

WITH EVERY CURSE THERE COMES A WISH[†]: LEGAL EDUCATION IN A TIME OF CHANGE

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“Adversity comes with instruction in its hand.”

This simple adage rings true for those who have experienced a life-lesson through difficult times. Many times, the challenges we overcome are critically instructive. Anyone who has struggled through a firing, death in the family, divorce, or personal illness no doubt learned a great deal in the process.

But for American law schools, the converse of the statement is also true: *Instruction comes with adversity in its hand.* Indeed, for the past several years, the task of educating future lawyers has been burdened with numerous challenges. Spiraling costs.¹ Low enrollment.² Changes in accreditation standards.³ Ever-changing technological advances.⁴ Access to justice.⁵ And while these dif-

[†] Bruce Springsteen, *With Every Wish*, Human Touch (Columbia Records, 1992).

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¹ Paul D. Carrington, *The Price of Legal Education*, 127 HARV. L. REV. F. 54 (2013); see also AMERICAN BAR ASSOCIATION, REPORT OF THE ABA TASK FORCE ON THE FINANCING OF LEGAL EDUCATION (2015).

² Mark Hansen, *As Law School Enrollment Drops, Experts Disagree on Whether the Bottom Is in Sight*, ABA JOURNAL, Mar. 1, 2015, http://www.abajournal.com/magazine/article/as_law_school_enrollment_drops_experts_disagree_on_whether_the_bottom (Enrollment in full-time and part-time JD programs at ABA-approved law schools fell to 119,775 in 2014, down nearly 7 percent from 2013); see also Steven Davidoff Solomon, *Law Schools and Industry Show Signs of Life, Despite Forecasts of Doom*, N.Y. TIMES, Mar. 31, 2015, http://www.nytimes.com/2015/04/01/business/dealbook/despite-forecasts-of-doom-signs-of-life-in-the-legal-industry.html?_r=0 (“Law school enrollment has plummeted to the lowest level in decades.”).

³ See Mark Hansen, *ABA Committee Approves Proposed Changes in Law School Accreditation Standards*, ABA JOURNAL, Nov. 20, 2012, http://www.abajournal.com/news/article/aba_committee_approves_proposed_changes_in_law_school_accreditation_standards.

⁴ See Dorothy A. Brown, *Law Schools Are in a Death Spiral. Maybe Now They’ll Finally Change*, N.Y. TIMES, Mar. 9, 2015, <https://www.washingtonpost.com/posteverything/wp/2015/03/09/law-schools-are-in-a-death-spiral-maybe-now-theyll-finally-change/> (observing that there has been a “seismic shift” in the way the legal profession does business). “Employers have downsized and outsourced work, and used technology to cut salary costs—

difficulties present numerous obstacles, they also have created great opportunities for growth. Indeed, the instruction of legal education has presented us with great lessons.

The crisis in legal education has challenged us to reconstruct our notion of law school. We have been forced to reconsider how we teach, what we teach, who we teach, and why we teach. At the same time, critics both inside and outside the academy have questioned the status quo of law schools and law faculty organizations.⁶ Some critics see faculty as self-interested and uninterested in the quality of legal education.

The biennial SALT Teaching Conferences give us the opportunity to respond to critics by showcasing the efforts of law faculty to improve legal education through the values of justice, diversity, and teaching excellence. In October 2014, more than 150 people came together in Las Vegas at the SALT Teaching Conference to explore these challenges—and the new opportunities for change they bring. The theme of the SALT Teaching Conference—Legal Education in a Time of Change: Challenges and Opportunities—succinctly captured the duality of the risks and rewards afforded by all of the difficulties for law schools. It was also an opportunity to consider important self-reflection and corrections. The Conference was organized in five tracks encompassing five themes: (1) Innovations in Pedagogy and Curriculum; (2) Integrating Skills and Theory; (3) Well Being & Professional Identity; (4) Bias, Racism and Inequality in the Classroom; and (5) Outside of the Classroom.

In organizing the 2014 symposium for the Society of American Law Teachers, we tried to take advantage of the opportunity to work with our extended family, focus on critical issues facing the academy, and work together to create solutions. We set the tone at the start of the conference for a solid grounding in collaboration. The opening plenary allowed us to articulate the importance of coalition-building in overcoming the struggles ahead. We were extremely proud to partner with our sister organizations: LatCrit, the Clinical Legal Education Association, the Legal Writing Institute, the Association of Legal Writing Directors, and the American Bar Association Section of Legal Education and Admissions to the Bar.

The participants in the teaching conference recognized that every crisis presents an opportunity that should not be wasted. Rather, we should unite in our efforts to meet the challenges facing legal education and create new oppor-

computer programs can search through volumes of documents, eliminating the need to pay a lawyer to do it.” *Id.*

⁵ See AMERICAN BAR ASSOCIATION TASK FORCE ON THE FUTURE OF LEGAL EDUCATION, REPORT AND RECOMMENDATIONS 13 (Jan. 2014), http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf (addressing the difficulty of Americans to access affordable legal services).

⁶ See, e.g., BRIAN Z. TAMANAHA, FAILING LAW SCHOOLS 28 (2012) (discussing the efforts of organizations such as AALS, CLEA and SALT in opposing proposed changes to the ABA standards governing tenure).

tunities for our communities. We should also take bold steps to honor our special obligations to our community⁷ and our students.⁸ During these transformational times, we must envision what law school can and should be.

The contributors to this symposium explore in novel ways how legal education can adapt to the changes and challenges ahead. First, in *Integrating Skills and Collaborating Across Law Schools: An Example from Immigration Law*, Jennifer Lee Koh and Anna Welch use the increased emphasis that law schools are placing on skills as a platform for greater use of simulations and skills training in doctrinal courses such as immigration law.⁹ Immigration law is uniquely suited for these innovations because it involves the problems of real people. The classes allow for the writing, interviewing, and counseling skills that the American Bar Association is now requiring as part of its experiential requirement. Although they wisely offer the caveat that not all the lessons they impart will apply to all law school courses, they provide a road map for curricular innovation.

John Murphy, in *Teaching Remedial Problem Solving Skills to a Law School's Underperforming Students*, discusses the support program he supervised at the Texas A&M University School of Law for students who were struggling academically. Programs such as this one are crucial as law schools enroll smaller classes with students that might not be as prepared as students they have enrolled in previous years.¹⁰ While we disagree with the importance that some schools might place on the LSAT and the bar exam driving the curriculum, we all agree that as long as those tests are in place, academic support programs such as this one will be crucial.

In their essay, Michael Perlin and Alison Lynch look for ways to rescue the disillusioned student from the malaise of law school.¹¹ The authors argue that the insights of therapeutic jurisprudence can be an alternative to mainstream attitudes about mental illness and sexuality. Therapeutic jurisprudence attempts to look at the ways that law and lawyer roles can be used to enhance the well-

⁷ SALT has consistently responded to social justice issues through programming, position papers and advocacy. For example, SALT recently submitted a shadow report on Racial Discrimination in the Legal Profession to the United Nations Committee on the Elimination of Racial Discrimination. (June 30, 2014), <http://www.saltlaw.org/wp-content/uploads/2014/07/June-30-SALT-FINAL-to-CERD-2.pdf>.

⁸ In an effort to help students better understand the financial implications of law school, for instance, SALT is publishing a Consumer Guide to promote financial literacy among students interested in social justice work. The Consumer Guide for the Social Justice-Minded Law Student will launch Fall 2015. *See For Students*, SOC'Y OF AMERICAN LAW TEACHERS, <https://www.saltlaw.org/for-students>.

⁹ Jennifer Lee Koh & Anna Welch, *Integrating Skills and Collaborating Across Law Schools: An Example from Immigration Law*, 16 NEV. L.J. 147 (2015).

¹⁰ John F. Murphy, *Teaching Remedial Problem Solving Skills to a Law School's Underperforming Students*, 16 NEV. L.J. 173 (2015).

¹¹ Michael Perlin & Alison Lynch, *Teaching Therapeutic Jurisprudence Can be a Tool for Social Justice and lead Law Students to Personally and Socially Rewarding Careers: Sexuality and Disability as a Case Example*, 16 NEV. L.J. 209 (2015).

being of the participants in the legal system. In teaching therapeutic jurisprudence in the context of mental health and sexuality, the authors hope to enhance the emotional well-being of the participants in legal education—chiefly, the students. This is a goal that all would agree upon, while acknowledging there may still be differences of opinion about how to reach that goal.

Rebecca Roiphe, in *Tilting at Stratification: Against a Divide in Legal Education*, sees the current divide in legal education as having the potential either to further divide law schools or to unify them.¹² Roiphe argues against the two-tier divide that is occurring in legal education, where some have advocated that the top law schools should fill their curriculum with theory and lower tier schools should focus on skills training.

In this “Age of Austerity,” most law professors and administrators are doing more—often with less. That means new projects, longer hours, more responsibilities, and thinner resources. Yet the conference benefited from the excellent volunteer work of many people already very busy at their home institutions.¹³ We are grateful for their service. We are also grateful for the ongoing support of our members.

SALT is committed to maintaining excellence for our students and institutions. At the same time, assaults on academic freedom, professional status, and inclusion are greater than ever. Beyond the classroom, threats to civil liberties continue to create challenges to vulnerable communities. With so many obstacles and challenges at play, this is a critical time for SALT to maintain its voice in the legal academy. For more than 40 years, SALT has stood as a progressive voice in the academy’s efforts to promote a better classroom and community. And we plan to continue this work through the members we have at nearly every ABA-accredited law school in the country.

Adversity and instruction come hand in hand, and they have both presented the chance for us to improve legal education. The progressive voice in this mission is essential in overcoming adversity and maximizing lessons. During the course of the Teaching Conference, SALT attempted to reframe the polarized debate about the value of a legal education, rejuvenate legal education, and reform the profession to ensure its path towards social justice and access to legal services for all. Our hope was that the conference sessions, the conversations they sparked, and the relationships they fostered, would inspire us to engage challenges. We hope that this symposium will likewise inform your vision for the role you can play in this new world ahead.

¹² Rebecca Roiphe, *Tilting at Stratification: Against a Divide in Legal Education*, 16 NEV. L.J. 227 (2015).

¹³ On the Faculty Development Workshop, Atiba Ellis and Saru Matambandzo did a stellar job in creating a rich program to promote a community of committed teachers and scholars. Conference Co-Chairs Kim Chanbonpin and Sara Rankin led an amazing team of Eliva Ariola, Eric Franklin, Lydia Nussbaum, and Hazel Weiser. Everyone gave generously of their time, possesses an exceptional awareness to detail, and displays a passion for social justice. We also appreciate the work of Blake Johnson, SALT’s Social Justice Fellow from September 2012 to January 2015.