

PILAC@5 PUBLIC LECTURE

THEME: BEYOND THE IVORY TOWER; LEGAL EDUCATION IN THE 21ST CENTURY

KEYNOTE ADDRESS DELIVERED BY DR. PAMELA TIBIHIKIRRA-KALYEGIRA, SCHOOL OF LAW GARDENS, MAKERERE UNIVERSITY, WEDNESDAY 30TH AUGUST, 2017

The Dean, Faculty of Law

Distinguished participants in your respective capacities

Invited Guests

Staff, School of Law and, in a special way, those attached to PILAC

Dear Students

Ladies and Gentlemen!

What a real joy and delight it is for me to return to my alma mater, over 20 years later, to the place that set me upon a firm foundation as an effective and responsible member of the legal profession. I have the fondest memories of my time here at the law school, sitting at the feet of some really great teachers some of whom are still here with us. To the current teaching staff, it is my hope that your students are receiving the same high quality training that we did in our time so that the good work of those who stood before us may continuously flourish.

Let me start off by congratulating PILAC on the attainment of 5 years of existence. We hear and see so much of your work that one would imagine that you have been in existence for a much longer period. Your impact has been felt in the advocacy of social justice for various marginalized groups in our society - hearty congratulations!

Our theme for the day is 'Beyond the Ivory Tower; Legal Education in the 21st Century.' What is an Ivory Tower? The Merriam Webster dictionary describes this as "1: an impractical; often escapist attitude marked by aloof lack of concern with or interest in practical matters. 2: a secluded place that affords the means of treating practical issues with an impractical often escapist attitude; especially: a place of learning." It would appear that the organizers of today's event would like us to proceed from the premise that training lawyers in the 21st Century must necessarily take the form of a practical approach rooted in the experiences of real life or life beyond the classroom.

“Thinking like a lawyer” - The Lecture and Case Method of Training

During my time at law school, we were taught using the traditional method of lectures and reading cases. In fact, the entire 3 years of my study were spent in only two places - the classrooms here at the school and holed up in what was aptly referred to as ‘*the cage*’ in the Law section of the university’s main library. Whereas the wire mesh barrier was meant to secure the precious books and statutes against theft, we the students were very much imprisoned within its confines in an attempt to catch up with our impossibly long reading lists of a vast array of cases, statutes and commentaries for each class.

The **Case Method** was meant to afford us powerful intellectual tools of legal analysis- to make us “*think like a lawyer*”. Indeed, law students picked up on this and soon were transformed into speaking and acting like lawyers, throwing around Latin phrases of legal jargon and expressing ourselves in sophisticated English at every opportunity to both impress and intimidate students who were pursuing other fields of study at the university. In class, we had a lecture on each course twice a week and tutorials once a week. Typically, the course instructor would stand in front of the class and deliver their piece with students copiously taking notes. Our classes took a predetermined and predictable fashion where students were called upon at random and expected to recite the facts of the case, the legal points in issue, the principles or legal doctrines involved and the law applicable, followed by a general discussion to clarify various aspects of the law.

In terms of intellectual discourse, the Case Method was rich in our appreciation for critical thinking. Even so, we had no exposure to and neither did we get to interact with the people whom our profession is pledged to serve.

What were the unintended consequences of our law school experience? Law students were steeped in the traditions of the law, thought like lawyers and ultimately ended up with cognitive knowledge of the law but without the benefit of seeing the law in action upfront during their training. It was believed that any practical legal training was a matter best left to the Law Development Centre where law graduates would receive postgraduate training in legal practice. Law school was to be strictly undertaken as a purely academic enterprise with no room for practical indulgencies in building lawyering skills. The effect of this type of training in a vacuum was to create ‘ivory tower’ lawyers who were not adequately equipped to pursue the task of advocacy for social justice or public interest lawyering. The closest we got to contemplate our role in society was during Jurisprudence classes which considered the role of a lawyer in the development of society.

One could conclude that while the *Lecture* and *Case Method* of training was the accepted norm and we did manage to serve quite well once in the field, we certainly would have been even more effective had the importance of practical learning and teaching law in context been highlighted and fully embraced.

“Rethinking ‘thinking like a lawyer’” - Incorporating lawyering skills in the training of law students

Fast forward to the teaching of law today; how well are our law schools teaching their students? How well have they responded to societal expectations to prepare their students for effective service, both professionally and in their communities? As we all experience, in our own families as much as from members of the public, lawyers are held in high regard as knowledgeable and in position to represent, defend and protect the rights of all in need of legal services including the vulnerable and marginalized. Lawyers therefore bear the responsibility to be prepared to act practically as well as ethically in the discharge of their duties.

Some law schools have established clinical legal education, moot court competitions and various community law programmes which provide an opportunity for students to observe and apply the law in practice in a variety of activities. Where well structured, these activities do equip law students with a professional identity and purpose that fosters a spirit of public service for the promotion of justice.

I am aware that PILAC adopts experiential learning, teaching students law in context and exposing them to a variety of practical aspects under the Clinical Legal Education Programme as well as the Community Law Programme. In addition, PILAC provides legal aid and hosts the Network of Public Interest Lawyers (NETPIL). The latter is very important as it ensures that the PILAC alumni have an assured support system should they wish to pursue public interest lawyering beyond law school. The establishment of the East African Network of University Law Clinics (EANULAC) is a most welcome initiative that encourages the embracing of this method of teaching law students by providing opportunities for collaboration and adoption of best practice.

What is the implication of all these initiatives? It is an attempt, in the words of a clinical professor of law, “to make legal education more ‘professional,’ to prepare law students better for the practice of law, and to address societal expectations of lawyers.”¹ This movement traces its roots to a debate in the U.S.A. during the late 80s / early 90s during which the American Bar Association established a Taskforce on

¹ Stephen Wizner, Dean of Faculty, William O. Douglas Clinical Professor of Law, Yale Law School, in *Educating Lawyers, Preparation for the Profession of Law*, The Carnegie Foundation for the Advancement of Teaching (2007).

Law Schools and the Profession: Narrowing the Gap.²The Taskforce conducted an in-depth study of the full range of skills and values necessary for a lawyer to assume professional responsibility for handling a legal matter. They surveyed several approved law schools regarding the extent of curriculum development in the skills training area and the availability of such programs to students. The Taskforce viewed Legal Education and Professional Development as an Educational Continuum through which lawyers acquire their skills and values. This demands that the preparation for the profession of Law would begin with the process prior to law school, professional development during law school, the transition from law student to practitioner and professional development after law school. The Taskforce Recommendations are as relevant today as they were in 1992. I would implore every law teacher to study them. They provide, in great detail, various suggestions for improving and integrating the process by which lawyers acquire their skills and values and for enhancing lawyers' professional development at all stages of their careers. Many of these recommendations are centred on integrating lawyering skills in the manner that PILAC seeks to do for its law students.

The introspection of the American Bar Association regarding the training of law students in the 1990s led to vast changes in the way law students were taught and clinical legal education became a part of every law programme in virtually all law schools in the U.S. In 2001 the leaders of the Clinical Legal Education Association decided to establish a committee of scholars to develop a "Statement of Best Practices for Legal Education."³ Over the ensuing 5 years, the authors of BEST PRACTICES distilled out of the continuing dialogue a consensus of understanding of an alternative vision of all the components of legal education, based on educational research and scholarship: an integrated combination of substantive law, skills, and market knowledge, and embracing the idea that legal education is to prepare law students for the practice of law as members of a client-centred public profession.⁴ The Best Practices for Legal Education Report was released at the same time (2007) that the Carnegie Foundation released a report on EDUCATING LAWYERS.⁵

The central message in both BEST PRACTICES and EDUCATING LAWYERS is that law schools should:

²See Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, *Legal Education and Professional Development – An Educational Continuum*, American Bar Association, Section of Legal Education and Admissions to the Bar (1992).

³See *Best Practices for Legal Education, A Vision and A Road Map*, Roy Stuckey and Others, Clinical Legal Education Association (2007).

⁴*Id.* at vii, Foreword by Robert MacCrate, Esq.

⁵See *Educating Lawyers, Preparation for the Profession of Law*, The Carnegie Foundation for the Advancement of Teaching (2007).

- i) Broaden the range of lessons they teach, reducing doctrinal instruction that uses the Socratic dialogue and the case method;
- ii) Integrate the teaching of knowledge, skills and values, and not treat them as separate subjects addressed in separate courses; and
- iii) Give much greater attention to instruction in professionalism⁶

Digging deeper, the Carnegie Report built on the above suggestions by exploring how well-thought-out assessment can and does function in forming competent professionals. The Report proceeded from the premise that what teachers value - what they deem important and essential for students to learn - can be ascertained most directly by what they assess - what they require students to know and be able to do. In this sense, a careful examination of the assessments that law students are required to take during their formal preparation reveals what professors value. In looking at these assessments, the authors of the Carnegie Report found significant slippage between the knowledge and abilities emphasized by the schools and those prized by the profession at large. The institutional context showed powerful bias in favour of academic values at the expense of the practical and ethical-social values. The authors proposed an integrated process that would institutionalize a culture of intentional learning throughout the school in order to make legal education a more integrated and effective preparation for entry into the profession.⁷

The insights shared in the 3 books I have referenced above - the Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, Best Practices for Legal Education and Educating Lawyers - remain highly recommended reading for our law teachers in Uganda today. These 3 texts share lessons learned from Legal Education in America that are directly related to our own challenges in educating lawyers in Uganda today. Law schools in Uganda would serve their students, the legal profession and the public at large more effectively if they embraced the suggested recommendations, of course adapted to fit the Ugandan context.

Now, I am alive to the fact that legal education in the U.S. is a graduate programme and they do not have the equivalent of Law Development Centre although it was a consideration during that period of debate I referred to earlier on. The idea was to establish an American Institute for the Practice of Law; it never quite caught on. In Uganda, we have continued to separate substantive law training from that of practical legal training by having to undertake a Bachelor of Laws and then a Diploma in Legal

⁶*Supra* note 4.

⁷See Chapter 5 – Assessment and How to Make it Work, in *Educating Lawyers, Preparation for the Profession of Law*, The Carnegie Foundation for the Advancement of Teaching (2007).

Practice. Even so, take a moment to imagine if these trainings were fully integrated - no need for LDC ergo no LDC pre-entry exams, no torture chambers or living through a furnace for ten months - only a preparation for Bar Exams at one's convenience when ready for the same. Not making it into LDC would not sound the death knell for law graduates as they would still have their lawyering skills that public interest law organizations, among others, would be happy to make use of. Think about it...

Conclusion

PILAC, as the pioneer university based law clinic in Uganda, is celebrated today for having bravely started us on the path to ensuring that legal education embraces pedagogies that can be used to shape professional identity by integrating clinical training in which students take direct responsibility for clients. Clinics present great opportunities for students to learn to integrate not only knowledge and skill but the practical awareness and ethical-social aspects of lawyering as well. This is essential to the full development of the student as a responsible member of the legal profession. It is my hope that your students will have a most enriching experience and know the satisfaction that can be derived from promoting social just, particularly in the area of assisting indigent clients. Perhaps for some this may turn out to be the beginning of an illustrious career in public interest lawyering.

Once again, congratulations PILAC! Aluta Continua!