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Returning to the Basics: Rethinking the Meaning of “Practice” in Law School

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Legal education is in crisis and everyone is talking about it. When the economy took a nosedive, legal jobs were no longer handed out on a silver platter and law firms began to balk at the expense of training lawyers. You can't surf the internet without reading yet another blogger's lament on 'what law school does not teach you' or why one 'should not go to law school.' Those forces, coupled with the sky-rocketing costs of legal education, have even the United States President (himself a former law professor) suggesting that law school should be shortened to two years. In response, law schools are forced to justify their existence and the code word for survival is the production of "practice-ready" lawyers. However, there is little discussion on what "practice-ready" means, or rather, what it *should* mean. Much of the fanfare is on preparing students for legal practice (as in clinics or other experiential learning) and little attention has been given to the other meaning of practice – as in practicing the fundamental skills that comprise the practice of law. Perhaps the future of legal education actually lies in revisiting the basics

that have produced good lawyers for decades.

Practice (the reinforcement type) is crucial once we understand who our students are today. Contemporary law students are "digital natives" – they have grown up in a digital age that has transformed the way they read, think, manage, and seek information. They are accustomed to "bits" of information; reading is

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performed on a much quicker speed and on a more superficial level than in generations prior. Differentiating between types and quality of information, reflection, critique and analysis, are at best a fleeting thought, if performed at all. In other words, literacy itself is changing. *Our students are masters at finding and disseminating information, but they lack the ability to sort and evaluate its quality.*

The type of literacy that law requires, on the other hand, is a

linear one, focused heavily on reading and analyzing text. Law students must be able to trace a single idea through a line of cases, and extract and synthesize legal rules and principles from the factual contexts of those cases. They must then adapt and apply analysis from one set of facts to a different set of facts. Proficiency in law requires repeated concentration, precision, patience, and the ability to make reasoned decisions – not exactly qualities bred by today's culture of instant gratification.

Enter academic support services. Historically, academic support services were created for minority students specially admitted to law school under affirmative action admission programs as part of a movement to diversify the legal profession. It was thought that these students, admitted with lower indicators, generally have a more difficult time in law school than their non-minority peers and a program was instituted to provide them academic assistance. Today, that view is outdated as we can no longer assume that only a select few need extra help or that the stronger students will somehow "figure it out" on their own. Further, in a time of declining applications, more schools are admitting students with lesser credentials compared to years past. Thus, the better view today, is

Returning to the Basics (cont'd)

that every student can benefit from the integration of academic support services into their first year curriculum. Specifically, academic support in the form of skills instruction taught alongside doctrinal material, providing for multiple opportunities for practice and feedback, does just that – targeting deficiencies and honing skills in a guided and consistent manner as soon as students walk in the door.

It should be noted that the “skills” referenced herein are foundational skills that all law students need to master in order to become critical thinkers and problem solvers. These building blocks include the ability to effectively refine large volumes of information into workable form, distill cases down to precise rule statements and understand their legal significance, distinguish relevant facts from irrelevant ones, and analyze an issue by applying the present facts to the rule and evaluating all potential arguments. The mastery of these skills not only leads to better overall performance in law school, but lays the foundation for “practice-readiness.”

At Golden Gate University School of Law, each entering 1L is required to take a minimum of one Practice Intensive Course (“PIC”) in a first year subject, such as Torts or Criminal Law. Professors who lead PIC courses incorporate the skills component into the classroom and provide meaningful, written

feedback to each student on a minimum of three written assignments of varying lengths and format. Consequently, students benefit from seeing skills come to life through the substantive material. They experience the value of a professional explaining and demonstrating the expectations of a work product and mocking up their work. Professors who commit to PIC courses follow a basic but critical premise: *instruct, demonstrate, practice, and provide feedback*. At GGU, PIC courses are also offered in some upper-division required courses.

For today’s students, the mastery of foundational skills requires a completely new way of processing information – one that cannot be gleaned from the internet. To be effective, skills instruction in a doctrinal course must be premised upon a small set of identified learning outcomes agreed upon by the faculty who teach these courses. The learning outcomes (such as information management, factual analysis, and case analysis) form the basis for the written exercises. As a result, professors who lead PIC courses deliver a unified message across the student body about the intended benefits, goals, expectations, and requirements of PIC courses.

Most students hunger for feedback from their professors, but traditionally only receive minimal feedback on midterms and final exams – when it is too little, too

late. Through repeated practice and feedback early on and throughout the semester, students benefit from targeting their weaknesses as they adapt to a new way of thinking and working with information. The tangible improvement that comes with practice and feedback, as we have seen at GGU, not only leads to better performance on exams, but instills discipline and confidence in students that can transform the remainder of their academic careers. These self-regulated learners in turn will make for more skilled and thoughtful lawyers.

There is no doubt that the legal profession must grapple with some difficult questions. But if the past is an indicator of the future, there will always be a demand for good lawyers, and good lawyering begins with a mastery of the basics. Academic support infused into the first year curriculum is an important step towards preserving the value of a legal education and producing lawyers people want to hire.

References and Further Reading

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