

Future of Legal Education Conference

‘Future of Legal Education: Fostering Civic Professionalism’

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Background

This is a summary of the joint paper of George Mukundi Wachira and Edward Santow, presented at the Future of Legal Education Conference on 20-24 February 2008 at Georgia State University, Atlanta, USA. The paper responds to the 2007 report, *Educating Lawyers: Preparation for the Profession of Law* (the “Carnegie Report”).³ In particular, the *Carnegie Report* recommends that legal education should be structured around the principle of ‘civic professionalism’. This paper addresses how to put this recommendation into practice.

The paper begins with a theoretical analysis of the role of legal education in fostering civic professionalism. It then considers three ways in which this goal can be achieved: (i) clinical legal education; (ii) international collaboration; and (iii) law reform.

Part 1: The role of legal education in fostering civic professionalism

This part sets out the paper’s thesis—namely, that legal education should be designed not just to impart technical legal skills, but also to instil in law students a commitment to justice. The part sets out the logical and theoretical basis for this position, including:

- (a) Exploration of the concept of ‘civic professionalism’. Adherence to the principle of civic professionalism demands a realignment of the key players—legal educators, legal practitioners and the community—around a common commitment to justice.
- (b) Explanation of what is involved in the lawyer’s ‘commitment to justice’. This has two elements. The first is a *personal* commitment to justice, which requires law students to learn about, and comply with, established ethical standards. Secondly, it involves a broader commitment to the justice system as a whole. It requires lawyers to work to improve the legal system, so that its operation better accords with the principles of justice: fairness, equal treatment and so on. This duty derives from lawyers being members of a profession. A corollary of the benefits associated with professional affiliation—especially a state-protected monopoly on the provision of legal services—comes a requirement to protect and improve the operation of the law.

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³ WM Sullivan, A Colby, JW Wegner, L Bond and LS Shulman, *Educating Lawyers: Preparation for the Profession of Law* (2007).

- (c) Analysis of the role of legal educators in this process. This involves three main elements. First, legal education must bring together the theoretical and the practical, something that occurs most effectively through clinical legal education. Secondly, legal educators should encourage a contextual approach to learning about the law. This means considering the law’s social impact, as well as understanding how law is made, applied and interpreted, and by whom. Thirdly, law school should encourage law students to see the law through a critical lens, as something that they can help develop in a direction that minimises injustice and better upholds the *Grundnorms*, or fundamental principles, on which our legal systems all purport to be based.

Part 2: Clinical legal education

This part explains how the clinical legal education (“CLE”) model contributes to socially relevant legal education. Using some case-studies in Kenya and Australia, the section demonstrates how CLE has been employed to enhance civic professionalism. It includes:

- (a) Analysis of the role and benefits of clinical legal education. A survey of some select practical initiatives is made to demonstrate how CLE helps law students to move beyond merely passive understanding of the law, such that they can also engage with the law and utilise it to effect social change. That includes but is not limited to practical exposure to legal practice; opportunity to solve real legal problems; understanding the role of law to solve disputes from a justice perspective; and acquisition of the values of civic responsibility and professionalism.
- (b) Comparative analysis of different models of clinical legal education (with illustrations from Kenya and Australia), teasing out some best practices.
- (c) An outline of some of the challenges of implementing CLE and possible interventions that can be adopted to redress them.

Part 3: International collaboration

This part is a survey of how international collaboration can advance civic professionalism through comparative and shared strategies on legal education. Legal education, like most aspects of human endeavour, is affected and influenced by globalisation. This section examines the role of increased global interaction among legal educators and students in order to share innovative strategies, resources and expertise. The focus of the section is informed by three practical experiences of the authors—namely, exchange programs; funding; and the Global Alliance for Justice Education.

The section includes:

- (a) Discussion of how international collaboration can contribute to socially relevant legal education that fosters civic professionalism.
- (b) A brief survey of possible avenues for facilitating international collaboration in legal education, such as enhanced learning through modern technological advances, video and teleconferencing, internet, blogs, Skype etc.

- (c) A brief overview of the role of exchange programs and funding aimed at sharing and facilitating innovative and socially relevant legal training, resources and expertise.
- (d) A case-study of the Global Alliance for Justice Education (GAJE), including discussion of four practical GAJE initiatives: (1) bi-annual global conferences; (2) regional initiatives; (3) list serve and newsletter; and (4) research and publications.

Part 4: Law reform

This part advances the argument that lawyers should learn, from when they are students, to cast a critical eye over the law, so as to identify where the strands of law and justice diverge. Then, where such divergence occurs, lawyers should involve themselves in uniting these strands—a process referred to here as ‘law reform’. This part will explain how legal education should equip students to engage critically with the law, and to provide mechanisms for so doing. It will include:

- (a) Analysis of the benefits of encouraging an active and critical, rather than a passive, approach to learning about the law.
- (b) Exploration of some avenues for engagement with the formal and informal law reform processes.
- (c) Discussion of some illustrative case-studies, including the International Human Rights Lawyers Working Group and the internship program at the Australian Law Reform Commission.

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