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Every first year law student is told that law school tests are different from any other test, and that the way to pass them is to use "I.R.A.C.": Issue, Rule, Analysis and Conclusion. The problem is that the student is not taught how to define an issue or how to analyze. Consequently, the method is not very effective when used. Most students are excellent at conclusions, but conclusions without supporting arguments are not even worth the grades they are given. Therefore, this article is going to try, very simply, to explain I.R.A.C., one more time.

There are various types of questions, and various ways of answering them accordingly. A policy question goes beyond the black letter law and specific factual analysis ordinarily required by a typical law school question. In a policy question, economic, social, financial, statistical, demographic, ethical, and other considerations form the basis of the response. A well-structured essay is the proper format for responding to a policy question. Conversely, an objective question requires an intimate familiarity with the most minute details of the law, and the ability to mark an "x" in a box. Most law students have mastered both the essay and the "x" by the time of matriculation to law school. Accordingly, this article will focus on the classic law school question: an obtuse fact pattern calling for a resolution of the respective rights and liabilities of the parties involved.

There are three basic types of law school questions: the single issue, the chain, and the swamp. All three are resolved by using I.R.A.C., but nonetheless, it is still I.R.A.C. Accordingly, the first step is to explore the various components of I.R.A.C.
Formulation of the Issue

The first component, the identification of the issue, is the most troublesome component. This component becomes more difficult and complex as the fact pattern becomes more complex. Many questions will contain several issues which will make determination of a single issue difficult. However, to resolve the problem posed by the facts, one single issue must be ascertained, that issue being: "who wins?" In order to resolve that question, many sub-issues often must first be resolved. Nonetheless, the essence of the question is the determination of whether one party can get something or not. In framing the issue, it is often helpful to state it in two parts. First, can someone (the plaintiff) get something (damages) where, second, somebody else (the defendant) did something (some act or non-act which affected the plaintiff). Notice, these are all fact-bound statements. No recitation of legal principles is required. The issue is not whether a plaintiff can recover for battery, but whether one can recover the hospital expenses incurred from a particular beating. Knowledge of the law is helpful, of course, in selecting the appropriate facts. Nevertheless, legal rules and phrases should not intrude in the statement of the "main" issue.

Statement of the Rule

Once the issue is stated and it has been ascertained exactly what is being sought, the second component is readily determined. For every type of behavior, there is a rule which states whether or not the behavior is allowed. Accordingly, the second step is to carefully state the rule, element by element, which governs the something that somebody did or failed to do in the statement of the issue. Care must be taken to state the rule fully and correctly, otherwise the rest of the answer will be defective.

The Analysis of the Facts

If the rule is stated properly in elemental form, the next part, analysis, is simple. Analysis is simply the identification of all relevant facts which satisfy each element of the stated rule. If there is no fact that satisfies even one element of a legal rule, then the legal rule is not met, and no recovery may be had under it.

The Missing or Ambiguous Fact

Sometimes there are facts to put under the element, but it is unclear whether these facts satisfy the element. The correct ap-
proach is to state simply that these facts may or may not satisfy the element. That is a question of fact, not law. If the facts are adequate, then there will be recovery. If the facts are inadequate, then there will not be recovery. The student should not make a judgment stating that the facts are or are not adequate in the case under consideration. The facts have been purposefully stated ambiguously, or have been consciously omitted. It is not the job of the student to make a factual determination. That is for the judge and jury. The student’s task is to state *what would happen* if these facts existed (if they were not stated), or if these facts meant one thing (if they were ambiguous), or if these facts were sufficient (if they were weak), and *what would happen* if not. After the alternatives have been explained, the student may (and should) express a preference and the reasons for that preference. The answer must, however, continue analyzing the problem down both forks: one fork assuming the facts are adequate, and the other fork assuming the facts are inadequate. If only the stronger fork is followed, half the question—and the entire point of the exam—will be missed.

*Mapping a Conclusion*

Once each element of the legal rule has been reviewed with respect to all relevant facts, then the conclusion is drawn. Usually, the conclusion is not an all-definitive answer, though at times it may be. The best questions, however, have fact situations which are ambiguous, incomplete, or explore new or unknown areas. In these cases, the conclusion is stated subject to conditions. The plaintiff will recover if this fact is found, or if this fact means this, or if this fact satisfies this element. Otherwise, another conclusion is indicated. The answer can (and usually should) express a preference. But the key is to identify all ambiguities, and the effect of those ambiguities on the conclusion. Right answers do not count for anything in law school mainly because there are no right answers. The questions are purposely designed to not have an answer. The method, the analysis and the alternatives are important, not the conclusions. Now that the I.R.A.C. method has been explained, it shall be applied to the three basic types of questions.

*The Single Issue Questions*

The single issue question has, of course, one main issue. There may be a defense to the *prima facie* case of the main issue as well. But fundamentally, there is one basic, straightforward course of
action. The facts may be novel, ambiguous or incomplete, but there is one fundamental legal rule involved. The following example illustrates this type of question.

Example 1

Facts: Paul fought David in a prize fight in San Diego. David accidentally hit Paul below the belt and caused him internal injuries. David was disqualified. Paul won the $5,000 prize money but incurred $3,000 in hospital bills.

Question: What can Paul recover?

Issue: The issue is whether Paul can recover his damages because David hit him below the belt in a prize fight.

Rule: This is a case of Battery. Battery is the intentional, offensive or harmful, unpermitted or unconsented touching of another person.

Analysis: The facts state that “David hit Paul.” This hit qualifies as the touching of another person.

The hit was the blow of a boxer in a fight and was therefore intentional. Although David may not have intended to hit Paul below the belt, David did intend to strike Paul. This is all the intent needed. It does not matter that the voluntary physical action was not executed exactly as desired, only that it is not an involuntary act such as an epilepsy attack or an unconscious act such as by a sleepwalker.

The touching was harmful. The facts state that the hit caused internal injuries. The fact that the prize money exceeded the hospital bills does not mean that there were no damages. Paul was damaged to the extent of $3,000 medical bills (special damages), plus pain and suffering (general damages).

The hit, however, was not unconsented. Paul consented to David’s blows by participating in a prize fight. Of course, David’s blow was illegal. One could argue that Paul did not consent to illegal blows. In that event, the prima facie case of battery would be complete. Nevertheless, the defense of assumption of the risk would be available to David. Athletes are deemed to have assumed the common risks of their sports (from errant baseballs and broken bats to irregularities in the field, icy patches of snow, even shallow swimming pools and flying hockey pucks). A foul is a common risk in any sport.

Conclusion: Paul was not battered because he consented to the fight, or Paul was battered but assumed the risk, and in either event cannot recover his damages.

The statement of the issue is simple in a single issue question.
The statement of the rule should also be very direct. The interesting part is the analysis, the application of the rule to the facts. In this case of battery, a slight turn is involved in intent. The legal definition of intent must be discussed. "Harmful touching" is not in issue, but should be mentioned for completeness. The key element in this hypothetical is consent. The argument that there was no consent to illegal blows should be raised, but is such a weak argument that it may not prevail. The defense of assumption of risk provides an alternative bar to recovery, even if the weak "no consent to illegal blows" argument is seriously considered. The conclusion, therefore, maps out the entire combination of possible resolutions of the problem. In this case, recovery is defeated in each instance.

*The Chain*

The next type of question is the chain. In the chain, several legal principles must be linked together in order to resolve the problem. Accordingly, there should be one main issue consisting of "links" of more than one sub-issue. The following example demonstrates this technique.

*Example 2*

**Facts:** Debbie robbed a bank of $40,000. Donna drove the getaway car. Sam, the security guard, shot at the fleeing car and killed Vance, an innocent bystander.

**Question:** Is Donna guilty of murder?

**Main Issue:** The issue is whether the driver of a getaway car used in a bank robbery can be convicted of murder where an innocent victim is killed by a security guard pursuing the robbers.

**Sub-issue 1:** The first issue is whether a bank robber is guilty of murder where an innocent bystander is killed by a pursuing security guard.

**Rule:** Murder is the killing of a human being by another with malice aforethought.

**Analysis:** The facts state that Vance, an innocent bystander, was killed. Therefore, a human being was killed. Vance did not kill himself. He was killed by another person, specifically, Sam, the security guard. The key term requiring explanation is "by." The facts state that Sam, the security guard, shot Vance. Debbie, the bank robber did not shoot Vance. However, under the felony murder rule, if one is committing a dangerous felony (which robbery is), and someone is killed in the perpetration of the felonious act, the felon may be found guilty of the murder. The traditional view
is that the act of a third person attempting to prevent a felony could foreseeably result in an innocent person’s death. Accordingly, the felon is deemed responsible for the killing even where a third person has killed one of the felons. The “by” element is therefore satisfied in the hypothetical presented.

The intermediate (Redline) view of felony murder imposes liability only if an innocent person (not one of the felons) is killed. Vance was an innocent person (not one of the bank robbers). The modern view requires that one of the felons actually be the killer. Accordingly, the felony murder rule satisfies the causation requirement under two of the three views.

The intent to commit a felony is one of the five methods of satisfying the “malice aforethought” requirement for murder. Specific intent to kill is not required. Moreover, under the felony murder rule, where the felony is a dangerous felony (rape, robbery, arson or burglary), the murder is first degree murder.

Sub-issue 2: The second issue is whether the driver of the getaway vehicle can be convicted of the murder.

Rule: The rule is that one who aids a perpetrator of a crime (an accomplice) incurs liability for the crime itself.

Analysis: A getaway driver is an aider of a crime. Donna was the getaway driver; therefore, Donna is liable for the robbery as well. However, where the perpetrator of a crime is held responsible for the death of another through the operation of the felony murder rule, accomplices are guilty of murder in the second degree.

Conclusion: Donna, the driver, under the traditional and intermediate views held by a majority of states, would be guilty of murder in the second degree for the death of Vance. Debbie, the robber, would not be guilty of murder under the modern view (a minority view).

This problem was resolved in two steps: First, was there a murder? Second, is Donna liable? The prima facie case of murder cannot be satisfied without resort to the special case under the felony murder rule. The first link being completed satisfactorily, the second link is examined. Donna, under the standard accomplice rule, is liable for the established murder. Although Debbie is guilty of murder in the first degree through the “bootstrap” of the felony murder rule, Donna’s liability is limited to second degree murder. Furthermore, a division of authority exists. In some jurisdictions a murder would not have been found. As a result, the conclusion does not simply answer the question in the positive. Rather, it maps the resolution of the problem under the various views and
jurisdictions, and also discusses the impact of special rules which may affect the resolution.

The Swamp

Finally, there is the swamp. The swamp is a question which has no bottom. There is an initial issue to be resolved. It may even be painfully obvious. But then there are several defenses and exceptions to analyze. Upon closer inspection, many foundational issues must also be resolved. In fact, there does not appear to be an end to the number of foundational issues involved. The following example from a contracts exam illustrates this type of problem.

Example 3

Facts: Brad needed to borrow $1,000 from Larry for two weeks. Larry would not lend Brad the money without a surety. Brad was not sure that his father would guaranty the loan, so he called up Greg. Brad told Greg that he might need a guarantor for a $1,000 loan from Larry. Greg then told Brad that he would guaranty the loan for $50. Brad told Greg that he would call him. Brad called Larry and told him that Greg would guaranty the loan for $50. Larry said that Greg would be an adequate surety. Larry lent Brad the $1,000. Larry thought that Brad had paid Greg to be surety for the loan. Brad thought that Larry would pay Greg to be surety for the loan. No one called Greg. Brad repaid Larry the $1,000 plus interest and fees on time. Greg called Larry and asked about the loan. Larry said, "Yeah, Brad paid it off today. Thanks for being the surety." Greg sent Brad a bill for $50.

Question: Does anyone owe Greg anything?

Issue: The issue is whether someone (Greg) can collect a fee for being thought to have been a surety where he had offered to be a surety but had no response.

Rule: The first rule is that under the Statute of Frauds, a suretyship must be in writing.

Analysis: Greg made an oral offer to guaranty Brad’s loan. Brad replied orally that he would call Greg. There was no writing. Therefore, the Statute of Frauds prevents the finding of a contract.

Rule: Notwithstanding the above, performance takes an oral contract out of the Statute of Frauds.

Analysis: Larry lent Brad the $1,000 and Brad repaid the loan on time. The performance of the surety in this instance was merely to exist. The existence of the surety enabled the loan to go through. Greg, by being known as the surety, served the function of a guarantor required in this instance. Although that argument may have
intuitive appeal, performance ought to be more properly construed as performing the act of guarantor, such as posting bond, pledging property, or actually repaying the loan. If this had occurred on an oral contract, the guarantor would be allowed to recover for performing. Here, Greg did not perform any act. He did, however, unknowingly perform a role. A court would probably find that insufficient.

Rule: A contract requires an offer and an acceptance of the offer communicated to the offeror.

Analysis: Greg offered to guaranty the loan for $50. Brad did not accept Greg's offer; rather, Brad only told Larry about Greg's offer. Brad did not tell Larry that he, Brad, had accepted Greg's offer. Larry told Brad that Greg was an acceptable surety. Larry did not accept Greg's offer communicated by Brad. There has been no acceptance. Thus, there is no contract.

Rule: Quantum Meruit. The equitable doctrine of quantum meruit allows someone to recover the value of the services rendered to another. A similar equitable doctrine, unjust enrichment, compels the return of or compensation for value of services where the other party has benefited from them.

Analysis: On the one hand, Greg was not needed as a surety. Brad was able to repay the loan on time. On the other hand, Brad would not have gotten the loan in the first place if Larry had not thought that Greg was the surety. Greg, unknowingly, performed a role to Brad's benefit. However, if Greg had been asked to repay the loan at any time, he would not have been obligated. It may be unjust to compensate Greg for such an illusionary obligation. Although equity requires a party to come to court with "clean hands," Greg has not actually done anything wrong. Rather, he has done nothing at all. The court could find the performance of the role deserving of compensation. The court, however, would probably agree with the argument that nothing was actively performed, and that Brad had no real benefit, because Brad fully repaid the loan on his own.

Conclusion: A court could find the unknowing performance of a role deserving of an equitable remedy. The measure of damage ought to be the $50 fee, less the probability of default, multiplied by the amount of the loan. This amount should be deducted since Greg was never "at risk" in that he was never obligated. The balance would be the profit which he might argue would be the value of his personal services in acting as guarantor, as opposed to actually being at risk. But, the measure of the value in an equitable remedy would be the value of the benefit to Brad. Brad, more cor-
rectly, ought to pay Greg the difference in interest between a guaranteed and a non-guaranteed loan. If the court finds, however, that there was no performance by Greg, and only a mistake by Larry (which more closely resembles the facts), then Brad should not have to pay Greg anything.

As you can see, the "swamp" is a good name for this type of question. Although there is one simple surface issue—should Greg be paid—a number of rules, doctrines and exceptions apply. After those are analyzed, foundational issues arise. Was there ever an acceptance? What is the nature of performance? The issues do not change, only new rules and analyses are raised. After all the reasonably raised rules and principles are discussed, the conclusion can be mapped out.

These are three different ways to use I.R.A.C. on three different types of problems. Each requires a slightly different structure, but the technique is the same. State the rule, and apply the rule to the facts. It is this analytical method that is being tested in law school—not mere conclusion drawing.