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What Makes a Law School Great?

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What makes a law school great? What should a law school curriculum seek to accomplish in light of the school's obligations to its students, its university, the pursuit of knowledge, the profession, and society as a whole? What should a law school strive to be?

Every law school has to answer these questions one way or another, and events of the last few years – the crises of American legal education and Canadian articling, and global and technological shifts in the legal services market – have given them greater urgency.

In this post I want to share our law school's recent efforts to answer them, and the significant curricular changes we have adopted in our attempt to bring ourselves closer to our standard for a great law school. This is not to suggest that our perspective and approach are the right ones (although I am in no way going to pretend to be neutral given I was Chair (later Co-Chair with Jennifer Koshan) of the committee leading the process). It is simply to put them out there as one law school's view on what it should strive to be.

Our answer started at the level of general principles. In particular, we decided that a great law school program must focus on three things: competence, performance, and engagement.

Competence requires knowledge and understanding of the concepts, methods, analysis, reasoning and critical perspectives in and about law. It requires intellectual engagement and rigour, and is directly connected to the scholarly mandate of a University education. *Performance* requires the ability to translate knowledge into action. It is where intellect meets practice, and learning turns into judgment or – aspirationally – wisdom. *Engagement* requires intensity and resolution in learning, investing time and effort in preparing for and attending classes, in completing course work and through participating in extra-curricular activities.

Competence and performance are distinct yet connected. Knowing something does not wholly teach you how to use what you know. And using what you know may require abilities – communication, inter-personal skills, practice management – which are distinct from substantive knowledge. At the same time, however, performance is impossible without substantive knowledge. And the ability to use and apply substantive knowledge will deepen it.

Engagement connects to both competence and performance. To put it bluntly, the only way students will achieve competence and performance is through a program which engages them –

in which they are motivated to do the work necessary to gain knowledge and to learn how translate that knowledge into action.

From that level of principle we moved to the more specific – and more difficult and contentious question – of how we could change the delivery of our program to better ensure our students are engaged in achieving both competence and performance. After a year and half of work by a Committee made up of a quarter of faculty, and another eight months of working with faculty as a whole and consulting with students, the Law Society of Alberta and the profession, we adopted significant changes to all three years of our curriculum. The new Calgary curriculum contains most of our existing courses, and maintains our strong specialization in natural resources, energy and environmental law. But it gives students more opportunities to develop performance, deepen their competence and to be engaged in their learning.

Performance-Based Learning

Traditional legal education teaches competence well. Most Canadian law school grads, including ours, have knowledge and understanding of the concepts, methods, analysis, reasoning and critical perspectives in and about law. What law schools don't do particularly well is allow students to deepen competence through performance, or to learn the aspects of performance that are distinct from competence. The new Calgary curriculum aims to deepen competence and enhance performance. Specifically:

- Core courses in each year will be taught entirely through Performance-Based learning (PBL). Rather than using 100% examinations, students will be evaluated through their ability to use what they've learned in more realistic and practical ways. PBL courses will include Legislation, Foundations in Law and Justice 1 and Foundations in Law and Justice 2 (first year), Civil Procedure, Ethical Lawyering and Negotiation (Selected Topics) (second year) and Advocacy (Selected Topics) (third year).

As an example, in Ethical Lawyering students will be evaluated through assignments that may include writing a short policy paper on a regulatory issue (e.g., ABS), drafting a law society complaint against a lawyer, drafting an originating notice to remove a lawyer for a conflict, drafting a statement of claim or defence given an allegation of professional negligence, writing a memorandum of argument in a case of ineffective assistance of counsel or writing a reflective essay on the lawyer's obligation to pursue (or not) lawful but immoral actions for a client.

Over time the number of PBL courses will be expanded.

- All first year doctrinal courses, and some upper year courses (in the winter term), will be taught in shorter (10 week) terms with longer class times to allow professors to use innovative and interactive teaching methods.
- The second year Negotiation and third year Advocacy courses will be expanded to allow students to focus on particular substantive areas of their choice (e.g., Advocacy: Civil Litigation; Advocacy: The Criminal Trial, Negotiation: Contracts; Negotiation: Settling Disputes). The negotiation and advocacy skills currently taught will be linked to exercises in legal analysis, writing and research in the subject area chosen by the student.

- Optional courses in Legal Practice will be offered. These will include courses such as Law and Technology, Entrepreneurship, Leadership, and Diversity and the Legal Profession.
- Opportunities for students to participate in legal clinics will continue to be expanded.

Engagement

In order to foster student engagement – to encourage investment of time and effort in their legal studies – the Calgary curriculum focuses on 1) increasing student choice; 2) introducing more focused and intensive learning (to allow students to deepen their effort in one area rather than skimming the surface of several); and 3) improving scaffolding in the first year program.

- First year will begin with a three-week introductory course, Foundations in Law and Justice 1. The course will introduce students to the structure of the legal system; reading cases and statutes; legal reasoning, analysis and communication; the role of the lawyer and critical analysis of law. The course will be taught through performance-based learning, with particular emphasis on students practicing and being evaluated on legal reasoning, analysis and communication.
- In January of first year students will take a second three-week introductory course, Foundations in Law and Justice 2, which will cover legal research, writing and advocacy. Foundations 2 will build on the substantive law they have learned in their doctrinal courses in the first term, and give them the opportunity to deepen that learning through performance.
- All courses in first year, and selected courses in the upper year, will be taught with varying degrees of intensity, using three week, ten week and 13 week terms, with students taking from 1-5 courses, depending on the term length.
- Rather than taking an introductory survey course in legal theory in first year, students will be able to choose a theory course in an area of interest to them in 2L and 3L. In addition, rather than taking a required legal research course in the upper years, students will be evaluated on research through the course they choose to take to satisfy the upper year writing requirement. Finally, the Negotiation and Advocacy courses will be in an area chosen by the student, rather than simply being generic.

The Calgary curriculum will remain a work in progress. We know that some changes will in practice work out better or worse than we envisioned them. We also know that the legal services market will continue to evolve, as will the resources and technology available to us as educators. We must continue to break down artificial separation between the academy and practice, where law as a lived enterprise is viewed as irrelevant to academic inquiry, and the academic study of law is viewed as irrelevant to practical problems. Part of our answer to the question of what

makes a law school great must, in the end, include a willingness to continue to strive to achieve greatness, and never to assume that we've done so.

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