

Commercial law

An effort to turn lawyers into creators, not suffocators, of business

It seems that everyone, from Barack Obama down, thinks there is something wrong with America's law schools. The president questions whether their graduate courses need to be as long as three years. Potential students are spurning them: applications are falling, other than at a few elite institutions. Michael Schill, the dean of one of those top schools, at the University of Chicago, laments that lawyers are no longer making it to the top of big companies as they used to. Surveys suggest practising lawyers are miserable, perhaps because they feel their career prospects are limited.

Many lawyers end up working in business, but their legal education leaves them ill-prepared for this. Apart from a bit of accounting, law-school courses typically contain little that is of help in running an enterprise. So Chicago's law school has just launched a programme in which students will also take courses from the university's Booth business school—the world's best, according to The Economist's latest "Which MBA?" league table.

One of Chicago law school's most prominent alumni, Daniel Doctoroff, the chief executive of Bloomberg, and his wife Alisa, a Booth alumna, are backing the initiative to the tune of \$5m. The students will learn such things as how to manage and finance start-ups, and how to position a business in a competitive market. Attempts have been made before to bind business and legal education, but there have been few takers. Mr Schill says people may be put off by the extra cost and time involved in pursuing a joint degree. It does not help that in many universities the legal and business faculties are barely on speaking terms: for years, Harvard's stubbornly kept to different teaching calendars, making it hard for students to register for both schools' courses.

Whereas MBA schools encourage their students to launch new ventures to gain practical business skills, the ethos of law school is, to a fair degree, about constraining and preventing business activities. Law faculties have long sent their students to gain practical experience by giving free advice to the poor—a worthy pursuit, but it often means learning how to be good at suing businesses, especially private landlords. Back in class, when the students learn about business revenues, the emphasis is generally on how a claimant (and his lawyer) can get a cut of them, rather than on how to increase them.

An entire branch of legal education called "law and economics", largely developed at Chicago, touches on business. But it focuses more on how laws affect economic behaviour than on how they can be designed to promote enterprise. Likewise, statistical analysis has become an important part of law, but often it is used to establish a claim against a business, such as for discrimination, rather than to assess the viability of a potential venture.

Business schools, for their part, often give MBA students no more than a perfunctory introduction to law: they do learn about tax (and how to avoid it), and maybe take short courses on corporate law as it affects such things as issuing shares or declaring bankruptcy; but they learn little else on the panoply of laws that will bear down on them during their careers.

Chicago's new course is just a first step in closing the yawning gap between the entrepreneurship that a corporate lawyer needs and the legal knowledge that a good entrepreneur would benefit from. Like the farmer and the cowman in "Oklahoma!", the lawyer and the manager should be friends, though their interests all too often come into conflict.

Fonte: The Economist, London, v. 409, n. 8858, p. 71, 19 a 25 Oct. 2013.