la capital. Ellos tienen interés en viajar a los EEUU para trabajar en jardinería (cortar grama) para una compañía que se llama Brickman. Algunos amigos de ellos han tenido problemas con las visas H-2B y quieren saber lo bueno y lo malo de esa categoría de visas.

You are traveling in Guatemala and speak with a group of workers in the capital. They are interested in traveling to the U.S. to work in landscaping (mowing lawns) for a company called Brickman. Some friends of theirs have had problems with H-2B visas and they want to know the good and the bad about this category of visas.

In another role-play, I asked students to articulate the complex concept of plenary power to a group of immigrants, in an effort to explain the actions of immigration officers:

Están hablando con un grupo de trabajadores que entraron con visas temporales. Algunos comentaron que los oficiales de inmigración en el aeropuerto no les trataron con respeto, y les hicieron muchas preguntas personales e inclusive no permitieron entrar a un colega que tenía visa de entrada válida. Explíqueles el concepto del poder pleno de inmigración, y cómo se relaciona con su experiencia en el aeropuerto.

You are speaking with a group of workers who entered with temporary visas. Some commented that the immigration officers at the airport did not treat them with respect, and asked them many personal questions, and even prohibited the entry of a colleague who had a valid visa for entry. Explain the concept of the plenary immigration power, and how it relates to their experience at the airport.

In these role-plays, I encourage the “audience” (the rest of the class) to engage in tough, sometimes rapid-fire questioning. For those students playing the lawyers, these exercises literally require them to get on their feet, manage multiple questions, and adopt a communication style suitable for a larger group of individuals.

C. *Written Exercises*

Over the course of the semester, students in the Spanish language section must complete several written assignments. These written exercises help students strengthen their writing ability in Spanish, which is typically much weaker than their spoken language ability. This is consistent with research on language pedagogy, which has found that even advanced students of a second language express themselves in writing with much less complexity and sophistication than a native speaker.³⁷ In this regard, however, it is notable that the written exercises in my course prove challenging for both native and non-native speakers. Indeed, I have observed that heritage language students who learned Spanish at home, and who never formally studied the language, are prone to making spelling errors. The written exercises allow me to identify these errors, and to work with the students on correcting them. For all of the students, the written exercises allow for review and application of grammar rules, along with considerations of syntax, tone, and structure.

For the first written exercise of the semester, I ask students to translate a client's birth certificate from Spanish to English. For this purpose, I have used a redacted El Salvadoran birth certificate from a case that I previously worked on. This birth certificate contains an abundance of Spanish legalese, including terms that one cannot find easily in most Spanish-English dictionaries. Moreover, the birth certificate is essentially one very long sentence in Spanish. This translation is typically a challenging exercise for the students, given the opaque, confusing language in the document. After the students submit their translations, we devote significant class time to discussing different approaches to translation, including the importance of ensuring clarity and comprehension in the target language. I also share translations prepared by a few different students, and the class engages in a discussion and critique of the distinct approaches. As part of our discussions, we discuss U.S. Citizenship and Immigration Services ("USCIS") guidance regarding the translation of documents, along with common practices among U.S. immigration attorneys.

In addition to this exercise, I ask students to write a formal letter, in Spanish, to a client. The idea for this exercise emerged from my own experiences in practice: while I was quite comfortable with my spoken language skills, I struggled with formal writing in Spanish. To give the students practice in this regard, I instruct them to draft a letter to a fictional client, and provide background regarding the case and the client's prior interactions with the lawyer. In brief, the case involves a green card holder who wishes to submit a petition that would allow his wife (who is living overseas) to immigrate to the U.S. on a permanent visa. The purpose of the letter is to explain to the client the next steps in the process, and the information that

³⁷ Eli Hinkel, *Current Perspectives on Teaching the Four Skills*, 40 *TESOL Q.* 109, 123 (2006).

the lawyer needs to proceed. The letter also includes a common lawyering challenge: how to deal with a client who does not return phone calls. Therefore, in drafting the letter, the students must assess the level of detail that is appropriate, and the tone to use for a somewhat disengaged client.

As with the translation, we allocate class time to discuss the letters and reflect upon how the students approached the task. During this conversation, I circulate to the students two or three examples of letters prepared by their peers; we converse about the strengths and weaknesses of these letters. I also describe how formal business letters are typically structured in Spanish-speaking countries in Latin America, including common salutations and closings, sentence structure, tone, and formatting. In addition to this class discussion, my teaching assistant and I provide individual feedback on each of the students' letters.

Apart from the translation and the client letter, I have incorporated different written exercises over the years. When I first started teaching the course, I asked students to prepare a client retainer agreement in Spanish, specifying the core components that should be integrated but leaving the structure and exact wording to the student. Upon further reflection, I chose to discontinue this exercise, since in practice, most young lawyers will rely upon retainer agreements used within their organizations or firms, or will look to colleagues for models. Indeed, in completing that exercise, many students found Spanish language retainer agreements online, and used those as a template for the retainer they drafted for the course.

More recently, I have asked students to write a short client declaration in Spanish. For this purpose, I have had a teaching assistant or former student play the role of the client, who the class interviews collectively regarding a particular legal issue. I then ask the students to prepare a short (one-page) declaration, in Spanish, presenting, in a persuasive manner, the facts elicited during the interview. This exercise, and the class discussion that follows, allows for consideration of the appropriate format for an affidavit, and how best to present facts in an understandable way while being true to the client's "voice." We also discuss some fundamentals of client interviewing, including how to build rapport while eliciting the facts needed for the declaration. In these conversations, I emphasize that the relevant legal elements should serve as a guide, both for the interview and for the drafting of the declaration.

D. Listening Exercises

Among scholars of language pedagogy, there is growing consensus about the importance of listening comprehension to the overall process of mastering a second language.³⁸ Research from the field of linguistics suggests that listening comprehension is an important predicate to achieving

³⁸ See, e.g., Patricia A. Dunkel, *Developing Listening Fluency in L2: Theoretical Principles and Pedagogical Considerations*, 70 *THE MOD. LANGUAGE J.* 99, 99 (1986); Larry Van-

proficiency in the spoken language.³⁹ Other research has identified a link between listening and reading ability, suggesting that these two domains of language ability are mutually reinforcing.⁴⁰ Although listening activities are sometimes neglected in language-related courses, they provide an important opportunity to strengthen a commonly used skill.⁴¹ For immigration lawyers in the U.S., whose work often requires absorbing the fine details of a spoken narrative, listening ability in Spanish is critically important.

For these reasons, over the course of the semester I utilize several listening exercises, designed to enhance the students' listening comprehension and to assess how others articulate legal concepts in Spanish. In advance of the class sessions, I identify video clips (easily found on YouTube) of lawyers explaining, in Spanish, concepts in U.S. immigration law. Similarly, I have used portions of news segments from Spanish language television networks, featuring lawyers who are explaining or answering questions about developments in immigration law.⁴² After I present these clips, I engage the students in a conversation about the accuracy of the explanations, and how one might present the information differently, given the topic and the audience. The clips also provide students with a flavor for the information (both accurate and inaccurate) that clients receive via Spanish-language media. Additionally, as noted above, clips of this nature allow students to learn new words and phrases in Spanish.

I have also used a dictogloss exercise,⁴³ at the suggestion of a Spanish language teacher at American University. A dictogloss is an exercise where the instructor reads a passage (in whatever language the students are learning), and asks the students to note key words and phrases. Typically, the instructor will read the passage twice – the first time can be at a slightly reduced speed, and the second time, at regular speed. The students then work in groups to try to reconstruct the text, and the class as a whole discusses and analyzes the reconstructed texts. A dictogloss is obviously useful for listening comprehension, but also helps refine grammar and reinforce

dergrift, *Facilitating second language listening comprehension: acquiring successful strategies*, 53 *ELT J.* 168, 168 (1999).

³⁹ Dunkel, *supra* note 38 at 100.

⁴⁰ Gary Buck, *Listening comprehension: Construct validity and trait characteristics*, 42 *LANGUAGE LEARNING* 313 (1992).

⁴¹ Sumi Chang, *Approaching L2 Listening Comprehension for Advanced Learners: Using Reading as a Pre-Listening Task*, 17 *THE KOREAN LANGUAGE IN AM.* 166, 170–71 (2012).

⁴² In these clips, the speakers typically use a “neutral” Latin American Spanish accent. Occasionally, the clips include interviews of individuals who speak with a more distinct accent. Upon reflection, I could use these listening exercises more strategically, to further expose students to different varieties of Latin American Spanish. To some degree, this already occurs in the classroom, with the students themselves speaking with distinct accents from throughout the region. Additionally, in the literature on language pedagogy, some scholars have cautioned against the use of “authentic” language because cultural references and colloquialisms can impede comprehension. Hinkel, *supra* note 37 at 118. Given that the students in my course have relatively advanced levels of Spanish, I have intentionally exposed them to such regionalisms and cultural references.

⁴³ See, e.g., Zorana Vasiljevic, *Dictogloss as an Interactive Method of Teaching Listening Comprehension to L2 Learners*, 3 *ENG. LANG. TEACHING* 41 (2010).

vocabulary through the process of reconstructing the text. I have used different passages about U.S. immigration law, of moderate sophistication, for the dictogloss exercise.⁴⁴

E. Client Simulation

As a capstone experience for the Spanish language section, I ask all of the students to participate in an in-depth client simulation. The simulation has many of the same pedagogical benefits as the in-class role-plays, but requires more advance preparation, a longer period of time in role, and more comprehensive assessment of the student's performance.⁴⁵ For this simulation, the students meet one-on-one with a Spanish-speaking actor, who plays the role of a Latino immigrant client. In advance of the meeting, the students receive a short memo describing some basic facts of the case, and the objectives of the client. The interviews, which are capped artificially at around 30-40 minutes each, are digitally recorded. During the interviews, the students explore both the issues presented in the memo and other potentially relevant topics. Following the interview, the students watch their recording and provide written reflections on the strengths and weaknesses of their performance, challenges they encountered, and things they would do differently in retrospect. I then meet with each student, and provide feedback on how the students expressed themselves in Spanish, and on the clarity and legal accuracy of their explanations.

The simulation has proven to be an invaluable exercise. Although such exercises are common in law school clinics, many of the students had never seen themselves on tape, let alone speaking in Spanish to a client. This is critical because students tend to underestimate their ability to speak in Spanish, and the recording is often a confidence boost. Watching the recording also allows viewers to diagnose recurring Spanish language errors, and to observe how the student presents herself as a professional. In the reflection meeting, I provide my own feedback, and share comments from the actor about the student's performance, including their professional demeanor and the clarity of their explanations. The student and I brainstorm strategies for how to overcome some of the communicative challenges that we observed or the actor noted. We also discuss some approaches and techniques that the students can apply to future interviews.

Interviewing simulations provide instructors the opportunity to test the students' knowledge on substantive legal issues, and to examine how they would handle different lawyering scenarios. In developing the hypothetical facts for the simulation, I purposefully integrated complex issues relating to unlawful presence and inadmissibility. I also integrated an ethical quandary,

⁴⁴ The dictogloss exercises were particularly challenging for some of the non-native speakers in the class. The specific passage chosen will depend, of course, on the overall language ability of the students.

⁴⁵ PORTER LADOUSSE, *supra* note 27, at 5 (noting similarities between simulations and role plays, but adding that "simulations are complex, lengthy, and relatively inflexible events").

by requiring the student to respond to and counsel a client who was considering using a human smuggler to surreptitiously depart and re-enter the country. In the simulation, students also grappled with how to ask and talk about the client's criminal record, and faced strong emotions from the client regarding his ill grandmother. In short, the students were required to navigate tricky legal issues and various lawyering curveballs – and all in Spanish.

IV. CHALLENGES & RECOMMENDATIONS

Teaching this hybrid course has been enormously rewarding for me, and feedback from students has been quite positive. Nevertheless, the current course structure presents several challenges – some that can be remedied easily, and others that are more difficult to address. I would encourage potential adopters of this course model to think through these challenges, and how they might manifest at their own institutions.

A fundamental challenge is identifying an instructor with the language ability and substantive knowledge needed to teach the course. Although I consider myself to have professional fluency in Spanish, I am not a native speaker, and there are occasionally questions of language, grammar, or usage that I am unable to answer. I am transparent about this limitation from the beginning of the semester. Although I believe that I provide the students with a meaningful educational experience, they might be better served by an instructor with an even stronger command of the language. Of course, some instructors who are monolingual English speakers may nevertheless find this model intriguing. In such a case, it could be possible to collaborate with another instructor, who could teach the foreign language section. This approach would require the second instructor to be familiar with the specific content covered during that week's class sessions.

A more significant challenge, perhaps, is the instructor's prior experience as a language teacher. These courses are challenging because they include both substantive legal issues and language issues, and it is difficult to find instructors who are fully formed in both realms. In my case, I have no formal training as a language teacher, but I have educated myself on the pedagogy of language instruction, through readings and frequent consultations with language teachers. Without a doubt, the students would be better served by an instructor with a stronger grasp of language pedagogy. As noted, it is difficult to identify such persons, but it is certainly possible for law teachers to formally collaborate or co-teach with a language teacher. I am exploring this possibility for future sessions of my immigration law course.

Another difficulty is managing the variations in language ability among the students. Although I require all students to have some degree of proficiency in Spanish, there is nevertheless a range of ability. I have occasionally spotted quizzical expressions from students who are not following the conversation, or cannot understand the content of an article or video clip.

This occasionally requires repeated explanations, and as a whole, the students in the Spanish language section have been extremely patient, collaborative, and collegial with one another. Nevertheless, I have wondered whether I should use a more precise – or even more rigorous – front-end screening mechanism for students who wish to take the course. For example, I could conduct a more in-depth interview to assess oral language skills, or administer a short written exercise that requires the students to draft or edit a document in Spanish.

Likewise, the course would likely benefit from more precise assessment methods. During the semester, I monitor the students' progress, and use our simulation debrief as a type of "exit interview" to discuss their overall performance in the section and improvement over the course of the semester. Given the variations in the students' language abilities, however, it is difficult to develop fine-tuned assessment methods for the written exercises and role-plays. For these tasks, I am able to grade students on their level of preparation, demonstrated effort, ability to apply specific concepts, and their application of lessons learned earlier in the semester. These are defensible assessment metrics. Yet, there are likely ways to assess the students' performance in a more granular way.

A final challenge is managing the students' expectations for the course. Many enroll in the course expecting to learn the exact words, phrases, and even scripts they might use in the context of lawyering with Spanish-speaking clients. A core message of the course, however, is that communication is inherently variable and context-specific, and stock phrases or scripts can sometimes impede effective communication. Over the course of the semester, students often ask about the "right way" to say or write something, and express some frustration when they are told that there are preferred or more common approaches – but there rarely is a singular "right answer."

Overall, this course has been a positive addition to the curriculum at WCL, and has generated significant interest and engagement among our students. On a personal level, the course has presented me with opportunities for learning and growth as an instructor. As law schools examine different approaches to non-English language instruction, this content-based "hybrid course" model is one that is worthy of further study and consideration.