



The Association of American Law Schools

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Legal Education and Change

Home / Services / Presidents' Messages / Legal Education and Change

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While it borders on the banal to state that the only constant is change, change is omnipresent and unavoidable. Three examples are sufficient to set the stage. Nancy Rogers, one of my many esteemed predecessors, talked about “reassessing our roles in light of change” in her January 2007 AALS Presidential address.² In particular, she suggested “examining changes that affect legal education and assessing, even considering modifications in, our roles as professors and law schools in response to those changes.”³ She encouraged such self-examination with the confidence of her observation that we have an excellent record of adjusting to change when we apply our collective candlepower to the task.

In her 2012 AALS Presidential address,⁴ Lauren Robel talked about the challenges of global change. Like Nancy Rogers, Lauren Robel made the very basic point that we are perpetually dealing with change, and that one of the key responses to change is hard work in going about the task of adapting. A recent report from the American Council on Education highlighted Robel's predicted effect of globalization, noting that American schools must now ensure graduates are prepared to “access and navigate global networks and to identify and develop modes of being both competitive and collaborative simultaneously.”⁵

A third aspect of change is brought to mind by Ronald G. Ehrenberg, a Cornell economist, who will publish an article titled “American Law Schools in a Time of Transition” in this summer's *Journal of Legal Education*. The title is narrower than the scope of his work. He makes the broad point that legal education does not exist in a vacuum. As he comments, “[b]ecause [law schools] are part of a much broader higher education system, there are lessons from that broader academic experience that may prove useful to them.”⁶ Like others, he observes that the cost of attending law school has far exceeded the pace of inflation. However, he notes that legal education has essentially paralleled the general cost of higher education across the board.⁷ While Ehrenberg states that this parallel applies to public schools, he also notes that the data does not, in his words, “provide strong support for the proposition that more rapid increases in law school tuitions were attributable to the need to raise revenue for law school faculty salaries.”⁸

Other schools, including the University of Kansas School of Law (KU), the University of Miami School of Law (UM), and the University of California, Hastings College of the Law (UC Hastings), offer medical-legal clinics that provide students with hands-on experience addressing a wide range of issues pertaining to health law. In each case the law schools are taking advantage of the proximity and association with a prominent medical school. KU's Medical-Legal Partnership Clinic is a collaboration between the School of Law and the Department of Family Medicine at the University of Kansas Medical Center.¹⁵ The clinic not only provides free legal assistance to low-income patients at the hospital, it also affords KU students the opportunity to conduct intake interviews, develop case strategies, conduct legal research, prepare legal documents, and provide representation in administrative hearings and court (where permitted). Student participants bring their services to the community, doing in-home visits and assisting those who have not sought medical attention because of immigration issues or lack of insurance.¹⁶

Similarly, UM students have the opportunity to participate in the Medical Legal Partnership (MLP) in collaboration with the University of Miami Miller School of Medicine, through the Health Rights Clinic. Students become members of the healthcare team and assist patients with their legal issues.¹⁷ Participants function as the client's primary advocate in all aspects of the client's case, including interviewing and counseling, fact investigation, drafting and filing briefs, and participating in negotiations and hearings.¹⁸

Likewise, UC Hastings' students have the opportunity to participate in the Medical-Legal Partnership for Seniors Clinic in collaboration with the University of California, San Francisco (UCSF).¹⁹ Hastings students develop key lawyering skills through representation of low-income elderly patients at a UCSF medical clinic. Through the clinic, students are exposed to transactional lawyering skills, including drafting advance health care directives and simple wills, and advising patients on their eligibility for public benefits.²⁰

Alternatively, some schools have implemented “bridge-to-practice” programs in which third-year students, or even recent graduates, may apply for a defined term project with an approved employer to the opportunity to enhance their practical legal skills. UC Hastings, for example, has partnered with governmental organizations and legal

These various aspects of change were swirling in my head as I recalled an article by the Honorable Michael Kirby, a former Justice of the High Court of Australia. Justice Kirby wrote about Charles Darwin's explanation "that all living organisms need adaptation and variation to survive and to adapt to new times and circumstances. Reproduction by identical or near-identical cloning would endanger the capacity of the organism to cope with contemporary challenges, even perhaps to survive."⁹ Although Justice Kirby was applying Darwin's principles to Australian judicial appointments, his observation about Darwinian survival applies equally well to contemporary legal education.

We in legal education must adapt in order to survive in these changing times. However, as Justice Kirby and Charles Darwin might agree, identical adaptation would ultimately threaten our collective ability to survive. I stated in my AALS Presidential address this past January that our member schools are remarkably different. To apply the contemporary SWOT analysis pioneered by Stanford Research International¹⁰, our member schools vary in their strengths, weakness, opportunities and threats. The combination of these four attributes is unique to each school. By recognizing this simple fact, each school can respond to change in a way that works best given the school's unique combination of attributes. Indeed there is much to suggest that adaptation in the Darwinian sense is taking place.

Recently, Harvard Law Professor Todd Rakoff, Chair of the AALS Curriculum Committee, solicited input as to what positive curricular responses our member schools were implementing in response to hard times. The preliminary returns, which include more than 40 responses within three weeks of the solicitation, show a diversity of programs tailored to each school's unique circumstances and which draws on their strengths and resources. A description of a few of these programs and other programs extant illustrates the kinds of adaptation and innovation that is occurring.

American University's Washington College of Law (WCL) has developed an Integrated Curriculum Program in an attempt to "highlight the interdependent nature of the curriculum and the practice of law."¹¹

The program, which WCL implemented in 1999, but was refreshed in 2009, offers team-teaching; sectional commons; panels presented by Deans' Fellows and faculty; peer mentoring; and substantive programs in fields that cross various subject matters. The faculty commons, where faculty members plan and implement supplemental programming designed to enrich the existing course content, and the team-teaching, where faculty members coordinate syllabi to emphasize synergies across subjects, are perhaps the most intriguing aspects of this program.¹² In an additional effort to emphasize real-life lawyering skills, first-year students must take a course in Legal Rhetoric, where students

nonprofits to create two-year fellowships encompassing law students' final year of law school and their first as new attorneys through a newly created not-for-profit Lawyers for America.²¹ Participants work at a partner legal office full time and attend a classroom component as well.

In a similar vein, this summer the Sandra Day O'Connor College of Law at Arizona State University (ASU) will be launching the ASU Alumni Law Group, a teaching law firm that will hire and mentor recent graduates of the law school.²² The Law Group, modeled after a teaching hospital, will be a stand-alone, nonprofit firm that will help prepare new and recent graduates to practice law. The firm will focus its services on those who cannot afford to pay current market rates and will use graduates supervised by experienced attorneys.²³ It is envisioned that the firm will hire about 10 ASU law graduates per year for a total of 30 associates at a time.²⁴

A recent report from the New York City Bar Association (NYCBA), a body independent of the law schools, has recommended that other schools implement similar pilot programs.²⁵ If nothing else, this demonstrates that what UC Hastings and ASU are doing has currency in the profession.

Equally important, other schools have adopted innovative ways to use technology, expanding student opportunities. For example, the Virtual Classrooms at North Carolina Central University (NCCU) School of Law employ synchronous learning, real-time or live-distance learning from remote or separate locations.²⁶ The Virtual Classrooms, which feature an actual teaching space, were built in response to the school's distance-education program. In addition to using Panopto, software that records lectures and allows students to access them when convenient, the program features real-time video interaction between the professor and students regardless of their location.²⁷ The Dean of the law school has expressed hope that the Virtual Classrooms will expand the budding environmental law partnership with Vermont Law School.²⁸

Drexel University's Law School is also attempting to address the challenges of today's legal education through LawMeets, an online, interactive teaching tool. LawMeets is "a virtual sandbox for law students to learn through real-world experiences."²⁹ The program, currently being expanded, allows users to video themselves acting out responses to client-based legal scenarios that are reviewed by other participants. Users eventually gain access to an expert's response.³⁰ The platform offers online courses that can be adopted in whole or modified by professors.

Students at the University of Miami School of Law also have access to cutting-edge technological learning tools, specifically LawWithoutWalls.³¹ LawWithoutWalls, a "part virtual educational collaboratory," brings together various institutions from around the world in an attempt to

engage in pre-litigation case planning; draft complaints, responsive pleadings, and interrogatories; and engage in negotiation and settlement.¹³

In 2012, The University of North Dakota (UND) revamped its curriculum to focus more on foundational knowledge and skills; ethics and professionalism; leadership, collaborative, and adaptive skills; and service to society. Each course in the updated curriculum must include instruction in and an assessment of an ethics or professionalism issue, as well as a writing assignment. Beginning in Spring 2014, UND will begin offering a two credit class, Professional Foundations, that will offer students the ability to “cultivate a reflective mindset and the habits of being that are vital to the development of professional identity and the exercise of sound professional judgment.”¹⁴ The class will focus on the fundamentals of professional roles and identities, the lawyer-client relationship, and an exploration of practice environments. The course will be taught by a team of faculty, intended to expose students to a myriad of options and ensure a diverse educational experience.

eliminate barriers between the participants (even those as far away as Shenzhen).³² Students develop a Project of Worth designed to solve an identified problem in legal education or practice. Students take part in Virtual Thought Leader Sessions where experts share their perspectives on desired changes in legal education and practice, and mentor the students.³³

The few examples described above, and numerous others that space does not allow me to mention, should let us take heart that our member schools are each responding, and adapting, in ways that is tailored to their circumstances. We should also note that law schools, their leaders and their faculties, are taking the duty to be responsible stewards of their institutions seriously.

In his recent thought-provoking book *Tomorrow's Lawyers* Richard Susskind has tried to prepare us for, or at least warn us about, the sea changes to the profession.³⁴ While Susskind admits that his prognostications may not accurately capture all the details, he is sure that change will come and the unprepared will suffer. He is likely right. Darwin's shadow looms over us. Whatever change we face requires some sort of adaptation.³⁵ As the foregoing shows, we are not standing still.

Endnotes

1. 2013 President of the Association of American Law Schools and Albert Abramson Professor of Law at the University of California, Hastings College of the Law. I am grateful to the many who provided both inspiration and substantive comments on this piece. These include my friends and colleagues David Faigman, Mary Kay Kane, Susan Westerberg Prager, Lauren K. Robel, Reuel Schiller, Todd Rakoff, and Frank Wu. I also appreciate the ever sharp editorial eye of Emily Goldberg, Hastings class of 2015. Despite all their efforts, errors are entirely mine.
2. Nancy Rogers, President, Assoc. of American Law Schools, Presidential Address (January 2007) (transcript available at https://www.aals.org/services_newsletter_presfeb07.php).
3. Id.
4. Lauren Robel, President, Assoc. of American Law Schools, Presidential Address (2012) (transcript available at https://www.aals.org/services_newsletter_presFeb12.php).
5. Strength Through Global Leadership and Engagement: U.S. Higher Educ. in the 21st Century, Ctr. for Internationalization and Global Engagement & American Council on Education 5, 7 (Nov. 2011), <http://www.acenet.edu/news-room/Documents/2011-CIGE-BRPRReport.pdf>.
6. Ronald G. Ehrenberg, American Law Schools in a Time of Transition, 63 J. LEGAL ED. (forthcoming Aug. 2013).
7. Id. at 13.
8. Id. Ehrenberg's work harmonizes with economists Robert Archibald and David Feldman who note that the high cost of human capital, especially well-educated workers like university professors, has also been one of the primary drivers of cost in higher education. ROBERT B. ARCHIBALD & DAVID H. FELDMAN, WHY DOES COLLEGE COST SO MUCH? 108 (2011). Interestingly, they compare the costs of elite four-year research-oriented universities with two-year community colleges in which the focus is not on research but on teaching. They conclude that the costs of both have risen at effectively the same rate – a rate that has substantially outpaced inflation. Id. At the least, their research suggests that a conversion away from research may not yield much in terms of cost-saving.
9. Michael Kirby, Appointment to Final National Courts – Lessons from Charles Darwin, 22 NAT'L LAW SCHOOL OF INDIA REV. 17, 18 (2010).
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18. Health Rights Clinic, Univ. of Miami School of Law, <http://www.law.miami.edu/clinics/health-rights/> (last visited May 29, 2013).
19. Medical Legal Partnership for Seniors Clinic, UCSF / UC Hastings Consortium on Law, Science & Health, <http://ucsfconsortium.uchastings.edu/clinical/medicallawpartnership/index.php> (last visited May 29, 2013).
20. See Paula Span, The Doctor's New Prescription: A Lawyer, N.Y. TIMES (March 31, 2013), <http://newoldage.blogs.nytimes.com/2013/03/21/lawyers-join-a-seniors-clinic/#more-14910>.
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23. Id.
24. Id.
25. NYCBA Task Force on New Lawyers, Employer Partnerships and Practice-Orientated Training Working Group: Objectives, Issues, Conclusions and Suggested Pilot Programs (May 14, 2013) (unpublished working paper).
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27. Id.
28. Id.
29. Rachel M. Zahorsky, Drexel University's Law School Takes Practical Training Online with LawMeets Course, A.B.A. J. (January 1, 2013), http://www.abajournal.com/magazine/article/drexel_universitys_law_school_takes_practical_training_online_with_lawmeets
30. Id.
31. LawWithoutWalls, Univ. of Miami School of Law, <http://www.law.miami.edu/academics/law-without-walls.php> (last visited May 30, 2013).
32. About, LawWithoutWalls, <http://www.lawwithoutwalls.org/about/> (last visited May 30, 2013).
33. Id.
34. RICHARD SUSSKIND, TOMORROW'S LAWYERS (2013).
35. Susskind mentions other schools that are also changing their curricula to adapt. Id. at 138 (mentioning Michigan State University and Harvard University in addition to the University of Miami).

The Association of American Law Schools provides a number of services for members and prospective law faculty, including recruitment and placement services, and links to helpful publications.

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