

Education Innovation

Schools are now training students to *practice* like lawyers, not just think like them

BY SALLY KANE

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A quiet evolution is occurring within the nation's law schools. A changing legal climate, economic pressures, and rising caseloads have created a market for law graduates who can hit the ground running. Law schools are responding with a more practice-oriented approach to legal education, eschewing theory-based courses for programs that focus on real-world skills.

Traditional legal education treats the study of law as an academic science and teaches students to "think like lawyers" through the appellate case method developed by Christopher Langdell in the late 19th century. Until recently, instruction on the practical side of the law—drafting motions, counseling clients, negotiating settlements—was largely left to law firms and continuing legal education (CLE) organizations.

However, the pressures of modern law practice have forced schools to rethink their educational methods. From skills-oriented courses and classroom simulations to externships and clinics, law schools are reshaping the traditional educational model to adopt a more dynamic, integrated curriculum that includes skills training and hands-on experience.

"It's a real period of renewal in legal education," says Lisa Kloppenberg, cochair of the Clinical and Skills Education Committee of the ABA Section of Legal Education and Admissions to the Bar and dean of the University of Dayton School of Law. Law schools across the nation are addressing ways to bridge the gap between law school and law practice and making changes to ensure that students are well prepared to step into the role of lawyer, she notes.

A call for reform

The evolving legal profession and changing legal climate have prompted a number of recent studies on legal education. Sixteen years ago, the MacCrate Report, published by the ABA Section of Legal Education and Admissions to the Bar, advocated narrowing the gap between legal education and the practicing bar. The report identified the failure of law schools to teach the skills and values important in the practice of law and fueled the growth of skills instruction.

More recently, *A Survey of Law School Curricula, 1992–2000*, published by that ABA Section, added fuel to the debate that there may be a better way to educate the nation's lawyers. The survey revealed a reform of writing programs and a proliferation of advocacy skills courses, says James Alfini, president and dean of South Texas College of Law and former chair of the Section's Curriculum Committee. However, the survey also revealed relative stability in law school curricula.

The impetus for reform was further fueled by a study on legal education published last year by the Carnegie Foundation for the Advancement of Teaching. The report examined the Socratic, case-dialogue method of legal teaching and found that current educational methods left the "impression that lawyers are more like competitive scholars than attorneys engaged with the problems of clients." The report recommended that law schools adopt a more integrated approach, balancing the teaching of legal doctrine and analysis with practice-oriented instruction that focuses on real-world skills.

New insights into the human learning process have been another catalyst for change, says Edward Rubin, dean of Vanderbilt University Law School. "When Langdell developed the case-method 130 years ago, people didn't understand how the human mind worked," he explains. Rubin contends contemporary legal education should reflect the changes in the nature of legal practice and new insights into human understanding that reveal that learning

is a developmental process. As such, real-world experience, rather than abstract thought, may be a better aid to learning.

A changing legal climate

Fiscal constraints, burgeoning case loads, and a competitive legal market have created a need for law graduates trained in the nuts and bolts of the lawyer's trade. Escalating legal fees make clients reluctant to underwrite the training of new lawyers. Rising caseloads have reduced the time experienced lawyers spend training and mentoring new associates. A slowing economy has made law grads with real-world skills a sought-after commodity. Employers want law grads who can hit the ground running, and law schools are stepping up to deliver.

"It's tremendously important that law students get real-world experience while in law school," says Mark Martini, an associate at Robb Leonard Mulvihill in Pittsburgh. "It's more efficient for law firms to hire students who have had practical training in law school because it cuts down on the amount of training firms must provide once students join the workforce."

Heather Dietrick, who graduated in 2007 from the University of Michigan with a dual JD/MBA degree and is now an associate at Heller Ehrman's New York City office, agrees. "Law school doesn't teach you how to be a lawyer." In clinics, "you learn practical things, such as how a case works from start to finish, how to write a complaint, and how to interact with clients," she says. (For more on dual JD/MBA degrees, see article on page 26.)

Rethinking legal education

In response to market needs and educational scholarship, law schools across the nation are instituting innovative change and reform. From smaller law schools such as those at Western State, Campbell, and Nova Southeastern to those at elite institutions such as Harvard, Stanford, Columbia, Vanderbilt, and Northeastern, educators are integrating traditional legal doctrine with real-world training.

"Hit the ground running' is a phrase we often heard when we talked to lawyers and revised our curriculum in 2005," says Kloppenberg. She notes that the University of Dayton has revamped its law school curriculum to address the gap between students with traditional analytical training and the skills expected from new lawyers. Dayton's new "Lawyer as Problem Solver" program combines curricular tracks that build in-depth knowledge of particular practice areas with capstone courses, clinical experiences, intrasession courses, and externships to help prepare students for the practice of law.

"The program tries to balance doctrinal classes and bar classes with skills and ethics," says Kloppenberg. "Law firms like the emphasis on problem solving because it provides a good understanding of what students will encounter in real practice."

Washington and Lee University School of Law has undertaken one of the most dramatic revisions of its curriculum, entirely reinventing its third-year program. "We are at a turning point in the history of the legal profession and the history of legal education," says Rodney Smolla, dean of Washington and Lee's law school. The revamped program, to be rolled out over the next three years, will replace traditional classroom instruction with practice simulations, real client interaction, and the development of law practice skills.

The law school instituted the program in an effort to create a bridge between the school and the professional world. "Law schools are brilliant at teaching theory and legal doctrine but weak in helping students assume a professional identity as young lawyers," Smolla says. "Law schools and the profession must meet each other halfway and treat the training of young lawyers as a joint venture."

First-year overhaul

Another trend in educational reform is the reinvention of the tried-and-true first-year curricular structure. Southwestern Law School has adopted a new first-year program that places a greater emphasis on the realities of legal practice. The new curriculum reduces the number of doctrinal courses per semester, adds new electives, and expands its first-year

legal research and writing program to include more instruction on practical skills such as legal reasoning, witness interviewing, and appellate advocacy.

First-year curricular reform has also taken place among the academic elite. Last year, Harvard Law School instituted sweeping changes to its century-old first-year curriculum by adding new first-year courses in international and comparative law, legislation and regulation, and complex problem solving.

"My professor in the Harvard business school was connecting with the Harvard Law School dean to bring problem solving and real-world skills back to the law school curriculum," says Debra Rosenbaum, ABA Law Student Division first circuit governor, who just completed her first year in Harvard's dual JD/MBA program.

Vanderbilt University Law School has modified its first-year requirements to include a class that teaches students how to analyze and interpret statutory law and regulations. Law School Dean Rubin notes that, when Langdell developed the case-method approach in the 1870s, the only primary source material available was caselaw; no regulatory agencies existed at the federal level. The school's new class is more reflective of the demands of modern law practice.

Vanderbilt is also in the process of retooling its spring semester to incorporate practical elements into core courses, Rubin says. For example, Constitutional Law would teach the bill of rights and Criminal Law would address the components of the criminal justice system. The school also plans to institute a one-credit Introduction to Law course, which will give first-year students broader, more foundational instruction on the law.

Pace University School of Law has also embraced first-year curricular reform by taking a more practical approach to the instruction of civil procedure. "The first semester we teach the whole litigation process in a very practical way," says Dean Michelle Simon. Students engage in drafting answers, complaints, and motions and learning basic skills. The law school also combined its legal writing course with substantive criminal law and instituted an upper level skills requirement that teaches basic legal skills. "Students learn advocacy skills, writing and drafting skills, how to behave in a courtroom, and how to put a deal together," explains Simon.

Experiential education

Borrowing a popular concept from the nation's business schools, law schools are breaking away from traditional classroom lecture to adopt a more experiential approach. Based on the concept of learning by doing, schools create a simulated practice environment in which students work together to navigate complex legal problems and develop real-world skills.

"It's a mistake to think of skills-learning as a separate category rather than another element of pedagogical theory," Rubin says. "Learning by doing—more broadly described as experiential learning—is based on the concept that in order to understand something, you must have participated in it."

One way Vanderbilt is integrating experiential learning into its educational programs is through its International Legal Studies Program. The program features an innovative practice lab in which students work for clients in the United States and overseas and then share their experiences in a classroom setting. Past students have worked in Ghana on intellectual property issues and in the Iraqi Special Tribunal.

Drake University Law School's first-year trial practicum, in which students observe and participate in an actual jury trial in a courtroom setting, was one of the earliest comprehensive experiential programs. First-year students observe an entire jury trial from voir dire through verdict and participate in small daily group discussions to dissect each day's proceedings.

Washington and Lee has taken experiential education a step further by making its entire third year of law school experiential. "It will be entirely a mix of simulated law practice experience and actual law practice," says Dean Smolla of the program, which begins this fall. For example, in a simulated family law setting, students will participate in mediations, hearings, depositions, and trials and perform tasks associated with family law practice. In a

course on mergers and acquisitions, students will perform due diligence, negotiate the terms of the agreement, draft the transactional documents, and participate in the closing, Smolla says.

Lisa Hedrick, a 2008 Washington and Lee graduate, participated in an experiential business planning course in her third year. Students were asked to form a business entity for two hypothetical clients and work in groups to determine the applicable law and draft the incorporating documents and operating agreement. "It gave me a sense of the thought process [a lawyer] goes through to structure a business," she says.

Other schools are integrating experiential learning into existing curricula. Pace's new federal judicial honors program, a yearlong program for students in their second year, immerses students in a simulated clerkship experience in the first semester. Students complete an externship with a federal judge in the second semester, Dean Simon explains.

The University of New Mexico School of Law has also modified its first-year curriculum, adding a problem-based practicum course to its classic doctrinal courses. In the practicum, students complete exercises in fact identification, claim development, and client interviews and discuss ethical and practice-related issues. Students also complete a skills-based research, reasoning, and writing course and an advocacy course.

Transactional skills

Another trend in curriculum reform is the birth of transactional skills programs that teach students skills in planning, negotiating, structuring, and documenting business transactions. South Texas College of Law and Emory University School of Law are at the forefront of this effort, rolling out a new transactional law programs designed to give law students a background in business law concepts.

In developing the program, "we saw that law grads were quite well prepared to take on litigation-oriented kinds of tasks but were not prepared to take on transactional kinds of projects that are an important part of what lawyers do," says President and Dean Alfini of South Texas College of Law.

South Texas students can earn a transactional law certificate by completing a foundational skills course, such as contract negotiation and drafting, a capstone course in corporate, real estate, or international business, and a writing requirement relating to transactional law practice. Students typically enroll in the last semester of their third year.

As a testament to the importance that law schools are now giving transactional pedagogy, the Emory Law Center for Transactional Law and Practice brought together transactional law professors and professionals to host a two-day conference on teaching drafting and transactional skills. The evolving focus on transactional roles within the profession may prompt more law schools to integrate transactional skills with traditional legal training.

Globalization sparks changes

Developments in communications technology, a competitive climate, and a global legal market have blurred the geographic boundaries of law practice. A growing number of law firms are expanding across borders, collaborating with overseas counsel, merging with foreign firms, and serving transnational clients.

As the globalization of the legal profession spurs more students to specialize in international and business law, law schools are scrambling to beef up their international offerings. Harvard, Stanford, Vanderbilt, and Washington and Lee are among the many schools that have added an international component to their law programs.

"There is now an international dimension to much of the work of lawyers," says Nancy Mulloy-Bonn of American Law Institute-American Bar Association Continuing Professional Education, one of the oldest CLE providers in the country. "Lawyers have clients with businesses outside state lines and national borders . . . there is an increasing demand for American lawyers to become familiar with foreign law and for foreign lawyers to know American law."

Washington and Lee's Smolla agrees that the globalization of law practice has created a new need for lawyers who understand international business issues. "We are creating a new transnational law course in our first year and have hired many new international faculty," Smolla says. Students in the transnational law course will get hands-on experience in global practice.

A time for change

Globalization, economic pressures, and a cry for reform have galvanized sweeping changes in the nation's law schools. Schools are balancing the theoretical with the practical to prepare students to navigate the complex issues they will face as lawyers. These curricular innovations, ranging from minor modifications to drastic reinventions, are changing the landscape of legal education and better preparing students for law practice in the 21st century.

An Interdisciplinary Approach

A number of law schools, including those at Stanford, University of Pennsylvania, New York University, and Northwestern, have incorporated a wider interdisciplinary approach to teaching and learning, allowing students to take courses in other graduate programs within their university.

Stanford University Law School recently rolled out new problem-solving simulation courses in which law students team with students from other graduate programs to explore interdisciplinary topics. For example, in a new expert witness clinic, law students and natural science students prepare witnesses to testify in a patent infringement case. Law and medical students collaborate to address the medical-legal needs of patients in a new clinic. Law, business, and engineering students work through simulated exercises in a new negotiation class.

University of Pennsylvania Law School has adopted a similar cross-disciplinary approach to legal education, allowing students to receive credit toward their JD degrees for up to four courses at the graduate schools and professional departments on campus.

Similarly, Vanderbilt University Law and Business Program, offered in partnership with its Owen Graduate School of Management, teaches students the broad ranges of legal issues facing businesses.

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Additional Reading

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