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# Tethered to Tradition: Toward an Innovative Model for Legal Education

David M. Moss\*

## INTRODUCTION

There is a widely expressed aphorism that asserts that any publicity is good publicity, and although this may be true for celebrities, law schools in the U.S. are not so fortunate. As a case in point, a series of articles published in the *New York Times* has brought the many challenges of preparing twenty-first century lawyers from the back rooms of the academy to the broadly visible pages of the popular press. These articles have been a public airing of issues and grievances against the outdated curriculum and instructional approaches common to many schools of law—and it has not been pretty. Included among other data that have come to light is that at the national level applications to law school are sharply down over the past decade, while concurrently, debt for law school graduates has skyrocketed. However, beyond mere metrics of law school students and admissions, there is also a moral imperative for reform. Law schools prepare professionals who serve a fundamental role in our democratic society, and thus have an obligation to meet the needs of a vast array of stakeholders, especially those who cannot access much needed legal services.

In 2011, a *Times* article titled *What They Don't Teach Law Students: Lawyering*<sup>1</sup> urged schools of law to produce practice-ready lawyers. Asserting that deteriorating employment opportunities for law school graduates coupled with clients' ebbing financial fortitude to support the post-graduate training of law firm associates through an extended apprenticeship necessitates that immediate reforms are needed throughout the system of legal education.<sup>2</sup> This *Times* article came following a series of high-profile academically minded publications regarding

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<sup>1</sup> David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. TIMES, Nov. 20, 2011, at A1.

<sup>2</sup> *Id.*

the reform of legal education,<sup>3</sup> and although this critique in the popular press, now several years old, could have served as a national wake up call for a systemic review of law school education, apparently the urgency of the message was not received—or yet believed.

More recently, the *Times* published an article titled, *A Call for Drastic Changes in Educating New Lawyers*.<sup>4</sup> This article posits that in 2013 we may have finally reached the tipping point, and the resolve for implementing enduring changes in the way lawyers are prepared may have finally arrived. As the stimulus for such a transformation, the article cites “a sharp drop in law school applications, the outsourcing of research over the Internet, a glut of underemployed and indebted law school graduates and a high percentage of the legal needs of Americans going unmet.”<sup>5</sup>

The legal landscape has evolved, and so must schools of law.

My concern is for a missed opportunity for schools of law to *lead* this change process as opposed to adopting a merely reactionary stance to mounting pressures from beyond the halls of the academy. Law faculty must recognize profound structural changes in the legal landscape of the United States, and respond with bold, innovative, and rigorous blueprints for reform. Areas for action-oriented discussion and deliberation should include curriculum scope and sequence across the law school experience, law school admission criteria and funding models, public and private partnerships for professional practice placements of law students as a required and formal element of legal training, and roles and responsibilities of the various classifications of law faculty. The *Times* article suggests that “the vested interests of tenured professors tied to an antiquated system” serves as a significant obstacle for schools of law to consider their own reforms.<sup>6</sup> I disagree with such an assertion—at least partly. Although many programs are indeed tethered to traditions that may no longer serve the needs of today’s students, and the legal profession writ large, law faculty must be seen as the most potent

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<sup>3</sup> See, e.g., ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP (2007), available at [http://www.cleaweb.org/Resources/Documents/best\\_practices-full.pdf](http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf); see also REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS (David M. Moss & Debra Moss Curtis eds., 2012) (discussing case studies of legal education reform).

<sup>4</sup> Ethan Bronner, *A Call for Drastic Changes in Educating New Lawyers*, N.Y. TIMES, Feb. 11, 2013, at A11.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

catalyst for reform, not an impediment to work around. Most certainly, the greatest asset of any law school is its faculty, and as such, in partnership with stakeholders from across the legal profession, faculty must embrace leadership roles in what may be the most significant reforms to shape legal education in a century.

Central to any reform agenda must be a change process driven by evidence. Thus, a *culture of assessment*, and the resulting data required for informed decision-making, is a key element of the next generation law school. Second is the fundamental reconceptualization of the nature of *professional practice placements* within schools of law. As such, this transformed model for legal education will involve stakeholders and foster partnerships that are yet unrealized in today's system of legal education. Finally is the consideration of the notion of *globalization* and its impact on all aspects of both legal education and the practice of law.

In the following section, I will address the key elements of an assessment driven academic culture by drawing upon examples of successful models from my own work in the preparation of teachers.

### I. A CULTURE OF ASSESSMENT

The putting into practice of a data driven decision-making model as the key tenet of a culture of assessment within higher education is a relatively recent development. Historically, assessments have largely been thought of at the classroom level to gauge student learning, and have been mostly relegated to a summative role with students tested at the end of a prescribed unit of teaching. This traditional assessment model, often lacking any feedback beyond a grade, score, and/or ranking, is all too familiar to the countless numbers of students who have endured this ritual of formal schooling over the years. The idea that assessment is more than a test designed to offer proof that specified knowledge and skills were learned, and serves to *inform the learning process* itself, helped pave the way to considering the possibilities of collecting ongoing evidence and making informed decisions at the program and/or institutional level. In that sense, both formative and summative measures have been re-conceptualized and scaled up beyond classroom walls and applied in institutional and programmatic contexts to help bring about a culture of assessment.<sup>7</sup>

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<sup>7</sup> In a classroom, formative assessments are typically of a range of procedures

Assessment in legal education is complex and layered. The Law School Admission Test (LSAT) remains an integral element of admissions while the bar exam looms for graduates as a summative measure used to determine if one can practice law within a particular jurisdiction. The impact of these landmark pre- and post-measures on the culture of legal education cannot be overstated. For one, they perpetuate a tone of individual high-stakes competition that often carries over to assessments in individual courses across the three years of law school. Although this article will not directly address the implications of course assessments tethered to traditions (such as the curve) on student motivation and learning, it is important to recognize schools of law as a challenging context for assessment reform.

In terms of programmatic and institutional level assessment, the American Bar Association (ABA) accreditation processes and standards are a primary driving force for self-evaluation by law schools. An important question to consider in this regard is whether the ABA dominance over accreditation has actively promoted strategic reforms or has served to essentially maintain the status quo. Rigor and excellence are not mutually exclusive with innovation and reform. Perhaps the legal education enterprise could have averted many of the current calls for reform if schools of law had been routinely collecting, analyzing, and acting upon comprehensive datasets that brought to light the many issues facing them today.<sup>8</sup> That is, a culture of assessment could serve to inform key stakeholders in legal education to proactively deal with significant issues as they arise.

So what does a culture of assessment look like? My own experiences as a faculty member in the Neag School of Education at the University of Connecticut has afforded me the opportunity to work in a rich assessment driven culture in higher education, and the core principles of our assessment program may shed some light on this critical question. As noted in the *Neag School of Education Assessment Plan*:

The philosophy embraced by the [Assessment Office] . . . is that each person has ownership in assessment as the Neag School strives for a model of excellence, embracing and promoting a culture characterized by evidence-based decisions. . . . [Assessment is] a

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employed by teachers during the learning process in order to inform and modify teaching and learning activities to improve student attainment. At the institutional level, they are often ongoing measures designed to gather feedback used for program planning.

<sup>8</sup> Commonly cited issues facing legal education include preparing practice-ready graduates, falling admissions numbers, and the increasingly large debt burden of law students.

collaborative process. . . . [It is facilitated] by the Neag Assessment Committee (NAC) and our various subcommittees. The NAC team has representation across all levels (students, faculty, staff, administrators) and units . . . .<sup>9</sup>

The assessment plan, developed by the assessment committee, has incorporated many best practices by embracing the following:

- A focus on facilitating an assessment culture.
- A system of participatory engagement in assessment development and reporting by the Neag Assessment Committee and others.
- Formative and summative assessments at both the candidate and program level facilitating ongoing feedback on a continual basis.
- Internal data with efforts made to ensure that assessments are credible, fair, consistent, accurate, and unbiased.
- Information available from external sources such as state licensing exams, evaluation through clinic experiences, employer reports, and alumni studies.
- Alignment to *all* accreditation processes from the university to program levels.
- Assessment research opportunities.
- A system for reviewing and approving the assessment plan.<sup>10</sup>

As such, assessment is integrated into the day-to-day roles and responsibilities of the members of our learning community, but our culture did not materialize overnight. Purposeful and strategic investments in developing a culture of assessment is a years-long process, but one that is necessary for legal education as they engage in reform-minded work in coming years.

As a first step, an assessment committee must be convened and charged with the purposeful establishment and/or advancement of an assessment driven culture. Ideally, a full-time Director of Assessment should oversee such a committee. However, perhaps novel and mutually beneficial arrangements

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<sup>9</sup> THE NEAG SCHOOL OF EDUCATION ASSESSMENT PLAN 15–16 (3rd ed. 2012), available at <http://assessment.education.uconn.edu/assessment/assets/File/Assessment%20Plan%203rd%20Edition-%20FINAL.pdf>. For associated assessment reports, visit <http://assessment.education.uconn.edu/>.

<sup>10</sup> THE NEAG SCHOOL OF EDUCATION ASSESSMENT PLAN, *supra* note 9, at 33.

can be made with other schools or colleges at the university to engage faculty members who have particular expertise in assessment if a full-time position with an appointment at the law school is not feasible.<sup>11</sup> Regardless, resources will be required to both initiate and maintain a data-driven culture and should include incentives for faculty, professional staff, and students who will serve on the assessment committee and lead such an effort. As a starting point, such incentives for faculty must include serious recognition of work in this area for promotion and/or tenure.

As a key outcome for this shift to a culture of assessment to truly be considered successful at the institutional level, data-driven decisions should ultimately be proactive in reforming the work of the law school and not merely be responsive to crises or challenges after they have arisen. That is, a functional culture of assessment can serve as a catalyst for reform.

In the following section, beyond a culture of assessment, I will address specific recommendations for reform in terms of law school curriculum and practice.

## II. PROFESSIONAL PRACTICE

Professional schools within higher education must balance the responsibility for academic rigor and excellence with practical training. Although these notions are not mutually exclusive, they require a comprehensive curricular approach along with extensive resources to facilitate both elements of this dual mission. This is true for schools of law, business schools, medical schools, and schools of education—among others.

A key to the success of promoting a rich knowledge base and skill development within the context of professional practice is providing opportunities for students to work directly with mentors *in situ* as a formal element of their education. For doctors, this means compulsory work in hospitals and/or clinics and for teachers it involves student teaching and other internship opportunities embedded within K–12 schools. Medical schools and teacher preparation programs both *require* that their students balance academic classes with more applied learning in the context of professional practice.<sup>12</sup> Interestingly, although law

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<sup>11</sup> Faculty members with expertise in testing and measurement, psychometric development, qualitative methodologies, curricular and instructional design, and curriculum theory often have appointments in schools/colleges of education along with other units across campus.

<sup>12</sup> See COUNCIL FOR THE ACCREDITATION OF EDUCATOR PREPARATION, DRAFT

schools may encourage such experiential learning via clinics, externships, and summer associate positions, mandating applied learning within an actual professional context is rarely required as a formal element of law school. Historically, such so-called practical or real-world learning was put off until the early years of employment following law school, but as noted earlier, firms and their clients are unable and/or unwilling to underwrite what boils down to post-graduate training. Additionally, law faculty may view such practice-oriented learning as less rigorous than traditional doctrinal classes and seemingly have been reluctant to embrace such experiences as mandatory within the context of the three years of formal law school. Breaking the tethers of tradition, a key recommendation of this article is that schools of law should move to implement formal professional practice experiences as a core requirement of legal education.<sup>13</sup>

But what are the programmatic implications for requiring such professional practice placements? Initially, schools of law must consider three key elements, including the scope and sequence of their curriculum, the capacity and nature of

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RECOMMENDATIONS FOR THE CAEP BOARD 13 (2012), *available at* [http://caepnet.files.wordpress.com/2013/02/draft\\_standards3.pdf](http://caepnet.files.wordpress.com/2013/02/draft_standards3.pdf) for standards for the preparation of K–12 teachers, and see ASSOC. OF AM. MED. COLLEGES, <https://www.aamc.org/about> (last visited Jun. 10, 2013) for information on medical school accreditation.

<sup>13</sup> It is important for readers of this article to note the perspective I bring to such a recommendation. I am currently a faculty member and the Director of Teacher Education at the University of Connecticut. Our core teacher preparation program is nationally ranked. In its annual review of the best graduate schools in the country, *U.S. News and World Report* ranks the Neag School twenty-eighth among the nearly 300 private and public education schools surveyed. *Best Education Schools*, U.S. NEWS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-education-schools/edu-rankings/page+2> (last visited June 28, 2013). Also significant are the rankings of the Neag School's core programs that are individually assessed by *U.S. News*. Three rank among the nation's top twenty-five, including: Elementary Education (eighteenth), Special Education (twelfth), and Secondary Education (eighteenth). *Elementary Teacher Education*, U.S. NEWS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-education-schools/teacher-education-rankings?int=38fa2c> (last visited July 7, 2013); *Special Education*, U.S. NEWS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-education-schools/special-needs-education-rankings?int=38fa2c> (last visited July 7, 2013); *Secondary Teacher Education*, U.S. NEWS, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-education-schools/secondary-teacher-education-rankings?int=38fa2c> (last visited July 7, 2013). Our program requires three years of full-time study, has competitive admissions, and awards a graduate degree. Although this may not be the norm for teacher preparation in the United States, it does allow for a reasonable comparison between the Neag School of Education Integrated Bachelors/Masters Program and many schools of law. See Wendy J. Glenn, David M. Moss, Douglas Kaufman, Kay Norlander-Case, Charles W. Case, & Robert A. Lonning, *Teachers as Leaders, Teachers as Researchers, Teachers Who Care: The University of Connecticut's Journey*, in *PORTRAIT OF A PROFESSION: TEACHING AND TEACHERS IN THE 21ST CENTURY* 63–84 (David M. Moss, Wendy J. Glenn, & Richard L. Schwab eds., 2005) for a detailed description of this program.



stakeholder partnerships, and the role and responsibilities of law faculty. As law faculty discuss and debate the merits of requiring professional practice placements, they need not re-invent the wheel. Schools of education have been dealing with such issues for decades, and exploring models of teacher preparation and/or other professional school exemplars may offer some initial insight into the challenges facing schools of law as they ponder this new reality.

In terms of curriculum, there are three essential and distinct elements common to many teacher education programs, including core courses, school placements, and seminars. The core courses will perhaps be the most familiar to law professors in that they are content-focused, university classroom-based courses that convey a rich tradition of knowledge within the discipline. They may be most analogous to doctrinal courses. In fact, in schools of education they encompass a body of knowledge that may even include case studies of educational law and policies relevant for teachers in training. Core courses are often taught early in a program and serve to lay a foundation of essential knowledge to becoming a professional educator.

However, these core courses differ from many law school programs of study in that they purposefully establish foundational knowledge for a subsequent classroom teaching practicum as a required and formal element of a program. These core courses may also be grouped around disciplinary areas, including the various subject areas in secondary education, elementary education, music education, special education, and the like. In schools of education, teacher preparation candidates have self-selected into tracks of specialty for the duration of their program. In many programs, however, students are able to study in areas outside of their specialty by pursuing endorsements in related areas.<sup>14</sup> This notion of specialty tracks within legal education may also offer schools of law an opportunity to better connect foundational coursework with subsequent professional placements within a program.<sup>15</sup> Such specialties would also have the added benefit of encouraging law students to not merely shop

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<sup>14</sup> Endorsements typically require as many as four to five classes in an area beyond the primary area of specialty. Such endorsements to a teaching license are often governed by the state in which a candidate is seeking professional certification.

<sup>15</sup> Such specialty should reflect the strengths and interests of the law faculty. For a discussion on specialty areas in legal education, see Peter V. Letsou, *The Future of Legal Education: Some Reflections on Law School Specialty Tracks*, 50 CASE W. RES. L. REV. 457 (1999).

around for electives based upon questionable criteria, but offer a strategic focus for study across the years of law school.

The professional placements themselves are considered the second curricular element in teacher education. Although a full semester (fifteen-week) student teaching experience has been the traditional norm for schools of education, many educational programs have instituted pre-student teaching placements as well as those that may follow a student teaching semester. In that way, required professional practice placements may serve as a capstone requirement and/or occur at several strategic points throughout the duration of a program.

The key to success in all placements is in the nature of the placement and associated partnership between a school of education and the K–12 school that hosts the student. Keep in mind the placement of candidates in schools is more than an opportunity to afford students work experience, and is regarded as a formal and intense experiential learning opportunity. Thus, the nature of the experience differs from a sink-or-swim model, nor does it relegate the teacher education candidate to low-level administrative support tasks. It is a professional practice experience that requires a collaborative mentor and a supportive school community that have a vested interest in the preparation of teachers. Although typically mentor teachers receive a small stipend for their effort, mentors often work far beyond what their remuneration might imply in terms of commitment. Additionally, mentor teachers are often trained and certified to work with student teachers.<sup>16</sup> As such, the very nature of the partnership between schools and teacher education programs are designed around the purposeful training of new teachers. All parties understand such a commitment is essential for schooling, and many individuals view this collaborative endeavor as an honorable obligation to both the profession and society.

Understanding this partnership as a principled undertaking for the preparation of lawyers is key to transforming the dominant model for legal education, where such collaborative work between schools of law and stakeholders has yet to realize its potential. The various stakeholders in the legal professions, including those in the private and public sectors, must be

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<sup>16</sup> Such training can be quite variable from state to state, and need not be extensive. In many cases, it may be as little as a full-day workshop designed to help mentor teachers learn to offer critical feedback to student teachers and to familiarize them with standards for teacher preparation. For an example of a Connecticut mentor program, see *Training, TEACHER EDUC. AND MENTORING PROGRAM*, [http://www.ctteam.org/?page\\_id=799](http://www.ctteam.org/?page_id=799) (last visited June 9, 2013).

encouraged and incentivized to plan and work collaboratively with law schools in the preparation of lawyers. Moving beyond the potentially exploitive model of “free labor” or other unsupported work prospects, there is real potential to offer law students structured professional placement opportunities for learning many of the skills, habits of mind, and knowledge of what real lawyers need to know and be able to do in a given area of practice.

The third and final element of course work fundamental to a teacher preparation curriculum, often called *seminars*, supports both the professional practice placements and core foundational course work by providing a safe intellectual space to reflect upon what transpires in each context. Seminars, taught by full-time professors and/or practicing professionals in an adjunct capacity, are often a dynamic, discussion-based learning environment where students consider their emerging understandings from core courses and weigh that knowledge against what they actually experienced during their professional practice placement. In that sense, seminars serve as a bridge from theory to practice. Typically, each professional practice placement is accompanied by a seminar course; however, the grouping of students in seminars can vary depending on the nature of the associated placements. In teacher education, whether the school placement is a short-duration early program experience or perhaps a post-student teaching internship to offer a broader perspective on schooling<sup>17</sup> will determine the focus and grouping of students in a seminar. Likewise, in legal education it may be beneficial to group candidates who have similar placement experiences, such as those interning as in-house counsel, and at other times it might be beneficial to group students who are having differing experiences such that they can be exposed to a wider range of perspectives (perhaps in a first-year short-duration placement designed to help law students choose an area of specialty).

Thus, taken together, the three areas of a curriculum (core courses, professional practice placements, and seminars) can be designed to create a rigorous, coherent, and balanced approach to

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<sup>17</sup> An example of a post-practice teaching internship is one that involves work analyzing school-wide assessment data and developing new curriculum to meet an identified learning gap in a school. Note that such an internship demands that a candidate has completed their student-teaching and has gained base-line professional practice experience and is now ready to contribute to a school in a value-added capacity as a professional educator beyond day-to-day teaching. That is, it extends the experience for the student in ways that are essential to both the candidate and partner school.

the preparation of lawyers. Beyond the aforementioned curricular implications required for a transformed model of legal education, the roles and responsibilities of law faculty must also be considered. In a recent publication that directly addressed this notion, I noted:

For far too long there has been an unnecessary compartmentalization between tenure stream and non-tenure stream faculty. Certainly there must be a distinction between such lines, but different professional identities and roles do not necessitate a partition of such severe consequence that the law school mission is in peril.<sup>18</sup>

My co-author and I went on to note:

First and foremost, law schools should seek to clarify (and perhaps standardize) such designations of all permutations of faculty. Such a forthright conversation encompassing the responsibilities and designations of tenure, short- and long-term contract positions, clinical faculty, instructors and adjuncts, and such can yield much needed clarifications that will help all faculty achieve their potential, consistent with their professional endeavors and identities. We acknowledge that a hierarchy will persist even with careful consideration of faculty roles, but it is not the hierarchy alone across faculty ranks that is holding back the potential for faculty to work collegially toward common goals as much as a lack of clarity of roles and responsibilities within the legal education academy.<sup>19</sup>

Given the potential magnitude of pending reforms, the clarity of roles and responsibilities for faculty teaching in a model that supports a full range of core courses, seminar courses, and associated professional practice placements (not to mention elective courses, skill courses, and the like) is desperately needed. It is here that law faculty must not get mired in tradition, but address fundamental questions underpinning the balance of scholarship and teaching.

Law schools, like other areas in higher education, offer a unique and necessary intellectual space to explore and debate scholarly issues. Publications are often the result of such research activity. Such is central to the mission of higher education, and the pursuit of scholarship is a fundamental element necessary for a free and open society. The challenge for law schools is to create a workable professional staffing model that effectively balances this critical research endeavor with the equally important mission of preparing practice-ready lawyers

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<sup>18</sup> David M. Moss & Debra Moss Curtis, *Essential Elements for the Reform of Legal Education*, in REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS 217, 220 (David M. Moss & Debra Moss Curtis eds., 2012).

<sup>19</sup> *Id.* at 221.

who are immediately ready to make important contributions to their chosen area upon graduation.

Balancing a dual mission is challenging, and there is no one replicable model that will meet the needs of every law school. Such should be positively regarded in that law schools with differing missions and resources can explore solutions to meeting this challenge in ways that make programmatic sense for their particular circumstances. However, common to all models of reform is the acknowledgement that law schools are resource-intensive organizations and require careful consideration of the roles of faculty. As discussed, professional school exemplars across the academy may inform possibilities for serving the multi-faceted mission of schools of law and the deliberate consideration of business, education, and medical models of professional preparation should serve as a starting point as reform-minded programs plan for the future.

### III. GLOBALIZATION AND LEGAL EDUCATION

As law schools look to the future, one key area that will likely have a significant impact on both their teaching and scholarship is the notion of globalization. Across many facets of higher education, this notion has served as a catalyst for reform.<sup>20</sup> However, a considerable challenge in this area is that many faculty and administrators leading such efforts may not have had considerable experiences in this context. In a recent book designed to promote education and policy reforms in response to globalization and a changing world, the authors note: "With some exceptions, educators and policymakers concerned with education, however well meaning, have not themselves had the opportunity to think much about education or a truly global era; and even if they have, their own education has rarely prepared them to undertake such education seriously and effectively."<sup>21</sup>

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<sup>20</sup> See Melanie Agnew, *A False Dichotomy of Serving Either the Local or the Global Community and its Impact on Internationalization of the University*, 34 J. HIGHER EDUC. POL'Y & MGMT. 473 (2012). The author argues that strategic planning is necessary for addressing issues of internationalization.

<sup>21</sup> Howard Gardner, *Preface* to VERONICA BOIX MANSILLA & ANTHONY JACKSON, EDUCATING FOR GLOBAL COMPETENCE: PREPARING OUR YOUTH TO ENGAGE THE WORLD, at x (2011), available at <http://asiasociety.org/files/book-globalcompetence.pdf>. For a discussion on promoting global competence through education and policy, see VERONICA BOIX MANSILLA & ANTHONY JACKSON, EDUCATING FOR GLOBAL COMPETENCE: PREPARING OUR YOUTH TO ENGAGE THE WORLD (2011), available at [asiasociety.org/files/book-globalcompetence.pdf](http://asiasociety.org/files/book-globalcompetence.pdf).

Thus, at the outset, those leading reform efforts in legal education must purposefully consider the implications of a globalized world and the evolving roles of lawyers in such largely uncharted territory.

The very construct of globalization is multi-faceted and complex, and incorporates such ideas as global development, intercultural communication, government and society, economic development, conflicts, humanitarian efforts, and human rights.<sup>22</sup> Globalization has been defined as both the processes and consequence of shrinking distances between cultures and people around the world.<sup>23</sup> Considering the implications of such, Yong Zhao<sup>24</sup> notes: “When global distances shrink, human activities are no longer confined by geographical locations or bounded by political entities. . . . Events in one part of the world could be experienced in real time in other parts of the world. . . .”<sup>25</sup>

As such, twenty-first century lawyers working in virtually any area of practice are likely to face issues underpinned by such connectedness of globalization, and their professional training must address this evolving reality.

Perhaps one mechanism to address the many challenges associated with globalization would be to consider specialty areas within law schools along with international experiences as a formal element of legal training. Leveraging an earlier

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<sup>22</sup> For a discussion of issues underpinning global development, see *Edexcel GCE Advanced Subsidiary in Global Development (8GL01)*, EDEXCEL (2013), [www.edexcel.com/migrationdocuments/GCE%20New%20GCE/AS\\_Global\\_Development\\_specification.pdf](http://www.edexcel.com/migrationdocuments/GCE%20New%20GCE/AS_Global_Development_specification.pdf). Edexcel is the United Kingdom's largest awarding body, offering academic and vocational qualifications and testing to more than 25,000 schools, colleges, employers, and other places of learning in the United Kingdom and in over 100 countries worldwide. This qualification is designed to develop students' knowledge and understanding of global development. Students develop understanding of the contested nature of global development, the key concepts and the areas of action within which development occur. For a discussion on intercultural communication, see Kenneth Cushner, *Intercultural Competence for Teaching and Learning*, in *INTERNATIONALIZING TEACHER EDUCATION IN THE UNITED STATES* 41 (Beverly D. Shaklee & Supriya Baily eds., 2012).

<sup>23</sup> See THOMAS L. FRIEDMAN, *THE WORLD IS FLAT: A BRIEF HISTORY OF THE TWENTY-FIRST CENTURY* 236, 375 (3d ed. 2007).

<sup>24</sup> Dr. Yong Zhao is an internationally known scholar, author, and speaker. His works focus on the implications of globalization on education. He has designed schools that cultivate global competence and founded research and development institutions to explore innovative education models. He has published over 100 articles and 20 books, including *Catching Up or Leading the Way: American Education in the Age of Globalization*. He is currently the Associate Dean for Global Education in the College of Education and a Professor, Department of Educational Methodology, Policy, and Leadership at the University of Oregon. See YONG ZHAO, *CATCHING UP OR LEADING THE WAY: AMERICAN EDUCATION IN THE AGE OF GLOBALIZATION* (2009).

<sup>25</sup> Yong Zhao, *Preparing Globally Competent Teachers: A New Imperative for Teacher Education*, 61 J. TEACHER. EDUC., 422 (2010).

recommendation in this article that schools of law require professional practice placements as a routine element of their program, perhaps law schools should consider international professional practice placements as one option for meeting such a requirement.<sup>26</sup> Affording law students the opportunity to not only specifically address issues of globalization through course work and the like at their home institutions, international professional placements take this to the next level by folding in cross-cultural experiences in the study of global issues. In essence, this would meet several pressing needs simultaneously as students received real world learning in international contexts.

Such recommendations are already in place at several law schools. New York University (NYU) School of Law has made strides toward addressing issues of globalization as described in a 2012 *New York Times* article:

N.Y.U. Law's new curriculum plan is highlighted by experience outside of the school's Greenwich Village campus. While the school has dabbled in foreign study, it is now redoubling its focus on international and cross-border legal practice. N.Y.U. Law is preparing to send as many as 75 students to partner law schools in Buenos Aires, Shanghai and Paris, where the students will study the legal systems and the languages of those regions. . . .

Another key initiative gives students the chance to build a specialty. Called "professional pathways," the program will offer eight focused areas of instruction . . . .<sup>27</sup>

The *Times* article reminds us the motivation behind such reforms: "The move comes as law schools are being criticized for failing to keep up with transformations in the legal profession, and their graduates face dimming employment prospects and mounting student loans."<sup>28</sup>

Even more recently, other law schools have made moves which take into account professional practice placements in a global context as well: "All schools of law, including the elites, are increasing skills training by adding clinics and externships. Starting this fall, the University of Virginia will allow students

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<sup>26</sup> "The [ABA] has adopted three sets of Criteria applicable to study abroad: Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools (revised August 2010); Criteria for Approval of Semester and Year-Long Study Abroad Programs (revised August 2010); and Criteria for Student Study at a Foreign Institution." *Foreign Study*, AMERICAN BAR ASSOCIATION, [http://www.americanbar.org/groups/legal\\_education/resources/foreign\\_study.html#](http://www.americanbar.org/groups/legal_education/resources/foreign_study.html#) (last visited June 9, 2013).

<sup>27</sup> Peter Lattman, *N.Y.U. Law Plans Overhaul of Students' Third Year*, N.Y. TIMES, Oct. 16, 2012, at B1.

<sup>28</sup> *Id.*

to earn a semester of credit while working fulltime for nonprofit or government employers anywhere in the world.”<sup>29</sup>

Such moves by these law schools, and others, not only address several present-day challenges facing legal education, but they appear proactive reforms designed to anticipate challenges yet to come.

### CONCLUSION

Schools of law in the United States are faced with significant challenges ranging from bleak employment prospects for their graduates to fundamental questions regarding notions of whether those graduates are even practice ready—and yet remain tethered to tradition. Regardless of the position or status of any given law school, such criticisms are not to be readily dismissed as they may be symptomatic of more fundamental issues facing all of legal education.

Schools of law are an essential element within higher education, and thus society. Although law schools face many of the same challenges of other professional schools across the academy,<sup>30</sup> they also share the reality that their graduates, along with teachers and others, play an indispensable role in a free and open society. But law schools are mired in tradition, and tethered to outdated modes of curriculum and assessment, thus falling short of their potential to serve humanity.

If schools of law are to routinely produce graduates who meet and exceed the needs of individuals and society, reforms should not merely be driven by responding to the challenges of today, but by anticipating the needs of tomorrow. Reforms discussed in this article—establishing a culture of assessment, implementing required professional practice placements, and considering globalization and its impact on curriculum reform—can all respond to today’s challenges while positioning law schools for the twenty-first century.

Moving ahead with such reforms does not demand that law schools abandon all of their rich traditions, but at the same time they must not be held hostage to a business-as-usual model for the mere sake of them.

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<sup>29</sup> Ethan Bronner, *To Place Graduates, Law Schools Are Opening Firms*, N.Y. TIMES, Mar. 1, 2013, at A14.

<sup>30</sup> Such challenges are summed up as balancing the need for academic rigor and legal scholarship with more pragmatic skill development necessary for practice-ready graduates.



The overarching law school model will likely be quite different a generation from now than it is today. Such a transformation should be informed by both real-world considerations of law students, law schools, and their graduates as well as guided by the moral imperative of service to society. Breaking many of the tethers to tradition is a necessary first step. A key question for law school faculty to consider is: Do they want to merely react to mounting pressures for reform in a piecemeal fashion while clinging to outdated practices, or shape their own future in strategic, purposeful, and exciting ways?