Dangerous! Our Focus Should Be Analysis Not Formulas Like IRAC

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expressed in just one sentence: “The Issue is…The Rule is…The Application is…Therefore, my Conclusion is…” If the student thinks that one sentence is always enough, he or she hasn’t paid attention in class, or has a teacher who didn’t adequately explain IRAC when teaching it. Because I know we’re all perfect, I’ll lay the blame at the feet of the snoozing student. My own epiphany with IRAC came when I realized the flexibility of each of the elements. Like the words of a constitutional amendment, Issue, Rule, Application, and Conclusion have acquired quite a judicial gloss in my jurisdiction, with the word “Rule” being the shiniest. When I teach IRAC, I identify it as “the basic building block of legal analysis.” I don’t tell my students that they will always use that same structure, I don’t sit on a mountain top when I teach it, but I do believe that I’m teaching them something that’s very helpful. To illustrate IRAC, I use our good friend Socrates, and construct the classic syllogism with a modern twist:

**I:** Is Socrates mortal?
**R:** All human beings are mortal.
**A:** Socrates is a man.
**C:** Therefore, Socrates is mortal.

Then I ask them what’s wrong with the syllogism. Some helpful soul always volunteers that the writer hasn’t explained that men are human beings. True, I say, you all know that men are human beings, but your reader might not be able to make the same connection when you’re talking about more abstract concepts.

Application of law to facts means showing the reader where the rule intersects with the facts of the client’s case, and that intersection must be shown explicitly. Don’t make the reader figure it out. So, let’s rewrite Socrates:

**I:** Is Socrates mortal?
**R:** All human beings are mortal.
**EX:** Human beings include men and women.
**A:** Socrates is a man.
**C:** Therefore, Socrates is mortal.

I don’t apologize for using IRAC in my teaching. The best legal writing is straightforward and easy to understand; I have a similar goal as a teacher. When my students are working on a case with complex facts or issues, I remind them that part of their job is to make the case easy for the reader to understand. Similarly, as a teacher, I want to present the process of legal analysis in a way that all or most of my students can grab onto. IRAC may not be the key to all legal analysis, but as a simple mnemonic that’s helpful to most legal writers — and most legal readers — it’s great.

**Dangerous! Our Focus Should Be Analysis, Not Formulas Like IRAC**

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Our profession needs to face squarely that we are first and foremost teachers of legal analysis. We know that only when students understand analysis will they then be able to organize and write about it competently. Formulas like IRAC and its progeny do not help in this endeavor because their simplistic nature masks the series of complex, interrelated steps that students need to learn to analyze and write about legal problems in a sophisticated manner. These formulas will thus never be truly adequate, and we should resist fashioning and refashioning their contours in continual attempts to adapt them to what we teach. Instead, we should turn our attention to designing curricula that take on much more directly the job of demystifying this inherently challenging process of legal analysis and its communication.

When we teach students how to discuss each large piece of the analysis in the discussion end are rules that can be understood only after you’ve quoted a statute and discussed a few authority cases in which the statute was applied. When I teach legal analysis, I note that legal writers have to figure out what kind of rule they’ve got. If the rule is abstract and/or its application is controversial in the current case, it will need more explicit illustration and explanation. If the rule is concrete and/or its application is not controversial in the current case, it will need minimal illustration and explanation (if any). We teach our students the criteria to use when making writing decisions; IRAC simply helps them get started (“Let’s see, what’s my issue? Have I articulated my rule?” etc.).

Students who do use this type of formula too often follow its format without thinking enough about the process of legal analysis. They try to fit their ideas into the “pigeon holes” or labels of the formula’s structure, without fully understanding why they are doing what they do or how they should come up with the necessary analysis. They fragment their ideas by failing to see, or communicate, the interrelationship of the parts; as well, they do not develop ideas in sufficient depth.

Complex legal problems simply don’t break down easily into a statement of a “rule” and a statement of “legal reasoning” or “policy.” For instance, in one of my problems, the courts explicitly use the following standard: “where, when and how the direct victim’s injuries enter the consciousness of the bystander.” This is a “rule” or standard, but the reiteration of this explicit standard is completely insufficient to explain just why each case in the jurisdiction found that the facts before the court satisfied the standard or not. The courts also articulate the general policy that this standard should help to “limit the scope of a defendant’s liability.” This is a statement of the courts’ general policy, but it, also, is insufficient, without a great deal of further explanation, to explain why each case came out the way it did.

In this problem, students must go beyond the explicit standard and reasoning and figure out the implicit reasoning of the courts in this group of cases—the implicit reasoning that explains why certain situations before the courts have satisfied the standard and why others have not. If students don’t do this level of case synthesis, then they simply are not able to
predict adequately what the future court would do on the facts of their case.

If students tried to use an IRAC-type formula in the final written discussion of this analysis, they would have to struggle to adapt the parts of the formula to the sophistication of the ideas being conveyed. They wouldn’t be helped by being told they must simply state a “rule”; and they wouldn’t be helped much more by being required to include “policy” or some such label for the courts’ reasoning. On the contrary, to analyze this problem well, students must understand and grapple with the actual analytical process to figure out just how to weave together in logical fashion the explicit and implicit reasoning of this line of decisions. Then they must use the structure of this analysis to decide the best organization (or organizations) to convey the ideas to a reader in several paragraphs of general legal principles and case illustrations. At best, students would have to waste a great deal of time trying to fit this analysis into an IRAC-type formula; at worst, students would fail to see the complex relationships and depth of analysis required to analyze this problem in a sophisticated manner.

The bottom line is that our profession should not use formulaic concepts like “IRAC” that do not adequately teach the very real complexity of legal analysis and its communication. We do our students no favor if we simplify what cannot be simplified. Legal analysis and its communication is difficult; but it is attainable by all students if we break down the process into manageable, logical parts that accurately represent the sophistication of how lawyers reason.

IRAC—A Desirable Tool If Used With Care

ON IRAC
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I have found that IRAC is a valuable tool to use when teaching legal analysis to first year law students, but I believe that it should be presented to students in context. I present IRAC to students in the context of a problem with which they are already familiar so that they can see how their arguments can be presented logically in writing. Further, I tell them that it is only a structure and that they can and may sometimes have to modify it, but they should only do so consciously and intentionally.

Before presenting IRAC, I assign a hypothetical, which students are told is governed by a short statute and a short excerpt from a case. Students are given the statute and case excerpt and are assigned to act as counsel for one of the parties. After a couple of days of analyzing the hypothetical on their own, students report to small workshops in groups of about twelve students. Students are given some time to meet with the other students in their workshops who also represent their client to gather their best arguments. A spokesperson from each group then presents the group’s arguments to the class and attempts to rebut any counter-arguments. After each side has had a chance to argue and rebut, other students are allowed to join in the debate.

Subsequently, I collect some of the best arguments and draft a discussion of the problem. This draft is distributed to students to review, then I introduce IRAC. First, I tell the students about several acronyms: IRAC - Issue, Rule, Application, Conclusion; IEC - Introduce, Explain, Conclude (from the Nutshell on Legal Writing); IRAAC - same as IRAC, but add Analogous cases; and TRAC - Thesis, Rule, Application, Conclusion. I tell them that these acronyms represent a basic structure that can be used to logically present the necessary parts of their legal analysis.

With the help of an overhead projector, we then examine the draft they have been given. I explain what the Issue is and why it is necessary, then we mark the main issue in the draft as well as any smaller issues found within the analysis. Immediately, they are able to see that an issue can be a single statement, it can be combined with a rule, or it can be combined with a conclusion, depending on whether a particular point is in dispute. I identify the Rules within the draft, both general and specific, the main Application as well as the application of the more specific rules, and the Conclusions found within the draft. We talk about the “big IRAC” as well as the smaller “IRACs” found within the application of the “big” rule.

The example draft I use illustrates that some issues that are not in dispute can be discussed in one short paragraph. The paragraph may consist of one sentence that simultaneously provides the issue and the conclusion and a second sentence that provides the rule and the application. I also point out that counter-arguments and rebuttals are part of their application of the law, and I show them in the draft where and how these fit in. Thus, they are told to think and outline in terms of IRAC, but to use common sense when revising their work to ensure that their writing flows and is not overly repetitious.

Finally, when students come to see me with questions about their own drafts, I have them show me where the parts of IRAC are found in their analysis. If a part is not found or is found out of place, the student must explain to me why he has organized his memo in this way. When the student is able to articulate a logical explanation, then he has thought through the parts of IRAC and usually has a well organized memo; however, when a student cannot do so, this is often a sign that the student is missing key parts of his analysis. I then encourage the student to create an outline with IRAC as the basic format, which usually helps the student to refine and tighten up his analysis.

In conclusion, I have found that IRAC is a valuable tool in teaching legal analysis. I am aware of some of the criticisms of IRAC, but I think that its negative aspects can be overcome or minimized by the professor when he or she presents the information to the students.

WHY IRAC SHOULD BE IGPAC
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While IRAC is generally a good organizational tool, I find that the R or rule part of this formulation is often unclear to students. Despite what they are taught in class, many want to see “rule” as a general premise only, forgetting that it must also include fact specific examples of how that general premise has been applied in the past. This failure leaves them without any precedent to which they can analogize the facts of their own case.

Students must be reminded that the R part of IRAC consists of two pieces: a general rule usually derived from a statute or caselaw, and cases that explain that rule and illustrate how it has been applied to specific facts in the past. This second part consists of relevant precedent. The R of IRAC then becomes G (general rule) and P (precedent). IRAC thus becomes IGPAC.

By actually dividing the R into two pieces for teaching purposes, students more clearly grasp the necessary components of a rule section as it appears in a memo’s discussion or the argument section of a brief. If students outline using this format they will be more likely to...