

The Goals and Objectives of Law Schools Beyond Educating Students: Research, Capacity Building, Community Service

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Research

Universities are more than teaching institutions; they are institutions of learning that have as a core mission the advancement of human knowledge and understanding. In this regard, research is an important component of what universities do and by extension is an important aspect of the goals and objectives of law schools.

Within law there are different research approaches that can be broadly categorized into 3 groups. The first is doctrinal research where the objective is to facilitate a greater understanding of law from an 'internal' perspective. Within the common law much doctrinal research will analyze cases; how these cases relate to general principles; internal consistency within specific areas of law; and so on.

The second attempts to better understand law through the prism of 'external' perspectives. Law is not an autonomous discipline but is a reflection of a society's values and priorities. Accordingly, law is influenced by economic, social, historical and political factors. An 'external' understanding of law provides the context within which the 'internal' rules may be better understood.

The third seeks to understand law not from a narrow jurisdictional basis but draws insights from approaches found elsewhere. Learning from other jurisdictions can enhance understanding of our own system and challenge assumptions that we take for granted.¹

These broad genres of research are not mutually exclusive and a publication may incorporate all 3 approaches. It is fair to say though that most research tends to be of the doctrinal sort; there is a growing body of work that incorporates insights from other disciplines particularly in North America; and there is an emerging interest in comparative studies.

For law schools, doctrinal or 'black letter' research is of most relevance to members of the legal profession who need to understand how to use legal rules in their practice. This is one of the objectives of legal research. In developing countries that do not as yet have sophisticated legal systems, doctrinal research serves a particularly important function. Yet it must be

¹ Some of these ideas have been examined more fully by this author in "Challenges to Legal Education in a Changing Landscape" (2003) 7 Singapore Journal of International and Comparative Law 545 and "Change and Yet Continuity – What Next After 50 Years of Legal Education in Singapore" [2007] Singapore Journal of Legal Studies 201 – 215.

conceded that such a perspective alone will not optimize the development of sophisticated lawyers who can deal with complex legal issues. Many academics, without attempting to overtly incorporate insights from other disciplines, will in their research make reference to 'policy' as a means to contextualize legal rules so as to achieve greater understanding of the rationale and limitations of such rules. It may be necessary to go further and one way of surmounting disciplinary limitations is to work collaboratively with academics in other disciplines particularly those in other areas of humanities and social sciences. A better understanding of the intersection between law and other areas of human understanding will allow legal research to become a more powerful tool in shaping and improving understanding of our legal systems and aid in the process of law reform.

In addition, to the extent that globalization is a significant force that the legal profession must contend with (as this author believes), legal research will not sufficiently allow us to understand the complexities of legal rules and their application without comparative perspectives being incorporated. A more globalized world may also imply that over time 'best practices' will emerge that many societies will gravitate towards (at least broadly) and legal research must be alive to perspectives beyond those of our own jurisdictions.

Broadly stated, a more holistic approach to legal research has powerful potential to reshape our current understanding and lead over time to significant evolution or even transformation of our legal systems. Law reform is an often implicit but important by-product of legal research and indeed many academics are at the forefront of law reform.

Capacity Building

As is implied in the previous comments on research, law schools do not exist for their own sakes – they are ultimately institutions in service to their communities (which increasingly go beyond the country they 'reside' in). Just as research exists ultimately to advance knowledge and understanding and through that better judicial outcomes, law reform, etc, law schools can and should use their expertise more directly through capacity building initiatives, often in collaboration with donors and NGOs.

There is widespread understanding amongst policy makers, government, and legal institutions of the importance of building knowledge and skills within their organizations. This can take many forms. At its most basic policy makers who are contemplating amendments to existing laws may wish to have a better understanding of how such reforms have been implemented in other jurisdictions. Sometimes, the focus may be more practical such as issues relating to enforcement. Or the focus may be entirely on education if a particular jurisdiction has limited expertise in an area but sees the growing importance of this area to its economy. An example may be in the area of intellectual property which, as a country develops, may assume greater importance as its companies begin to move up the value chain. And let us not also forget that law schools can and should play a role in continuing education within their jurisdictions.

Law schools, with their expertise, are natural institutions to assist in such capacity building. In addition, law schools bring additional strengths such as perceived greater objectivity and non-partisanship compared to private entities that may be perceived as having a more overt agenda to push.

For law academics, engaging in capacity building can potentially be very liberating and exciting. A lifetime spent thinking of ideas and how laws and the legal system can be improved can find expression through engagement with the community whether within one's jurisdiction or beyond. And let us not forget that through the sharing of our ideas we will also learn in turn.

Clinical Programmes

Many law schools are engaged in clinical programmes that broadly serve to allow disadvantaged segments of society to have greater understanding and access to their legal rights. In such clinical programmes, law schools do not generally seek to compete with the private sector but play a role amongst persons who may not have ready access to private lawyers or even state funded legal aid (or who at least need to be informed of what their rights are and where they can go to for assistance). Law schools generally seek to complement existing avenues of access to justice.

Clinical programmes can also serve as a powerful educational tool by contextualizing the study of law with real issues thereby facilitating a deeper understanding of the role and importance of law within society, as well as specific laws that students will have to grapple with to solve problems. It is suggested that it is this educational element, rather than the skills element, that should underpin clinical programmes in law schools.

The Law School as a Moral Force

There are other roles beyond the function of educating students that law schools can no doubt play, e.g. media commentary. However, within the confines of this brief paper these 3 are highlighted. The underlying notion of these roles and that of education is of the law school as a positive moral force that plays a role (with others) to work towards an ever more just and equitable society. Just as education of students does not exist in its own right but to develop socially conscious and competent lawyers who will help the legal system to function in an orderly and fair way, the other roles of law schools reflect a desire to have a positive influence on society.

It is suggested that no great law school can be a passive institution because the work of a law school does not take place in a vacuum. One does not teach just for the sake of teaching nor should one write for the sake of writing. The acts of teaching and research in themselves, when performed by one called to the academic life, are positive acts in themselves. They seek to mould students or open up new possibilities of understanding.

Yet law schools and law academics must also know their limits. We must always be alive to the possibility that we may be wrong. This author for one thinks it a strength of an academic that there be some self-doubt rather than complete assurance as the latter severely limits the ability to develop and adapt. The perception of objectivity and non-partisanship is also an important comparative advantage that law schools have and law schools should therefore be slow to cede such an advantage by taking institutional views on contentious issues. This is not to say that a position may be so heinous that a law school ought not to take a clear stand, e.g. apartheid, but in general it is far better for the institution to remain neutral even if individual faculty take clear positions.

This implies that there are matters that are best left to individual academics to pursue and the role of the law school is to be generally supportive of such activities but not more. At other times, it may be appropriate for the law school to lend its support to an activity that fulfils a clear social good, e.g. environmental protection and the protection of intellectual property rights.