There's More to the Law Than 'Practice-Ready'
By Alfred S. Konefsky and Barry Sullivan
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In this time of political and economic turmoil, legal education, of all things, has emerged as a major topic for discussion not only within law schools and the profession but also in the mainstream media. The reasons for this notoriety are not particularly flattering to law schools: the high price of legal education, the failure of many law schools to respond to a serious decline in the demand for lawyers, and lawsuits challenging the "sales practices" used by some law schools to meet the fierce competition for students.

The cost of legal education is a significant problem, and not just for those who graduate with little prospect of appropriate employment. Society also suffers when the indebtedness of highly qualified law graduates prevents them from considering work in the public sector. Nor can law schools be indifferent to the diminished demand for their product; they need to be far more thoughtful about the significance of changes in the legal job market and the profession.

Finally, it is also deplorable for law schools to mislead applicants. Law schools, after all, are in the business of training professionals who do not steer their course by the morals of the marketplace, but as ethical lawyers and public citizens with "special responsibility" (as the Model Rules of Professional Conduct state) "for the quality of justice." These are all serious matters, and what needs to be done in each case should be obvious, even if the path to getting there may be difficult.

But consider the American Bar Association's recent adoption of a resolution calling for "legal education providers" to use "curricular programs intended to develop practice-ready lawyers." It certainly does not sound like a vote of confidence. Presumably, the impetus was to help newly minted lawyers provide more competent professional services sooner, whether they represent clients on their own or as employees of law firms and other organizations. Perhaps the purpose is simply to suggest the need for balance in legal education, by emphasizing the critical value of skills training, clinical experiences, and capstone courses. Such courses are costly because they involve small-group or individual teaching, but they are indispensable. In today's world, law schools must ensure that their graduates have the skills necessary for achieving success in the first stages of law practice.

Most law schools, until fairly recently, paid little attention to practical skills, and the profession had little interest in having the law schools do otherwise. Law schools taught students how "to think like a lawyer," and it then fell to the law firms, government law offices, and senior attorneys in local communities to transform recent law graduates into effective, ethical practitioners. But law practice has changed. Senior lawyers in understaffed public law offices have little time to teach junior colleagues how to draft a complaint or interrogatories. In private firms, clients balk at paying for the time an associate spends in learning how to draft basic documents, let alone for a partner's "teaching" time.
So "practice-readiness" is indeed an important goal of legal education—but we think that law schools owe students more than that. Successful careers begin with competent practice in the early years, but preparation for the long haul is also essential. At the very least that means acquiring an array of skills beyond those usually mentioned in connection with practice-readiness. When we look back at the changes we have personally seen in society and the world, as well as in the legal profession and in legal education, we can only begin to imagine the world in which today's law students will finish their careers. The real task of legal education must be to prepare students, as best we can, for a lifetime of successful, ethical, and personally rewarding practice.

Law graduates must be practice-ready, not simply in the sense of being ready for the first stage of practice, but by being equipped for a lifetime of professional growth and service under conditions of challenge and uncertainty. Those who are practice-ready only in the narrow sense may have an initial advantage, but that will soon evaporate. Even today, a small-town business lawyer in upstate New York or downstate Illinois will have clients doing business in China, France, Germany, Italy, Japan, or Mexico. She may be able to draft a contract, but her advice will be more useful if she has some basic appreciation of the differences between the civil and common law systems.

In other words, there are things that a lawyer needs to know—and law schools therefore need to teach—that are just as important as drafting a contract or a complaint, or interviewing a client. The amount of time and resources that need to be devoted to one rather than the other is an important question for law schools to answer, but both are important, and there needs to be a balance between the two.

The real challenge for legal education is to prepare lawyers for the future without knowing what the future holds. Sound training in practical skills must go hand in hand with a broader and more capacious view of law. "Thinking like a lawyer" is more demanding today than it has ever been. Among other things, it requires us to draw on the methodologies and learning of other disciplines. It is necessity, not fashion, that causes lawyers to pay attention to the work of anthropologists, economists, historians, political scientists, psychologists, and sociologists. We look to those disciplines because their insights are useful—even indispensable—in understanding and solving legal problems in our complex and rapidly changing world.

There was a time when administrative lawyers could get along without understanding the economic consequences of regulation, but that day is gone. The best science is as valuable to environmental lawyers as economics is to corporate lawyers. Lawyers must understand how markets actually function, prosecutorial decisions are made, bureaucracies behave, business organizations operate, families interact, human rights cross borders, and technologies shape change. And lawyers cannot do their work without understanding how race and gender matter, or how the United States fits in the global world.

The most significant problems lawyers face are often novel and distinctive. What seems "theoretical" today has often proved to have extraordinarily practical effects in the hands of well-educated and well-informed practitioners. In the ever-challenging world of law in action, effective advocacy and wise problem-solving require an extensive and sophisticated set of skills.

This is a critical moment in the history of legal education and the profession. Law faculties must come together, talk seriously about how lawyers should be trained for the world ahead, and take
action. The choice cannot be between skills training and a broader education; it must be both. But some law schools have not acknowledged the necessity of those difficult discussions. Unless law faculties can say what a sound legal education requires for today and tomorrow, who will—or should—take us seriously?

Alfred S. Konefsky is a professor of law at the University at Buffalo. Barry Sullivan is a professor of law at Loyola University Chicago, and, for the fall of 2011, a visiting research chair in legal studies at the University of Alberta.