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Legal Education's Other Challenge: Retraining Practicing Lawyers For A New Marketplace

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Legal education has received a great deal of criticism in recent years—cost, student debt burden, declining enrollment and selectivity, a baffling building boom, graduates that are neither practice nor market ready, dismal job statistics, etc. What has been largely overlooked in the legal education discussion is the plight of a far larger segment of the legal ecosystem-- practicing lawyers.



It's A Whole New Ballgame

Lawyers are toiling in an industry that has been overhauled by a perfect storm of change agents-- the global financial crisis of 2008 and its fallout; client dissatisfaction with existing delivery models; the escalating role of technology and process management in legal delivery--often referred to as 'disaggregation'; an influx of legal service providers and the growth of in-house legal departments (read: law firm competition); and the creation of new delivery models. How will practicing lawyers receive the (re)-training necessary to survive—much less to thrive—in the new legal delivery order?

Most practicing lawyers were prepared for a legal marketplace that is vanishing. Their law school experience was steeped in doctrinal learning and, perhaps, a dollop of 'real life' exposure via clinics. And while that was just fine as recently as a decade ago, it's not now. Legal delivery, once synonymous with the practice of law, is now a three-legged stool comprised of legal, technological, and process expertise. The vast majority of practicing attorneys have had little or no preparation for navigating the impact of technology and process/project management on legal delivery. Nor have they learned about collaboration, leadership, financial fluency, or other skills at law school or on the job where they are consumed by billing hours and making a living. That's why practitioner re-education must be a part of the legal education reform discussion. It's not just law students who must be educated for the new legal marketplace and where it's headed; it's practicing lawyers, too.

The Alignment of Law Schools and Law Firms

Law schools have had a long, symbiotic relationship with law firms. The Academy was a conveyor belt for graduates' passage to firms. Young lawyers acquired practice skills on the job, and clients absorbed the training cost. The traditional law school curriculum was doctrinal and remained relatively unchanged for decades. Law firms, likewise, did little to change their structures or delivery models because there was no pressure to do so. The closing decades of the twentieth century and the early part of the new millennium were boom times for law schools and firms. Law firms grew and expanded their geographic footprint to service the needs of their clients, and this played well with their pyramidal structure. Likewise, law school enrollment swelled as demand for lawyers increased. This meant that law schools—especially highly ranked ones—became even more selective and profitable. A spate of new ones appeared and had little difficulty filling seats. Law schools and law firms had a good, long run.

The bull market for the Academy and firms has ended. Law firms have lost their stranglehold on market share because of high cost, inefficient delivery, a model misaligned with client expectations, and a generally slow, ineffective adoption of technology and process management. This has resulted in the rapid rise of corporate legal departments and legal service providers that have reduced legal cost, promoted efficiency, and introduced new delivery models and structures that meld legal, technological, and process expertise. The new delivery

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paradigm also includes a better understanding of the client's business, risk tolerance, and notion of value. Corporate legal departments and service providers now account for nearly half of total legal spend, and the trend lines point to their continued growth at the expense of law firms. Demand for law firms has been flat for years even as overall demand for legal service has continued to rise. The delta can be explained by the new delivery paradigm that identifies legal knowledge as one of a number of elements in tackling business challenges.

Fallout For Law Schools

Shifts in the marketplace have taken their toll on law schools, most of whom still train students as if law firms are the only game in town. The Academy has been slow to recast its curriculum to prepare students to work in a new legal delivery model that expects lawyers not only to have legal skills but also to be conversant in IT, process, financial fluency, leadership and collaboration. Worse still for law schools—and more so for students—law firms are shrinking incoming classes since clients no longer subsidize associate training and assign that work to sources other than law firms.

Employers want law graduates that are practice and market ready so they can 'hit the ground running.' The American Bar Association (ABA) has recently directed law schools to augment the curriculum to include experience-based learning (e.g. hands-on training) as well as courses on technology. This is a first step towards aligning law school training with the changing demands and expectations of the marketplace. Another helpful move would be for law schools to tap into the resources of the University and to promote inter-disciplinary training for law students with business, technology, communications, and other professional schools. But what about practicing lawyers who find themselves in a rapidly changing marketplace that demands new skills they do not have?

The Case For Legal Re-education

Lawyers in the middle-and later stages of their careers anticipated a secure, predictable career that no longer exists for all but a handful of rainmakers and practice experts. They were trained to 'know the law' on the assumption that was all lawyers needed to succeed. That no longer cuts it. So how do practicing lawyers acquire key competencies such as understanding of how technology/AI is applied in legal delivery; project and process management; collaborative skills; and financial fluency to cite a few? Continuing legal education (CLE) is a start, but it is often more of a box-checking exercise to maintain licensure than a comprehensive professional re-education.

What's needed is a more intensive, granular, training for practitioners—an executive education boot camp that provides:

1. context for how and why new skill sets are required;
2. an overview of what those skills are and their key elements;
3. hands-on/experiential exercises supervised by experts;
4. lessons learned/reflection;
5. a synthesis of how these skills play into new legal delivery models; and
6. discussion of where "alt-law firm" opportunities lie.

Some Suggestions for Cost-Effective, Efficient Delivery of Legal Re-Education

Legal re-education can be delivered in a number of cost-effective ways. One is via the creation of executive training programs that are administered either at law schools, for-profit institutions, or the ABA and other public interest organizations. Cost could be kept to a minimum by the efficient use of technology-- MOOCS, webinars, etc.-- and by enlisting faculty who regard teaching as a way of 'giving back.' Law schools could play a key role, drawing from the resources of the University—collaborating with business, technology, economics, and other schools to offer a more integrated, holistic approach to legal delivery for undergraduates and practicing lawyers alike.

[LawWithoutWalls](#) (LWOW) provides an outstanding example of a collaborative, holistic approach to contemporary legal education that draws from multiple sources within and without the legal ecosystem. LWOW is a multi-disciplinary think tank and training ground operating at the intersection of law, business and technology. It connects the different players in these areas and creates an integrated global environment in which participants engage in hands-on projects to promote innovation in legal delivery. LWOW's focus is to prepare law students to become 'change agents that are transforming the way lawyers and business professionals partner to solve problems.' Its enlightened methodology, pedagogy, leadership, and resources could be leveraged as a paradigm to re-train practicing lawyers and, in so doing, benefit clients and the general public.

Law schools could work with alumnae to subsidize the cost of executive training courses and to promote goodwill. The Academy could also forge partnerships with corporate legal departments, law firms, leading service providers, and the public sector to promote and support these programs. A re-trained legal workforce would not only advance the efforts of participants but it would also serve many broader social objectives including ameliorating the access to justice crisis. It is in society's best interest to have a modernized legal workforce that can better serve individual clients and the public at large.

Conclusion

Legal re-education is important not only to the hundreds of thousands of lawyers 'no longer at ease here, in the old dispensation' but also to society. An au courant workforce would enable lawyers to apply their skills to maximum advantage for the benefit of individual clients as well as the greater good. That's a solid investment.

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