Chapter 28
The Practice and the Pressure to Progress:
Law Schools, Technology, and the Future of Legal Work

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ABSTRACT

As one of the most traditional professions, the practice of law has been slower than most to adapt to technological advances and recognize the impact on the changing nature of work for attorneys. Only two state bar associations currently require continuing legal education in technology. New York's bar association has recommended mandatory training in cybersecurity; however, it would comprise only 1 credit within the Ethics & Professionalism Continuing Legal Education (CLE) requirements. This chapter will explore the negative "domino effect" that disregarding or underestimating the power of technology in both legal education and practice can have on access, diversity, and ultimately justice. By presenting the evidence here, perhaps the profession through its many and varied institutions and organizations can finally turn against the tide of tradition. The profession and its oversight bodies must look farther back in the pathway to practice to re-imagine legal education and embrace that which is now possible through technology and innovative teaching and learning methods.

INTRODUCTION

As one of the most traditional professions, the practice of law has been slower than most to adapt to technological advances and recognize the impact on the changing nature of work for attorneys.

Only two state bar associations (North Carolina and Florida) currently require continuing legal education in technology. New York's bar association has recommended mandatory training in cybersecurity; however, it would comprise only one credit within the Ethics & Professionalism Continuing Legal Education (CLE) requirements. This chapter will explore the negative domino effect that disregarding

or underestimating the power of technology in both legal education and practice can have on access, diversity, and, ultimately, justice. By presenting the evidence here, perhaps the profession can finally turn against the tide of tradition. The profession and its oversight bodies must look farther back in the pathway to practice to reimagine legal education and embrace that which is now possible through technology and innovative teaching and learning methods.

As a part of its mission, higher education aims to prepare its graduates to enter the workforce with the requisite knowledge and skills to be a productive employee. Just as the current CLE requirements lag far behind the practical realities of modern law offices, law schools are neither sufficiently integrating these technological skills into coursework nor using technology to deliver instruction. Technological hygiene is a vital skill that must be employed every day in ensuring confidentiality and information security. Law school graduates, who may be very familiar (perhaps too familiar) with the social media side of technology, lack instruction and practice in using it professionally. Online professionalism simply does not seem to be taught; and given the ever-increasing volume of ethical missteps in using online communication tools, it should be. The legal profession through both the American Bar Association (ABA) and state licensure does not provide for and significantly limits online learning both in law school and for CLE credits.

THE PIPELINE TO LAW SCHOOL AND THE LEGAL PROFESSION

The issue regarding technical content, coupled with and exacerbated by the limitations placed on online delivery, multiplies the effect of inequitable access to affordable, quality, online education. There are two obstacles that prospective lawyers must overcome. In order to apply to law school, a prospective student must have successfully earned an undergraduate degree and scored well on the Law School Admissions Exam (LSAT). That entrance pipeline is significantly restricted for traditionally underserved populations. (Redfield, 2010, p. 358) So while the legal profession acknowledges the lack of diversity in the practice, there have not been significant inroads to increase the diversity of its student body. "Law firms, corporate legal departments, government, and the judiciary cannot recruit attorneys of color who do not exist. Diversity efforts will encounter inherent obstacles as long as there remain too few people of color who decide to enter the profession in the first place." (Redfield, 2010, p. 348) While both the ABA and the Law School Admission Council (LSAC) claim a long-standing commitment to diversity, equity, and inclusion, neither organization has overcome the obstacles faced by those underrepresented and underserved populations. "Even with the contributions of LSAC and many others in the field, inequality continues to persist in early, higher, and legal education along the lines of race, ethnicity, gender identity, sexual orientation, disability status, socioeconomic status (SES), and first-generation college student status." (Bodamer et. al., 2020)

Newly minted attorneys, having successfully navigated through law school and passing their state bar exam, must find employment at a level that will allow them to pay back on their student loans. Law schools are extraordinarily expensive, as many graduate professional schools are, and so, these young professionals must decide which career path to follow. The two ends of the spectrum are to join a lucrative law firm or to practice in the public sector; of course, there are many options in between this feast or famine example. This chapter will examine not only the structure of legal education but also the consequences to the disadvantaged client base typically served by public sector attorneys. The future of the legal profession must first catch up and then keep pace with the realities of modern learning

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