
SPECIAL REPORT

A case for disrupting the system of legal education

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Abstract This essay is focused on the role which law schools might play in “reinventing” the law student for a more robust role in an increasingly complex global economy. The case is presented for law schools to embrace and promote a collaborative orientation toward legal conflict and the role which lawyers have to play as problem solvers. Principles from systems thinking as well as a real-world example are utilized to illustrate why this change is imperative.

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The conversation held at Creighton University on October 8, 2018, around Professor Gillian Hadfield’s 2017 work, *Rules for a Flat World: Why Humans Invented Law and How to Reinvent It for a Complex Global Economy*, had ended. I was walking back to my office, reflecting on the many interesting things I had heard that day. I kept coming back to the word “reinvent.” This word held a particular potency for me. As an attorney, I had reinvented myself somewhat when I entered the field of conflict engagement. That reinvention had made me a better lawyer by providing me with a new range of collaborative tools with which to serve long-ignored but critical needs of my clients. Having the ability to attend to those needs had enabled me to unlock doors to some very satisfying interactions and resolutions.

My musings about my own professional reinvention then led me to ask myself the question, *how was it that I had embarked upon a career in the law—which is premised upon the existence of conflict—and not been schooled in so much of what comprised the art of engaging in conflict?* It seemed to me that law schools, including the one which had produced me, were somehow missing an opportunity to produce graduates who could do more and be more for their communities than perhaps had come to be expected of them. By the time I reached my office, the idea that had coalesced around the word “reinvent” was that the complex global economy cries out not only for a reinvention of law as Professor Hadfield had pointed out during the earlier conversation, but also a reinvention of what it means to be a lawyer and what it means to deliver legal services.

I teach Systems Thinking in my department and so I spend a lot of time lecturing (some might say hectoring) my students about leverage points—those points at which a small change will make a big difference to how a system operates. When we look at the legal system, it seems to me that if we want to “reinvent” what it means to be a lawyer and how a lawyer serves the society, one obvious leverage point would be law schools—the places where lawyers are trained for entry into the legal system. The change we might implement at that leverage point would be a switch in the focus of that training.

The premise of law schools for decades past is that the practice of law is the practice of war and that each new problem which a client presents his attorney is an opportunity for a new war to be waged on the other person(s) involved in the problem. The focus of training for those attending law school is on searching for and exploiting difference to secure a “win”

rather than seeking similarity to secure shared gain. If we accept, however, that the complexity of the global economy is due not only to the increase in the number of elements but also to the increased interconnectedness of those elements, then it should be clear that this increased interconnectedness demands lawyers who are trained to honor, embrace and leverage that interconnectedness rather than to amplify and exacerbate “separateness”.

Implementing a radical switch in focus—from the adversarial to the collaborative—with the attendant redesign of curricula and embrace of teaching methodologies that promote collaboration, will allow for the production of a “reinvented” law school graduate. This “reinvented” law school graduate will be versed in the art of conflict engagement and will have not only a different mindset with regard to how to approach conflict, but also a range of conflict engagement strategies at her disposal which will make her more agile and creative and therefore more adaptable to the new complexity of the global economy. The adoption of collaboration as the animating principle for legal training will also open the door for conflict engagement specialists like mediators and facilitators to more easily work with lawyers to provide ancillary services so that client problems can be addressed in the quickest, cheapest, and most appropriate way to ensure satisfactory resolution.

As I thought more about this idea of the reinvention of the law graduate, I realized that one of the participants in the day’s conversation, Danielle Conway, then Dean of Maine Law School (MLS), had in fact given an example of successful reinvention. She had spoken passionately about the Rural Lawyer Project which she had launched at MLS in 2017 to address the growing legal desert in rural Maine. She told the audience that through the ten-week Project, rural practitioners acted as mentors to law students with an interest in a rural law practice. Conway pointed out in her presentation that through the Project the students learned skills necessary for a rural practitioner to provide a service which increased access to justice in a legal desert. She stressed that the knowledge of conflict resolution and collaborative skills was particularly important for those students because a rural lawyer’s practice thrived on the building and maintenance of relationships with the whole community and because of the leadership role which a lawyer in a rural community could be called upon to play. Conway understood that MLS had to adapt its approach to training its law students to suit the changing environment in Maine. She understood that reinvention was imperative in order to meet community need.

Professor Hadfield has sounded an alarm bell by pointing out that the current model of producing law and delivering legal services is unsustainable. As a profession, lawyers have managed to make their services more costly, more complicated, and less user-friendly with each passing year – despite clear signals from those they serve that this is the opposite of what is wanted or needed. A change in course is required and law schools should be the leaders of this change by taking the bold step of reinventing the nature of legal training. This is of course no small feat given the nature of the legal and social structures within which law schools operate. However, in my Systems Thinking class I also emphasize to my students the fact that a system which cannot adapt to a change in its environment will eventually die.