INTERNATIONAL CONFERENCE ON THE FUTURE OF LEGAL EDUCATION IN GHANA/AFRICA

CONFERENCE PROCEEDINGS

29th November – 2nd December 2021

DR. SENA DEI-TUTU

(ed.)

University of Ghana School of Law

Proceedings of the

International Conference on the Future of Legal Education in Ghana/Africa

29 November – 2 December 2021
University of Ghana School of Law
Legon
Accra Ghana

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Edited by

DR SENA DEI-TUTU
July 2023

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Acknowledgements

The International Conference on the Future of Legal Education in Ghana/Africa was held at the University of Ghana School of Law, Legon from 29 November 2021 to 2 December 2021.

The University of Ghana School of Law was responsible for the organization of the conference, and it was sponsored by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ).

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Preface

The International Conference on the Future of Legal Education in Ghana (Africa) took place at the University of Ghana School of Law (UGSoL) from November 29, 2021 to December 2, 2021. Initiated by the University of Ghana School of Law, the forum was the culmination of efforts of a consortium of partner individuals and institutions, particularly the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ). The event convened policy makers, legal academics, lawyers and development partners from across Ghana and Africa to explore legal education and provide solutions to the ailing legal sector, with a major focus on Ghana. The conference was aimed at broadening the range of people who are interested in deciding what the next steps to improve upon legal education on the continent should be.

We would like to express our deepest appreciation to all the dignitaries who graced the event, particularly His Excellency Nana Addo Dankwa Akufo-Addo, the President of Ghana in the capacity of the Special Guest of Honor; Hon. Joseph Osei Owusu, the First Deputy Speaker of the Parliament of Ghana; His Lordship Justice John M. Dotse on behalf of the Chief Justice of Ghana, Hon. Godfred Dame, the Minister for Justice and Attorney-General; His Excellency Ambassador Daniel Krull, the German Ambassador to Ghana; and Professor Nana Aba Appiah Amfo, the Vice Chancellor of the University of Ghana.

The conference had an excellent turnout, with approximately 2,369 participants, including delegates and associates from The Gambia, Nigeria, South Africa and Sierra Leone, attending the event. We would like to thank all participants without whom the conference would not have been successful.

Our thanks also go to all our sponsors and partner individuals and institutions whose financial and logistical support brought the plans for this colloquium to fruition. We are grateful to the members of the programme committee and to all who contributed to the success of this conference. Our most profound gratitude goes to you all.

July 2023 DR. SENA DEI-TUTU

INTERNATIONAL CONFERENCE ON

THE FUTURE OF LEGAL EDUCATION IN GHANA/AFRICA

& THE LAUNCH OF THE UNIVERSITY OF GHANA SCHOOL OF LAW ENDOWMENT FUND

OPENING CEREMONY

UNIVERSITY OF GHANA SCHOOL OF LAW AUDITORIUM, LEGON, ACCRA

29th November 2021 | 8:00am - 1:00pm

SPECIAL GUEST OF HONOUR

H. E. Nana Addo Dankwa AKUFO-ADDO
President of the Republic of Ghana

Rt. Hon. Alban S.K. BAGBIN
Speaker of Parliament of the Republic of Ghana)

Hon. Godfred DAME
Minister of Justice and Attorney General of the Republic of Ghana

Prof. Nana Aba Appiah AMFO
Vice-Chancellor of the University of Ghana

His Lordship Justice Kwasi Anin YEBOAH
Chief Justice of the Republic of Ghana

H. E. Ambassador Daniel KRULL
German Ambassador to Ghana

Prof. Raymond A. ATUGUBA
Dean, University of Ghana School of Law

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THE FUTURE OF LEGAL EDUCATION IN GHANA/AFRICA

& THE LAUNCH OF THE UNIVERSITY OF GHANA SCHOOL OF LAW ENDOWMENT FUND

DAY 2 CONFERENCE SCHEDULE | Tuesday, November 30, 2021 | 1:00 - 5:30pm

TOPIC: The Policy, Legal, Management and Ethical Frameworks of Legal Education

C H A I R

NANA DR. S.K.B. ASANTE
(Omanhene, Asokore Traditional Area)

S P E A K E R S

THE HON. JUSTICE DR. ABOU B.M. BINNEH-KAMARA, J.
(Justice of Sierra Leone's Superior Court of Judicature and Dean of the Faculty of Law, Fourah Bay College, University of Sierra Leone)

MS. GLORIA OFORI BOADU
(Managing Legal Practitioner, GOB Law Consult)

P A N E L I S T S

HON. DR. DOMINIC A. AYINE
Chairperson, Parliamentary Committee on Subsidiary Legislation)

Legal Framework

ACE ANKOMAH
(Partner, Bentsi-Enchill, Letsa & Ankomah)

Policy Framework

MRS. JULIET ADU-ADJEI
(Registrar, Ghana School of Law)

Management and Administrative Framework

MRS. VICTORIA BARTH
(Managing Partner, Okudzeto and Associates)

Ethical Framework

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DAY 3 CONFERENCE SCHEDULE | Wednesday, December 1, 2021 | 1:00 - 5:30pm

TOPIC: Curriculum Development and Teaching Methodologies

CHAIRS

HER LADYSHIP JUSTICE PROF. H.J.A.N. MENSA-BONSU
(Justice of the Supreme Court of Ghana)

PROF. OLAOLU OPADERE
(Dean, Faculty of Law, University of Gambia)

SPEAKERS

DR. BENJAMIN KUNBUOR
(Chair, Curriculum Reform and Teaching Methodologies Committee, UGSoL)

PROF. ANTHONY C. DIALA
(Director, Centre for Legal Integration in Africa)

PANELISTS

PROF. CYNTHIA FORSON
(Deputy Provost, Lancaster University, Ghana)

Curriculum

PROF. KWADWO APPIAGYEI-ATUA
(UGSoL)

Teaching Methodologies

PROF. DANIEL K. TWEREFOU
(Director, Academic Quality Assurance Unit, University of Ghana)

Quality Control

PROF. MRS. LYDIA APORI NKANSAH
(Dean, Faculty of Law, Kwame Nkrumah University of Science and Technology)

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& THE LAUNCH OF THE UNIVERSITY OF GHANA SCHOOL OF LAW ENDOWMENT FUND

DAY 4 CONFERENCE SCHEDULE | Thursday, December 2, 2021 | 1:00 - 5:30pm

TOPIC: Resources for Legal Education

CHAIR

MR. KWAKU ANSA-ASARE
(Dean, Mountcrest University College)

SPEAKERS

MR. KWASI PREMPEH-ECK
(Director of Legal Education and the Ghana School of Law)

DR. PETER A. ATUPARE
(Dean, Faculty of Law, University of Cape Coast)

PANELISTS

MS. ISABEL BOATEN
(Managing Partner, AB & David Ghana)

Human Resources

PROF. KOFI ABOTSI
(Dean, School of Law, University Of Professional Studies)

Institutional Resources

PROF. AKUA KUENYEHIA
(Former Vice President of ICC)

Infrastructural Resources

PROF. IGE BOLODEOKU
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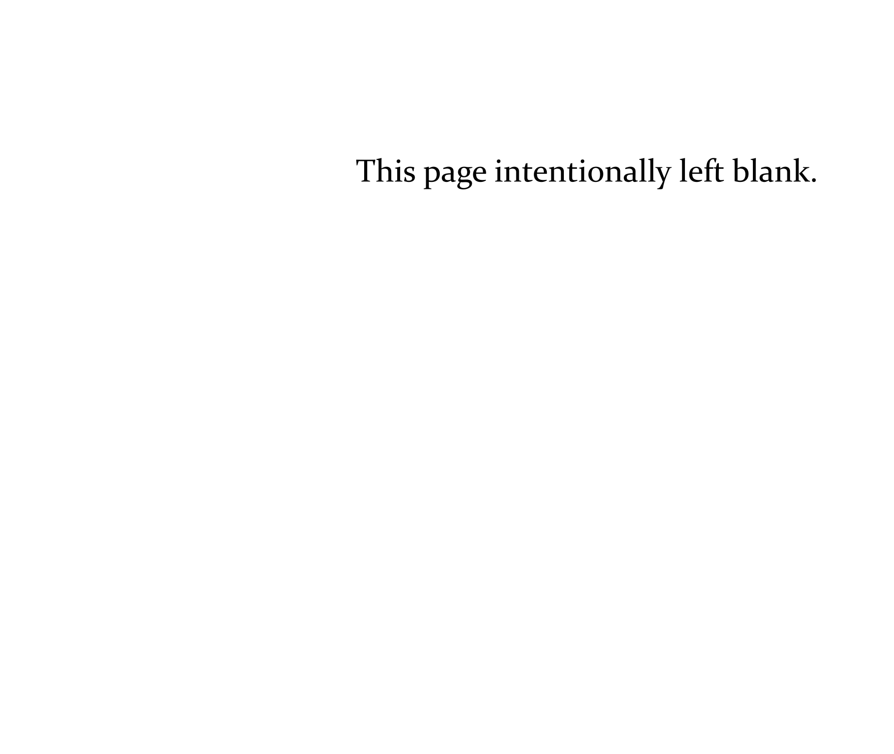

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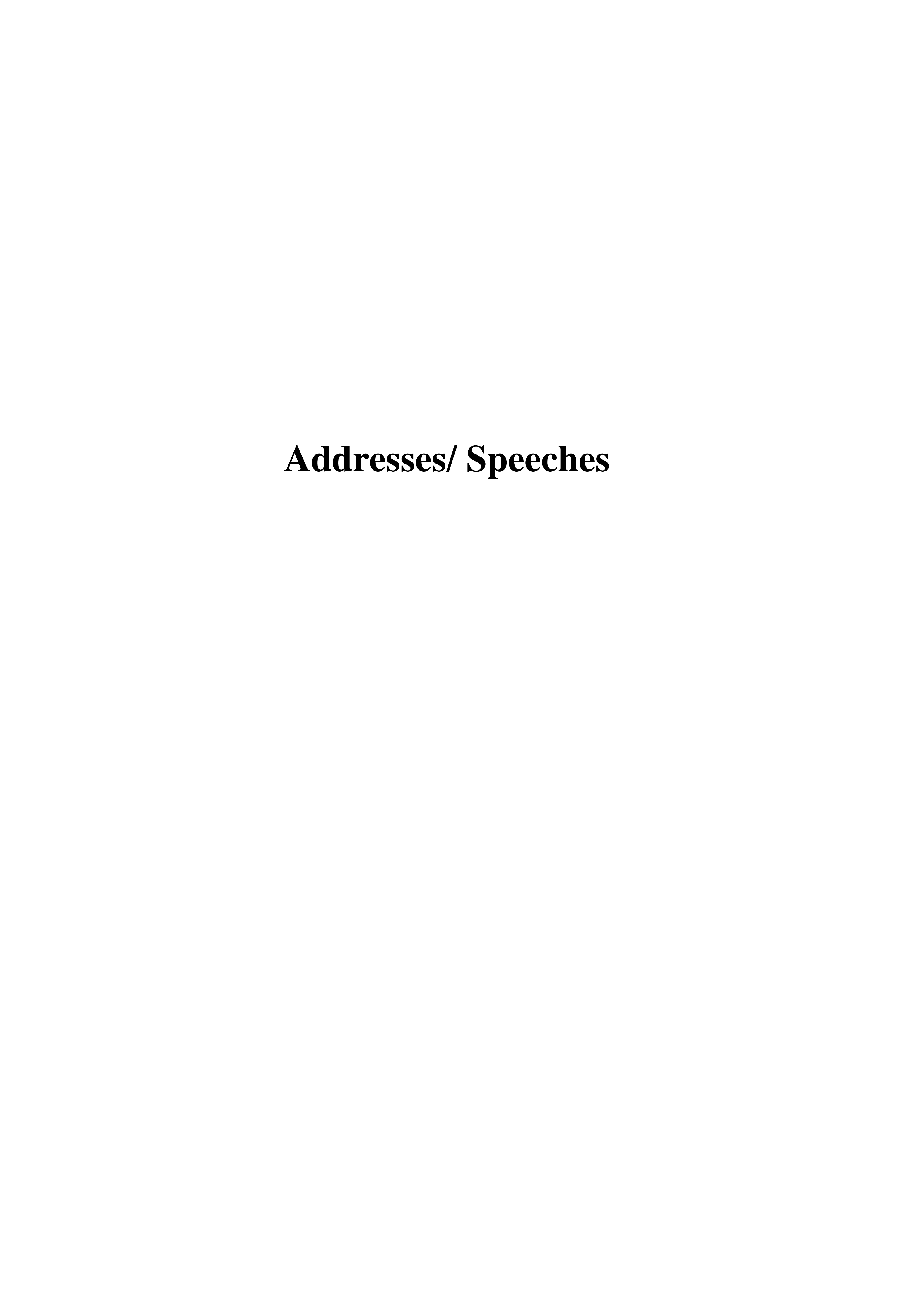

Addresses/ Speeches

ADDRESS

PROFESSOR RAYMOND AKONGBURO ATUGUBA

Dean, University of Ghana School of Law

His Excellency Nana Addo Dankwa Akufo Addo, President of the Republic of Ghana.

My duty this morning is a short and simple one. It is to recognise the Special Guests we have here today.

Beginning with His Excellency; the last time I was at your office for business that will remain undisclosed, you spoke passionately about the need for the reform of legal education in Ghana. So, we know that you have your heart in the theme for this conference and intend to carry through any meaningful proposals that will emanate from these four days.

Many of you are not aware that His Excellency had to postpone a trip abroad in order to be with us this morning. Indeed, I understand that he may be leaving here straight to the airport. This is how much our President values the deliberations that are taking place here this week on the Future of Legal Education in Ghana and Africa.

When I met the Rt. Hon. Speaker on Friday, he was very sad he could not make it today due to a personal emergency. He and I have discussed issues of legal education many times. While I was there, he asked the 1st Deputy Speaker of Parliament and now Acting Speaker, Rt. Hon. Joseph Osei-Owusu, to represent him here today. Although 'Joe Wise', as he is affectionately called, had an engagement outside of Ghana, he rescheduled it to be with us this morning. Indeed, as alumni of this School, I am not surprised that they made this happen.

The last time I reminded the Chief Justice of today's event, he was still scheduled to come. He returned to the country yesterday but has unfortunately been held up by a family emergency. He has, however, asked the Acting Chief Justice and the most senior Justice of our Supreme Court to represent him.

Significantly, His Lordship Justice Jones Dotse chairs most of the committees of the General Legal Council that deal with legal education and I have worked with him on several of them. I am confident that he is the right person to be with us this morning. Both the Chief Justice and Justice Dotse are also alumni of our School.

Minister for Justice and Attorney-General, Hon. Godfred Yeboah Dame, is also an alumnus of this School, our sector minister, and the minister who drafts all our laws, so we are confident

that we can work with him to help realise the policies and laws that would move legal education forward in a productive manner.

Another member of the Cabinet, also an alumnus of our School, who was until recently Deputy Chief of Staff to the President and who is now the Minister for Lands and Resources, Hon. Abu Jinapor, is also here. Indeed, before the COVID-19 pandemic, our school had started working with Hon. Abu Jinapor and the Secretary to the President on plans to raise funds for the Endowment Fund. We hope that the public and private sector companies in his current sector will not "disgrace him", as we say in Ghana, and contribute massively to our Endowment Fund.

Present here today is the composed and visionary trailblazer, Professor Nana Aba Appiah Amfo, the first female Vice-Chancellor of the University. We are working hard to foster a deep admiration within her for our School.

She is ably supported by her two lieutenants, the Acting Pro Vice-Chancellor for Academic and Student Affairs, Professor Daniel Ofori, who doubles as the Provost of our College, the College of Humanities, and is therefore my immediate boss; and the Pro-Vice Chancellor for Research, Innovation and Development, Professor Felix Ankomah Asante, who has joined us online.

The Registrar of the University, Mrs. Emelia Agyei-Mensah is also present, as are the Provosts of the other Colleges: my good friend and classmate in High School, Professor Julius Fobil, the Provost of the College of Health Sciences; Professor Boateng Onwona-Agyeman, Provost of the College of Basic and Applied Sciences, another good friend of mine with whom I served on the Disciplinary Committee in the last few years; and Professor Martin Oteng-Ababio, the Acting Provost of the College of Education (COE), another friend of mine. Also present are many Deans and Directors who have come to support us. We are thankful.

After today's opening, the actual conference starts tomorrow. Most of the legal heavy weights of this country will be present or joining us online. Let me give just a sample from those with us today; and forgive me if I miss your name:

- Nana Dr. S.K.B. Asante,
- Professor Akilagpa Sawyerr,
- Professor Albert K. Fiadjoe,
- Professor Samuel Kofi Date-Bah,
- Professor Akua Kuenyehia
- Justice Professor H.J.A.N. Mensa Bonsu,
- Mr. Kwaku Ansa-Asare,
- Dr. Benjamin Kunbuor,

- Ms. Gloria Ofori Boadu,
- Professor Lydia Apori Nkansah,
- Mr. Ace Ankomah,
- Hon. Dr. Dominic Ayine
- Professor Kwadwo Appiagyei-Atua,
- Ms. Isabel Boaten,
- Professor Kofi Abotsi,
- Dr. Peter Atupare,
- Mrs. Juliet Adu-Adjei,
- Mrs. Victoria Barth.

We also have other experts in education participating, including:

- Professor Cynthia Forson, Deputy Provost, Lancaster University, Ghana
- Professor Daniel K. Twerefuo, Director of the Academic Quality Assurance Unit of the University of Ghana

I would also like to recognize the Ministers of State, Deputy Ministers of State, Members of Parliament, including the chairs, ranking members and members of the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs and the Committee on Education, Chief Executive Officers in the public and private sectors, and many others.

Before I take my seat, let me welcome my colleague Deans from various African Law Faculties, especially:

- Professor Ige Bolodeoku, Dean, Faculty of Law, University of Lagos, Nigeria;
- The Hon. Justice Dr. Abou B.M. Binneh-Kamara, Dean of the Faculty of Law, Fourah Bay College, University of Sierra Leone;
- Professor Olaolu Opadere, Dean, Faculty of Law, University of The Gambia;
- Professor Anthony C. Diala, Director of the Centre for Legal Integration in Africa, University of the Western Cape, South Africa;

As well as:

- Mr. Kwasi Prempeh-Eck, my former lecturer, and now Director of Legal Education and of the Ghana School of Law;
- The Deans of the 15 Law Faculties in Ghana today;
- Lecturers at the University of Ghana School of Law and other law faculties in Ghana;
- And a cross-section of our students.

This conference could not have come at a more auspicious time, considering the palpable challenges facing legal education in Ghana and Africa today. The curious thing is that this is not new.

As far back as the 1950's, the foundations of legal education in Ghana were laced with the same challenges. A newspaper excerpt dated 4th November 1958 on the opening of the Ghana Law School read:

> ***"GHANA LAW SCHOOL OPENS NEXT MONTH***
> ***FIRST COURSE BARRED TO OUTSIDERS***
>
> *The Ghana Law School is to open in Accra on December 29 with 50 Ghanaian students.*
>
> *At a 60-minute press conference held in Accra yesterday, Professor J.H.A. Lang, Director of Legal Education, said this first course for would-be legal practitioners is being restricted to Ghanaians because of a lack of accommodation.*
>
> *Classes, according to Professor Lang, will be held in the Supreme Court on weekdays between 5 p.m. and 7 p.m.*
>
> *The fee for a whole year's course, he said, would be £50 payable in three instalments of £18 on enrolment, £16 at the beginning of the second term and £16 at the beginning of the third term in September."*

Distinguished guests, it is evident from the extract above that the challenges of legal education are neither new nor much different from what we are facing today. Perhaps, the only difference would be that the challenges embedded in the institutional framework are now so pronounced that we can no longer sweep them under the rug like before. It is not good that the problems of legal education in 1958 are still present in 2021 – exactly 63 years later.

Bringing this problem closer to home, consider this recent WhatsApp message I received from a Ghanaian mentee of mine who was forced to pursue his legal education in Liberia:

> *"I'm glad to inform you that my course of study in the Louis Arthur Grimes School of Law, University of Liberia leading to the LLB degree has successfully ended. While awaiting the results, I am faced with a dilemma for which your expert advice is very much needed.*
>
> *The issue is that the Law of this country does not allow a non-Liberian citizen to be called to the Bar, as foreigners are not allowed to practice law in the country.*
>
> *…*

Since I am a foreigner and can therefore not qualify for the Bar at all, I cannot be called to the Bar unless I naturalise (but that is a not an option for me).

In this scenario, what are my options since I desire to be called to the Bar in Ghana at least.

Your kind advice would be very helpful.

Sincerely yours.

E."

E's situation is not unique. I know of many capable Ghanaian students who are compelled to travel to Liberia, the Gambia, Nigeria, Rwanda and other African countries to pursue their legal education, simply because of the challenges of legal education in Ghana.

Your Excellency, "This too shall pass".

It has therefore become incumbent on us, the stakeholders, to take action and begin the process of reforming legal education in Ghana. In furtherance of this, from 29th – 31st October 2021, the Deans of all the Law Faculties in Ghana and the Director of Legal Education convened in Aburi to formally establish the Conference of Law Deans (COLD) as a permanent platform of engagement for all Law Deans from Ghana's universities. All the law deans are also participating in this conference, so that we can contribute to feasible solutions to the predicament of legal education in Ghana and in much of Africa.

We hope that the Endowment Fund His Excellency will launch today, which I am happy to report that many judges, lawyers and law firms have already contributed to, will provide the needed resources to help reform both the soft and the hard aspects of legal education: from curriculum and teaching methodologies to classroom spaces and teaching aids, to cater for the increasing number of students in both the LLB and professional programmes, right here in Legon. We are already in talks with the Law School to help provide space here in Legon for some of the professional law students.

As I take my seat, I would like to once again thank His Excellency the President of the Republic, all dignitaries present, and each one of you for coming. I wish all of us a very fruitful and productive conference over the next four (4) days.

I THANK YOU ALL FOR YOUR ATTENTION.

ADDRESS

PROFESSOR NANA ABA APPIAH AMFO,
Vice–Chancellor of the University of Ghana

His Excellency Nana Addo Dankwa Akufo-Addo, President of the Republic of Ghana;

The Right Honourable Speaker of the Parliament of the Republic of Ghana, Mr. Alban S.K. Bagbin;

His Lordship Chief Justice Kwasi Anin Yeboah and other Justices of the Superior Courts of Ghana;

The Honourable Minister for Justice and Attorney-General of the Republic of Ghana, Mr. Godfred Dame;

His Excellency the Ambassador of the Federal Republic of Germany, Mr. Daniel Krull;

Honourable Ministers of State;

The Dean of the University of Ghana School of Law, Professor Raymond Akongburo Atuguba;

The Director of Legal Education and the Ghana School of Law, Mr. Kwasi Prempeh-Eck;

Highly Esteemed Deans of Law Faculties in Ghana and abroad;

Distinguished Members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

Permit me to welcome you all to the University of Ghana for this important gathering, aimed at ensuring the growth and development of legal education in Ghana. The fact that you have all taken time off your busy schedules to grace this occasion is very heart-warming.

I wish to especially welcome His Excellency Nana Addo Dankwa Akufo-Addo and to thank him for attending my investiture on the 26th of October 2021. I am hopeful that this signals a commitment to working with me and the University of Ghana to ensure its continued growth.

Your Excellency, Ladies and Gentlemen, as the oldest and leading law faculty in Ghana, it is imperative that the University of Ghana School of Law takes a leading role in contributing to addressing the challenges facing legal education in Ghana. Convening this conference is a step in the right direction. During my tenure as Vice-Chancellor, I intend to work closely with the School to help address the issues that would be discussed at this conference.

Since its establishment decades ago, the University of Ghana School of Law has trained many renowned personalities who have played several key roles, not only in the legal profession, but also in the governance of the country and in the global community. We remain committed to ensuring that this trend continues.

It is imperative that our School of Law, here in Legon, continues to provide the best of legal education which prepares our students to compete favourably in the job market, both locally and internationally. We will do this by continuing to ensure that our students get the best training possible, including exposure to experiential learning, to adequately prepare them for the world of work.

While we do our part, it is important to acknowledge the broader issues facing legal education in Ghana, over which we have very little control, particularly the issue of LLB holders gaining admission to the Ghana School of Law. This has been of serious concern to us as a University. Several solutions have been proposed and I am certain that over the course of this conference, some of the discussions will touch on this critical issue.

Apart from the issues relating to admission to the Ghana School of Law, a lot has been said about the quality of training provided to LLB holders by the various law faculties. These include:

- the general quality of the faculties which have been accredited to run the LLB programme;
- the adequacy of the human and material resources available at law faculties to properly train students, especially deficits in teaching staff, lecture halls and libraries;
- the quality content of curricula and teaching methodologies prevalent in the faculties and at the professional level;
- the failure of the existing curricula and teaching methodologies to meet current and future market needs of the country and internationally; and
- great emphasis on training students for litigation at the expense of other aspects of legal education.

Your Excellency, as the foremost institution of higher learning in Ghana, I believe that a conference under our aegis is the best forum to interrogate these issues and come out with appropriate options for their resolution.

As a School and a University, we will continue to do our part by providing the best legal education possible, while ensuring that tuition remains affordable. However, we need your help. The launch of the University of Ghana School of Law Endowment Fund is a welcome idea. The benefits of having a well-managed endowment fund to provide the resources for sterling legal education cannot be overstated. It is my fervent hope that you will all contribute generously to the Fund.

Once again, I welcome everyone here, especially our friends from Law Faculties in Burkina Faso, La Cote D'Ivoire, Liberia, Nigeria, The Gambia, and Sierra Leone, who have joined us here in person, and the Deans of Law Faculties and Law lecturers from across the globe who have joined us virtually. I pray that we have a fruitful and productive conference.

Thank you all for coming and God bless you.

ADDRESS

HIS EXCELLENCY AMBASSADOR DANIEL KRULL
German Ambassador to Ghana

Your Excellency, the President of the Republic of Ghana, Nana Addo Dankwa Akufo-Addo,

The Acting Speaker of Parliament,

The Acting Chief Justice of the Republic,

The Attorney-General,

The Minister for Lands and Natural Resources,

Members of Parliament,

Justices of the Supreme Court,

The Vice-Chancellor of the University of Ghana, Professor Nana Aba Appiah Amfo,

Representatives of Invited Universities,

Deans of Law Schools,

The Media,

Distinguished Guests,

Ladies and Gentlemen,

I am the newly appointed Ambassador of Germany to Ghana. I assumed office in September, so I am still in the phase where I have the privilege of experiencing many firsts.

This is my first appearance at this prestigious University and at the University of Ghana School of Law. It is my hope that I will be allowed back because Germany and the German Embassy are very supportive of any activities which uphold the ideals of rule of law.

There are very interesting ideas floating around between the School and the German government including one about African leadership in developing the legal framework for digitization. I believe that is a very exciting field of cooperation and hope that I have the chance to be a part of this.

I have to admit that I never attended law school and so it is a remarkable privilege for me to be here. At the same time, it may be worth noting that in Germany most heads of government never attended a law school so I feel a little more comforted.

Mr President, you can attest to the fact that Ghana and Germany have had excellent relations over the years, particularly with the outgoing Chancellor Angela Merkel. She 'broke the eight' but not 'the sixteen' so she will be leaving office and we will most likely have sworn in a new government by this time next week.

The good news for the bilateral relations is that the designated Chancellor attended law school. This is a detail I want to share with you because it makes me confident that we will continue our very intensive relationship.

Ghana is Germany's premium partner in West Africa and we always view Ghana as an esteemed partner in our bilateral relations. We also value Ghana's role and the role of the President as Chair of the Economic Community of West African States (ECOWAS) at this time.

It is our hope that the conference's discussions and projects will spread across the continent and encourage and trigger other universities to engage in their own reform processes.

Now, we are all excited to listen to the President so I will just make two comments in my humble political situs as Ambassador regarding the reform of legal education.

First, in Germany, we attach a lot of importance to the issue of access to legal education. So, unlike the study of medicine or pharmacy in other countries, there are no barriers based on school exams to attend law school in our country. We consider this to be of utmost importance in our system. We believe that the legal education system should be as accessible as possible to all members of society regardless of social or family background.

The second comment I want to make is that, just last Friday, I met with representatives from the African Women Leaders Network (AWLN) of the African Union, which is establishing a chapter in Ghana. This touches on the aspect of gender which I think should be taken into consideration for future reform. I believe it will be of merit that this is reflected in your thoughts, being a university with its first female Vice-Chancellor.

With this, I hope that this conference, for which Germany is proud to be a sponsor, will help to move forward your vision for reform of legal education in Ghana and beyond.

Thank you very much.

SPEECH

HON. GODFRED DAME
Minister for Justice and Attorney-General of the Republic of Ghana

Your Excellency Nana Addo Dankwa Akufo-Addo, President of the Republic;

The Honourable Joseph Osei-Owusu, First Deputy Speaker of the Parliament of Ghana representing the Speaker of Parliament this morning;

His Lordship Justice Jones Mawulorm Dotse, Justice of the Supreme Court of Ghana representing the Chief Justice of the Republic;

Justices of the Superior Courts of Judicature herein present; special mention of my former teacher Her Ladyship Justice Professor Henrietta Mensa-Bonsu;

His Excellency the Ambassador of the Federal Republic of Germany;

Honourable Ministers of State including Samuel Abu Jinapor;

Honourable Deputy Ministers;

Honourable Members of Parliament;

The Vice-Chancellor of the University of Ghana, Professor Nana Aba Appiah Amfo;

The Dean of the University of Ghana School of Law, Professor Raymond Atuguba;

Director of Legal Education and the Ghana School of Law, Mr. Kwasi Prempeh-Eck;

Highly Esteemed Deans of Law Faculties in Ghana and abroad,

Distinguished Members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

Good morning.

It is an honour to be here this morning to speak on the truly remarkable theme chosen for this all-important programme.

A. Historical Framework of Legal Education in Ghana

The discussion of the future of legal education is crucial to the sustenance of our nation, as throughout history, law has been responsible for shaping the developmental path of our nation. From the days of colonial domination to the promulgation of the 1992 Constitution, law has been deployed to direct the socioeconomic and political course of our land.

First, the convention executed on 6th March 1844, simply referred to as “The Bond of 1844”, by which the relations between the people of Southern Ghana and the British were formalized, was a legal instrument.

The infamous partitioning of Africa was undertaken by the execution of a legal instrument described as a General Act by fourteen European imperialists who gathered in Berlin from 1844 to February 1885.

Indeed, the independence of Ghana was written in law through the passage of the Ghana Independence Act which received Royal assent on 7th February 1957.

Law continues to shape the policies and visions of successive governments and the dreams of the people. Since independence, every new administration has been ushered in by law. Even military regimes that abrogate the Constitution have been quick to put in place sets of military decrees to legitimize their reign as well as to formally abrogate the old Constitution.

The political architecture of the current Republic of Ghana is a creation of the law. Ghana is built on a legal instrument, that is the Constitution, which was approved by a national referendum on 28th April 1992.

Need I say that the importance of a profession is assessed by its contribution to social progress and advancement. There is thus no doubt that law is a very powerful profession on which the safety, development and prosperity of the nation rests. In this regard, it is irrefutable that the quality of a country’s legal education determines the quality of legal profession.

The foundations of legal education were laid in 1958 with the establishment of the Ghana School of Law, largely accommodated in the now exhausted and overstretched facilities in the heart of the business district of Accra, popularly known as “*Makola*”. The School, which commenced with a student population of 97, now has well over 2000 students.

The School has produced virtually all of the nation’s legal resources required for Ghana’s socio-economic and political development. They include Presidents of the Republic, Chief Justice and Members of the Judiciary, Attorneys-General, Speakers of Parliament and Parliamentarians, Senior Public Servants, Judges serving in International Courts, Chief Justices and other Justices of the Superior Courts in other countries like Kenya, Botswana, Zimbabwe,

the Gambia and Sierra Leone, International Civil Servants, and Teachers in Universities in Ghana and leading Universities around the world.

Evidently, the quality of product of Ghana's legal education since independence compares favourably with the very best around the world. Conversely, a contention that Ghana's legal education or law profession has served the nation poorly will clearly be an adverse gross exaggeration.

In spite of this achievement, it is correct to say that the system of professional legal education is bedevilled by severe challenges arising out of the recent proliferation of law faculties and schools running the Bachelor of Laws programme without a corresponding increase in facilities for the Professional Law Course, consequently lowering standards for the admission of students with substandard performances and what have you.

Mr President, we have come far in the delivery of legal education in Ghana since 1958. A very honest examination of the facts will disclose that the system itself, in a bid to live up to the circumstances of changing times, has undergone significant evolution and reform.

It has not been static as some may want the world to believe, even though I hasten to add that the reform and evolution experienced in the system over the years has not been sufficient for the simple reason that there has not been the necessary legislative backing.

B. Current Regime of Legal Education in Ghana

Since 1958 and up to the 2006-2007 academic year, only products from the University of Ghana were accepted into the Ghana School of Law. The Law Faculty of the University of Ghana was the only one accredited to conduct a Bachelor of Laws programme leading to admission into the Professional Law Course.

In accordance with the entry requirement to the University, excellent performance in the GCE advanced level and a pass at the entrance examination were required. The entrance examination requirement was dispensed with at a point in time but the requirement for exceptional academic performance in the GCE level remained a *sine qua non*. Most of the students were fresh out of secondary school, with only a small number above the age of 28 admitted as mature students.

Consequent to admission on the basis of the first-year university examinations, some students who were offered law were eliminated from the law faculty and ended up pursuing other arts or social science courses in the Humanities, and only sixty were eventually admitted to pursue a degree in law going into the second year.

Of the sixty students, the first forty in order of merit were accepted to pursue the Bachelor of Laws program (LLB) and I am happy to say that I was one of them. The remaining twenty pursued the Bachelor of Arts Degree.

The competition for admission and the "justify your inclusion" as we called it in our time, coupled with the general selection process for the coveted LLB programme were to ensure quality standards and produce scholarship in the students pursuing the law programme in Ghana.

As recorded in an article titled "Reflections of Professional Legal Education in Ghana", an essay in honour of Bernard Da Rocha written by George Sarpong, a past director of the GSL, the situation compelled the late Da Rocha to regularly announce to his students at his first lecture in Civil Procedure every academic year, "Your knowledge in substantive law is irrebuttably presumed!"

In simple terms, in Da Rocha's candid view, having gone through all these processes of refinement, a person had strong control over his substantive law by the time he got to law school. It was not at the law school that Da Rocha was going to teach you any substantive law. Your knowledge of same was "irrebuttably presumed".

It is important to note that in order to reasonably cater for the interests of mature students, the Ghana School of Law also conducted a two-year programme for degree holders. Successful candidates joined the audiences from Legon to pursue the Professional Law Course. This Programme, the Qualifying Certificate of Law (BCL), was finally capped in 2000.

With the proliferation of several law degree awarding institutions, the monopoly of the University of Ghana over the LLB programme was broken in 2003 with the establishment of the Law Faculty by the Kwame Nkrumah University of Science and Technology.

Since then, there has been an increase in the number of law faculties in the country, with the accreditation of about fourteen more in the public and private sectors, bringing the total number of law faculties to fifteen.

Mr President, I contend that even though on the evidence of what I have said so far, the system of legal education has undergone its own evolution and reform, the slowness of legislative reform to give proper legal backing and regulate same has proven to be the bane of legal education in the past ten years.

So, whereas the LLB awarding faculties were accredited, regulated or supervised through the mechanism in place to regulate academic faculties with the universities, the Professional Law Course was by law operated and regulated solely by the General Legal Council (GLC).

This disharmony necessarily implied an inconsistency and imbalance in standards for the two vital points of legal education in the country; that is, the academic sector for the learning of the theory of the law and the professional training institutions teaching the practical rules and procedures necessary for the practice of law.

The absence of effective supervision over the LLB awarding faculties unfortunately contributed in a large measure to the prevalence of unsatisfactory conditions militating against not only a sound academic environment but also a production of students who were ill-prepared for admission to the Ghana School of Law.

The Report of a Committee set up by the General Legal Council to assess facilities at the law faculties in 2019 revealed very unhealthy conditions including but not limited to deplorably low lecturer-student ratio, absence of or poor library facilities, the setting of low entry requirements, hugely overcrowded lecture halls, students combining professional careers with their attendance at lectures and poor quality of teaching.

Mr President, the net effect of these problems was the generally low pass rate for applicants seeking admission to the Professional Law Course.

It was reported that one law faculty, in order to meet student requirements for admission to the GSL, organized a whole course in Environmental Law for its graduating class in a record three weekends. Predictably all the students passed. Surely, such LLB graduates will not have the requisite knowledge to advance their law studies.

The huge numbers churned out by the various law faculties in turn have been responsible for the unrelenting demands in the past ten to twelve years for a liberalization of access to Professional Law Course. In simple terms, the faculties have produced LLB graduates under conditions determined by them and therefore they demand admission into the Ghana School of Law for their students.

I hold a fervent view that with the swell in the number of LLB holders, it has become imperative for us to rethink the delivery of legal education in Ghana. Indeed, the time has come for a proper scrutiny of the mechanisms for broad access to legal education whilst safeguarding the integrity and quality of the profession.

Any genuine attempt at the reform of professional legal education must first address the organization, scope and content of LLB programmes in the various law faculties and law schools.

C. The Future of Legal Education

Mr President, the destiny of the nation is at stake. A lot of honesty and good faith is required for this conference to achieve the twin objectives of broadening access to legal education whilst preserving the integrity and quality of the profession.

I place emphasis on good faith because in recent times the discussions bordering on the theme chosen for this conference have been characterized by a lot of politicking and petty point scoring. I'll share with you a practical example.

To my utter surprise and concern, I saw a document being spread around on social media and the mass media as the "Attorney Legal Profession Bill". With unrestrained haste, various persons of high standing in society, including professors and senior lawyers, rushed to the media to make all manner of comments virtually casting aspersions on the integrity of the Office of the Attorney-General for coming up with such a Bill.

They did this without sparing even a second to verify the accuracy of the information even though in truth and in fact I was just a phone call away from most of the commentators who were engaged on the so-called "Bill".

May I take this opportunity to disclose that I have not come up with any new Legal Profession Bill. In fact, there has not been any Legal Profession Bill drafted by the Office of the Attorney-General and Ministry of Justice this year. I have sought no approval from Cabinet for any Legal Profession Bill to be sent to Parliament and for that matter no Legal Profession Bill has been submitted to Parliament. Even the most basic step we undertake as part and process of initiating drafting, that is stakeholder engagement, has not been performed for any Legal Profession Bill to be laid in Parliament.

It may be apt respectfully to reiterate the admonition I gave at the recent Annual Bar Conference of the Ghana Bar Association that the spread of false information poses a greater threat to cohesion in society especially when it comes from senior lawyers.

Mr President, the nation deserves greater candour, objectivity and more thoroughness at this all-important conference and the consideration of proposals for legal education in Ghana. I proceed to make some observations on what I personally consider to be the best way to achieve the twin objectives outlined above, and for the record, this does not represent a policy position by government. It is subject to discussions by all.

The first observation is that the proposition that the existing law faculties or schools should run the Professional Law Course may seem, with the greatest respect, a little rash. The proposition does not seem to take due cognizance of the fact that our system of legal education is modelled

on the British system and distinguishes between the purely substantive academic aspect of the law and the practical ends of legal education. The law faculties are designed and programmed to teach substantive law whilst the GSL sets out to focus on practical or professional legal education.

The law faculties may thus appear to be ill-suited and ill-equipped to offer a substantive law course and add on the professional law programme, as this presents a real risk of compounding the situation.

Such a decision must involve a change to the policy direction of the institutions from purely academic institutions to offering the Professional Law Course as well. Regard must be had to additional infrastructure and the acquisition of qualified personnel to teach the Professional Law Course which by their nature will not be the forte of many a legal academic.

In the spirit of maintaining a distinction between the academic teaching faculties of law and the requirement for professional training, I propose that the GLC be given the power to license a number of law schools for the professional training of lawyers. These law schools will be permitted to offer a professional law programme in accordance with standards set by the GLC. Upon the completion of the separated programme, the students will be required to sit for a Bar examination conducted by the GLC.

Towards this end, the mere possession of the LLB degree may not constitute an automatic basis for entry into the Ghana School of Law, just as in other jurisdictions where they require a specific grade point for admission into the law school. Most importantly, the standards have to be objective and published to improve transparency.

As pertaining to most jurisdictions, the standards ought not to be static. They should be adjusted in response to the needs and circumstances of the time.

Mr President, the operation of a law school is a high trust and not a private enterprise to the benefit of the faculty and as with every fiduciary function it must be treated as a stewardship for which there is accountability to the public, the concept of the rule of law and the principle of justice.

To meet this high trust, the system of legal education must have the support of the Ghana Bar and the Judiciary.

CONCLUSION

I cannot conclude my address without a comment on the often-lamented low pass rate of the Ghana School of Law in recent times. The phenomenon of low pass rate in professional legal training is not peculiar to the Republic of Ghana, neither is it peculiar to the law profession; professions like medicine and accounting have similar stories of very low pass rates over the years.

At the inception of the Ghana School of Law, only 97 students were admitted, and these had to be selected out of a total of 600 applicants. In the 2019 Bar examinations in Kenya for instance, only 308 out of 1,572 students who sat, passed and qualified for admission to the Kenya Bar. In the 2020 final Bar examinations results released by the Sierra Leone law school, only 29 out of the 179 students who sat for the examinations passed.

Owing to the overreaching concern for maintenance of standards, the fully accredited Charlotte School of Law in the USA was shut down in 2017 for poor performance and compliance issues hinging on the school's admissions process and practices, which were not considered be sufficient guarantee of quality.

I am aware that the pass mark for this year's qualifying lawyers training scheme in the UK, which is akin to our post-call law programme, was 62 %, but I'm sure in Ghana the pass mark is definitely only 50%.

It is clear from the instances cited above that qualification to the Bar is a serious matter anywhere and requires robust institutions and dedicated students.

A poorly trained lawyer is a menace to society and a liability to the administration of justice. Members of Ghana's legal fraternity can only be as good as the education they receive. This occasion calls for a lot of sobriety, deep thinking and proper reflection on how we can maintain, if not improve, the reputation of Ghana for a sound and robust legal system.

Once again, I commend the University of Ghana School of Law for taking the bold step to offer this platform where we bring to the floor the challenges facing legal education in Africa today and attempt to address same.

It is my expectation that over the course of these four days, we will take the bull by the horns and thoroughly thrash out the challenges facing legal education and pave the way for a better future in legal education.

I hope the report from the conference will be a useful tool for the process of reform of legal education in Ghana.

I urge all stakeholders to cooperate with me as the sector minister to ultimately develop a Legal Profession Bill which will stand the test of time for many decades to come.

God bless you all.

God bless Our Homeland Ghana.

ADDRESS

HIS LORDSHIP JUSTICE VICTOR JONES MAWULORM DOTSE
Justice of the Supreme Court of Ghana
on behalf of
His Lordship Justice Anin Yeboah
The Chief Justice of The Republic of Ghana

The President of the Republic of Ghana, His Excellency Nana Addo Dankwa Akufo-Addo;

The Right Honourable Speaker of the Parliament of the Republic of Ghana, Mr. Alban S.K. Bagbin;

Justices of the Superior Courts of Ghana;

The Honourable Minister for Justice and Attorney General of the Republic of Ghana, Mr. Godfred Yeboah-Dame;

The Ambassador of the Federal Republic of Germany, His Excellency Mr. Daniel Krull;

Honourable Ministers of State;

The Vice-Chancellor of the University of Ghana, Professor Nana Aba Appiah Amfo;

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Highly Esteemed Deans of Law Faculties in Ghana and abroad;

Distinguished members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

I am delighted to join you here in Legon today, to speak on a topic that has occupied my mind since I became Chief Justice almost two years ago.

Before I proceed, let me use this opportunity to welcome the Deans and Lecturers of law who have joined us from other parts of Africa and the world, both physically and virtually. Ghanaians are delightfully welcoming, and I hope you enjoy your stay here to the fullest.

Ladies and gentlemen, the study of the law and its practice form part of the building blocks of a civilized democracy. It is easy to conceptualize what a society would look like without a fully functional legal system built on firm rules and carried by a formidable group of professionals. In fact, for us Africans, that conceptualization would merely require a trip down memory lane. The importance of the legal profession in our agenda to steer ourselves out of our political and economic woes cannot therefore be overemphasized.

In the words of Samuel Johnson, *"Law is the last resort of human wisdom acting upon human experience for the benefit of the public."* Human experience informs the law-making process while the law is held to a certain inherently wise standard. Although law occasionally confers private benefit on individuals, the public interest considerations of the law are fundamental to its existence.

Ladies and gentlemen, it would be counterproductive of us to attempt to carve out a future for legal education without studying the past and present states of legal education in our country and on our continent.

The Ghanaian story is as follows: As soon as Ghana gained independence in 1957, the Government of the day resolved to put in place measures for the training of lawyers in the country. This was occasioned by growing demands by Ghanaians for legal services. To achieve this goal, the Legal Practitioners Act of 1958 was enacted by Parliament. This Act created the General Legal Council, and among other responsibilities entrusted it with the task of organizing legal education in Ghana.

As a first step, the General Legal Council set up the Ghana School of Law and charged it to commence professional legal training. The first meeting of the General Legal Council was held in the Supreme Court building on September 3, 1958, and it was chaired by the first Ghanaian Chief Justice, His Lordship Sir Arku Korsah.

In December 1958, the Ghana School of Law was officially opened in the temporary premises of the Supreme Court building with 97 students. Those 97 students had been selected from about 600 students who were desirous of pursuing legal education in the then young independent Ghana. On March 5, 1959, the students moved into the present premises, which has continued to house the school till date. Interestingly, out of the 97 students enrolled into the programme, only 9 of them were called to the Bar on June 22, 1963. The current legislation that regulates legal education is the Legal Profession Act of 1960 (Act 32).

I digress to state that as the Chairperson for the General Legal Council, and having been a member of that body for a significant period of time, the troubles we face as a country as far as legal education is concerned are entirely within my comprehension and have always remained a great worry to me. I have, however, always maintained that a true resolution of the problems we face requires sober reflection, effective dialogue between and among all stakeholders and long-sighted planning. That is why this conference deserves as much support as we can give it.

Interestingly, the problems confronting legal education in Ghana are not unknown to our African brothers and sisters. Countries like Kenya encounter similar challenges with legal education. A remedy for Ghana would, by extension, provide a blueprint for resolving similar problems confronting our neighbours.

The current bifurcated model of training lawyers in Ghana requires various accredited faculties to train students and award them law degrees. These students may then be admitted to the Ghana School of Law upon passing an entrance examination to pursue the professional law course. In the early days of training lawyers, entry into the Ghana School of Law was guaranteed upon graduating from the one law faculty we had in Ghana then. With the swell in numbers and the need for quality control, the entrance examination into the Ghana School of Law was introduced in 2012. As I have already mentioned, the Ghana School of Law is still housed in the same structure that was built for it right after independence.

As a natural consequence of population growth and increase in demand for legal services, the law school has been compelled to run satellite campuses at the Kwame Nkrumah University of Science and Technology (KNUST), Kumasi, the Ghana Institute of Management and Public Administration (GIMPA), Accra and quite recently, the University of Professional Studies, Accra (UPSA). All these efforts have been made to accommodate the growing interest in the profession and the national need for more accessible legal services.

With this background, it appears prudent to explore steps already taken to bring a long-lasting solution to the problems confronting legal education in Ghana. In the recent past, the General Legal Council has collaborated with the National Accreditation Board, now the Ghana Tertiary Education Commission, on a monitoring and evaluation exercise of the various accredited faculties and has since published the findings from this exercise.

On the back of these findings, plans have commenced to review the development of curricula, methods of instruction and admission criteria to the various faculties. The institutions offering the LLB programme will also undergo more rigorous processes before they are approved. The criteria for assessment of these institutions will include the types of programmes, the

qualifications of academic staff, student-teacher ratios, library holdings, physical facilities, among others.

Once issues of quality assurance are out of the way, it is expected that properly equipped faculties will be accredited to provide professional legal education, a step that would reduce the burden on the Ghana School of Law and consequently increase access to professional legal education. Such quality control measures are very important.

The General Legal Council has embarked on massive stakeholder consultations towards finding a lasting solution. We have also engaged the Attorney-General on the draft bill to be submitted to Parliament, with inputs on the way forward to reforming legal education. This remains a draft bill contrary to speculations in the media.

The following are the guiding legislations that regulate the Legal Profession including the training of Lawyers:

- Legal Profession Act, 1960 (Act 32)
- Legal Profession (Professional Conduct and Etiquette) Rules, 2020 (L.I. 2423)
- Legal Profession (Professional and Post Call Law Course) Regulations, 2018 (L.I. 2355)
- Legal Profession (Professional and Post Call Law Course) (Amendment) Regulations, 2020 (L.I. 2427)

The following are the draft Bills that have been mentioned and are in the public domain:

- Private Member Bill - Legal Education Reform Bill
- Attorney Generals Bill to amend the Legal Professions Act. (This is yet to be presented to Parliament)

The exact number of the private members' Bills are unknown but is it sufficient to state that there is a Private Member's Bill to deal with Legal Education Reform?

The General Legal Council and the Board of Legal Education are in charge of management and policy direction in respect of legal education in Ghana. The Independent Examinations Committee (IEC) conducts the examinations on behalf of the General Legal Council and the Board of Legal Education.

The State of Ghana's Legal Education

The current state of Ghana's legal education is not the best, hence the need for this conference.

The Ghana School of Law lacks capacity relative to the number of graduates from the various law faculties.

Reasons

- The Ghana School of Law has admitted varying numbers of students in various years and the numbers have been as low as just above 100 and also as high as over 1,000.

- The School is running multiple streams at the moment at various campuses since all the students cannot be in one stream.

- There is a general opinion shared by stakeholders that there is the need for expansion. Hence, the Law Village project is highly commendable.

Legal Education in Ghana Lacks a Clear Policy Direction

Reasons

- There have been numerous changes in a short period of time concerning the structure/years of the Ghana School of Law.

- Each year, there are always contentions and legal issues with the Ghana School of Law Entrance Examination, indicating the need for broader stakeholder consultations.

The Structure of the Governing Body for Legal Education May Require Some Revision.

Reasons

- At present, there are two main schools of thought; one advocates for the separation of legal education from the judicial service as prevails in the UK, whereas another group are of the view that the current system is appropriate.

- The Ghana Bar Association should play a greater role in legal education as is done in various jurisdictions such as the United States of America and South Africa.

The State/Quality of Legal Education in the Various Law Faculties should be Improved

Reasons

- There was a recent Committee report given to the General Legal Council which raised certain issues in terms of the quality of education in various law faculties.

- There should be a revision of the accreditation process for the law faculties.

Based on all the above reasons, there may be the need for some reform in legal education.

What should therefore be noted is that there are vast differences between the course contents of the subjects taught at the Faculty and those taught at the Ghana School of Law. For example, the following are the subjects offered at the Ghana School of Law: -

1. Family Law and Practice
2. Civil Procedure
3. Criminal Procedure
4. Interpretation of Deeds and Statutes
5. Law of Evidence
6. Conveyancing and Drafting
7. Law Practice Management and Legal Accountancy
8. Advocacy and Legal Ethics
9. Alternative Dispute Resolution
10. Company Law and Commercial Practice

At this juncture, let us re-think the teaching of all these subjects at the Ghana School of Law and possibly offload some of these subjects onto the final year curricula of the LL.B programmes at the faculties.

In that respect, the duration of the course at the GSL might be reduced by one year, making the professional program a one-year course only. This might however lead to an increase in the number of years at the Law Faculties or the re-positioning of the courses at the Universities. This will undoubtedly mean the infrastructural challenges being faced at the Ghana School of Law will be reduced because it may become a one-year programme.

What Are Some Of The Reforms That May Be Considered And Implemented?

Setting up of multiple schools under the Ghana School of Law or extension of license to law faculties to run the law school programme.

As a long-term policy that may be considered, the Ghana School of Law may be re-constituted into a certifying body and the law faculties should be allowed to provide legal education, if they can do so with qualified faculty.

Setting down a policy plan for the next 5 years in legal education based on broad stakeholder consultation.

Setting up a committee to review the current legal structure, particularly the governing board to inform any changes or reforms.

Government should allocate funds for the development of legal education and an advisory committee of experts in legal education should be constituted to assist the various faculties in adapting legal education to improve quality and structure at the Universities.

The Ghana Bar Association may be given a greater role in legal education policy as is done in some other jurisdictions.

The accreditation process for law faculties in the Universities should be reviewed and tightened to ensure quality control, and not merely issuing of degrees to students who may not be deserving of them.

The Pupillage system and course content of the Ghana School of Law should also be re-assessed based on the recent concern of various stakeholders about the drop in quality of graduates from the Ghana School of Law and invariably from the law faculties in the Universities.

The Law Village project, estimated to ramp up capacity for training lawyers by an additional 1,500 students, is another initiative that presents a commendable means of addressing the infrastructural deficit. With the commencement of work, I am hopeful that the edifice will be completed in due time to increase physical capacity for training lawyers in Ghana.

Before I take my seat, let me belabour the point of the importance of an intellectual and informed dialogue in finding a timeless solution to the problems that confront legal education. While this issue remains a seasonal one of interest, deliberate efforts like this conference, to constructively discuss and proffer a way forward are rare.

It is my hope, and the hope of the other members of the General Legal Council that, we will be furnished with the report from this constructive activity to enable us to play our part. I assure you of our unflinching support towards the resolution of these problems that persist in the training of new lawyers.

On this note, I once again wish you all a pleasant experience throughout the conference. May this gathering and its findings contribute to the cessation of the annual need to revisit the challenges of legal education in Ghana and aid in the resolution of what is fast becoming a continental problem.

Thank You and God Bless You All.

ADDRESS

HONOURABLE JOSEPH OSEI-OWUSU
First Deputy Speaker of the Parliament of The Republic of Ghana
on behalf of
Honourable Alban Sumana Kingsford Bagbin
Speaker of the Parliament of The Republic of Ghana

His Excellency Nana Addo Dankwa Akufo-Addo, President of the Republic of Ghana;

His Lordship Chief Justice Kwasi Anin Yeboah and other Justices of the Superior Courts of Ghana;

The Honourable Minister for Justice and Attorney-General of the Republic of Ghana, Mr. Godfred Dame;

His Excellency Daniel Krull, the Ambassador of the Federal Republic of Germany to Ghana;

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The Vice Chancellor of the University of Ghana, Professor Nana Aba Appiah Amfo;

The Dean of the University of Ghana School of Law, Professor Raymond Akongburo Atuguba;

The Director of Legal Education and the Ghana School of Law, Mr. Kwasi Prempeh-Eck;

Highly Esteemed Deans of Law Faculties in Ghana and abroad;

Distinguished Members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

It is indeed a great honour and pleasure to be here at my alma mater forty-one (41) years after completing my LL.B. degree, the first step in my journey to becoming a lawyer. It brings back many fond memories of my colleagues and me attending lectures and spending sleepless nights studying in the hope of one day becoming great lawyers and joining the fraternity of 'learned men and women'.

I want to thank the University of Ghana School of Law for the opportunity to speak at such an auspicious occasion. The timeliness of an initiative such as this conference, which seeks to focus on forging a strategic direction for legal education in Ghana and Africa in an era of globalisation, cannot be overemphasised.

This is especially true given the role of the legal profession in the achievement of Sustainable Development Goal (SDG) 16 which focuses on the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all and the building of effective, accountable and inclusive institutions at all levels.

SDG 16 is particularly pertinent and relevant to the legal fraternity because we are at the heart of the 'rule of law and justice' ecosystem. If the 'rule of law and justice' ecosystem were a car, lawyers could be described as the gears and pedals which trigger movement within the system in one way or the other.

If Ghana wishes to continue playing a leading role on the African continent and in the comity of nations, we must think long and hard about the role our future lawyers will play in the transformation of the African continent and the world.

The practice of the law has changed significantly in recent years, and we must also evolve in the way in which we train the lawyers of tomorrow. The teaching and learning of the law have been greatly affected by the digital age, particularly in the wake of the COVID-19 pandemic which has highlighted the need for online means of instruction and interaction.

As much as the world has changed in the last century, it continues to change and shows no signs of slowing down. The introduction of Artificial Intelligence (A.I.) and software programming are just a few scientific innovations which promise to further transform the way we do business and consequently, the way we teach, learn and practise the law.

In order for us to keep up with current trends and not miss out on the gains which can be derived from these innovations and developments, reform is inevitable. We should not be afraid of change, but rather embrace it as an integral ingredient for growth and development.

As some of you may already know, efforts are currently underway to bring before Parliament a Legal Profession Bill to reform the existing legal regime regulating the practice of law in Ghana. Let me take this opportunity to assure Ghanaians that Parliament shall not fail in its constitutional duty under Article 109 to regulate professional, trade and business organisations. We shall scrutinize and debate the Bill thoroughly, both at the committee and plenary levels.

There is also currently a private member's bill in the offing to amend the Legal Profession Act of 1960. As Speaker, I will ensure that both bills receive the full attention of Parliament and where necessary, consolidations will be made.

Notwithstanding the aforementioned efforts, the goal of reforming our legal profession cannot succeed without tackling legal education. Indeed, there is no better place to start reforming the legal profession in Ghana than the restructuring of the framework of legal education and training.

It is no secret that professional legal education in Ghana has been in a rather tumultuous state for the past few years. It has become an annual feature in our news cycle to hear of mass rejections of candidates for the professional law course at the Ghana School of Law. There has been a great deal of public discourse on this issue of mass law school entrance exam failures, as well as petitions to the President, to Parliament and even demonstrations by concerned Ghanaians.

On Friday the 29th of October 2021, Parliament unanimously passed a resolution directed at the General Legal Council (GLC), the body in charge of legal education in Ghana, to admit all 499 LLB students who were unfairly denied admission to the Ghana School of Law (GSL) in the 2021/2022 academic year.

Expanding legal education and maintaining high professional standards are not mutually exclusive. We must resolve to find ways to do this without compromising quality. This is the burden we bear as leaders. We are meant to be problem solvers and not problem avoiders. We must take the bull by the horns and devise a comprehensive solution to the teething problems facing both access to and quality of legal education in Ghana.

We must endeavour to think globally, even as we work to design systems for solving domestic or local problems. An education which does not prepare its recipients for the global economy will have very limited value.

With this in mind, I wish to use this occasion to charge all the participants in this conference to engage in vigorous intellectual discourse aimed at finding ways to supply Africa its much-needed legal expertise. We should use this gathering as an opportunity to develop ideas for the provision of world-class and dynamic professionals in the field of law in Ghana and Africa; professionals who can employ their skills to help end the scourge of poor governance, weak institutions and civil conflict by developing resilient systems to train a new crop of African leaders.

If we are successful at harnessing the synergies of this conference and others alike in transforming the landscape of legal training and practice in Africa, we will surely be one step

closer to helping Africa finally claim its rightful place on the world stage and spearhead a new era of development among African countries.

Thank you very much for your attention and I look forward to receiving the report from this conference.

ADDRESS

HIS EXCELLENCY NANA ADDO DANKWA AKUFO-ADDO
President of The Republic of Ghana

The Right Honourable Speaker of the Parliament of the Republic of Ghana, Mr. Alan S.K. Bagbin;

His Lordship the Chief Justice, Kwasi Anin-Yeboah and other Justices of the Superior Courts of Ghana;

The Honourable Minister for Justice and Attorney-General of the Republic of Ghana, Mr. Godfred Yeboah Dame;

His Excellency the Ambassador of the Federal Republic of Germany, Mr. Daniel Krull;

The Vice Chancellor of the University of Ghana, Professor Nana Aba Appiah Amfo;

The Dean of the University of Ghana School of Law, Professor Raymond Akongburo Atuguba;

The Director of Legal Education and the Ghana School of Law, Mr. Kwasi Prempeh-Eck;

Highly Esteemed Deans of Law Faculties in Ghana and abroad;

Distinguished Members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

Let me first welcome all law faculties and academics from various parts of Africa and the world, who have joined this conference in person or online. By this purposeful gathering, it is apparent that as Ghanaians, we are resolved to call in aid the best and the most experienced minds in legal education across the globe to contribute in the resolution of the issues that confront the legal education landscape here at home.

Legal education in Ghana and other parts of Africa has occupied centre stage in public discourse for some time now. Therefore, the opportunity presented us at this conference to take a quantum leap in legal education is one my government has greatly desired.

At the end of this conference, when practical and sustainable steps for reforming our legal education landscape have been set down, my duty as President will be to spearhead their implementation in accordance with the constitutional values of this country.

Ghana's legal education is not in tatters. We are at a point where supporting systems ought to be modified and shaped in a way that responds to 21st century Ghanaian needs. In the days of yore, when the legal profession began, training was primarily through apprenticeships. In our current legal system, there is a mandatory requirement to have a law degree and a professional qualifying certificate to entitle one to practise law.

However, recent statistics have shown that this is not smooth sailing. I acknowledge that there is a deficit in our legal institutional structure. The existing arrangement has created constrictions at the Ghana School of Law, where students have to sit an entrance exam before admission to undertake the professional course. On admission, the battle line is drawn at the Bar exams, which have not had encouraging numbers of late. The daily academic engagement for these students leading up to enrolment at the Bar is needlessly strenuous and highly excessive.

The institutional problems with legal education began to peak in the 2017/2018 final exams, when only 91 students, representing 19% of 474 students passed the Bar exam. In 2019, matters reached a crescendo when only 128 out of a total of 1,820 who sat the Ghana School of Law entrance exam passed. This led to a public march by the National Association of Law Students (NALS) and some standoffs with the security agencies. This year, only 790 out of 2,824 candidates gained admission to the Ghana School of Law. There was an uproar from Ghanaians which culminated in another public protest by NALS and a Resolution of Parliament directing the General Legal Council to admit 499 of the remaining 2,034 students on the basis that they were denied admission unfairly.

All is not well with legal education in Ghana. As the Executive arm of government, we are very sensitive to the happenings in legal education and the advocacy for reforms. Our mandate is to invent a sustainable strategic plan based on the recommendations from this conference and further stakeholder consultations that would refine the state of legal education in Ghana.

I wish to reiterate my statements from previous dialogues on this matter. The Ghana School of Law is unable to accommodate all candidates with a Bachelor of Laws (LL.B) degree because their numbers each year far outweigh the slots and resources available at the school. Unfortunately, and with all deference to the founders of the institution, it was built with a capacity that did not anticipate the ever-increasing population of LL.B degree holders. However, the growing numbers of students that have an interest in studying law must be regarded as a good thing. While we agree that the legal profession should be effectively

regulated, the dignity that the law profession craves can be maintained without crushing the hopes and aspirations of intelligent and ambitious students.

The fact that more individuals want to become lawyers is evidence of how concerned they are about justice delivery in the country – whether criminal or civil – and their sheer determination to occupy a role that will enable them contribute to the advancement of justice. We welcome these ambitions with open arms and would seek to preserve this thirst and passion to further social justice for the benefit of all.

In the aftermath of Ghana's first-ever full-blown presidential election petition in 2013, occasioned by yours truly, interest in the study of law was piqued. If the search for justice in the courts of law can motivate people to aspire to be lawyers, we should be able to maintain the momentum of these eager minds and not frustrate them.

A reform of the system under which legal education currently operates is necessary. The modalities of improved legal education will have to be girded by a strong element of sustainability.

Sustainable legal education will have as its base the establishment of a regime that will consider the pressing needs of the growing law student population and the expected demands of the generation unborn that will study law. It will be qualitative in its operation but with a fair and balanced quantitative selection system.

It is well known that lawyers carry a wealth of interdisciplinary skills and knowledge that they apply in the management of the legal system in all three arms of government. Legal education that is sustainable will attract more individuals who are committed to the cause of national development, to dedicate their expertise to the growth of the legal system. As a country concerned about holistic development, we can build a sophisticated legal system by combining the resources of these lawyers in the public and private branches of law practice.

We also stand to reap the fruits of national economic development with a promising legal education framework. Continental and intercontinental transactions are mainly facilitated by lawyers, or at least persons with a legal background. Quality legal education is crucial to the churning out of legal experts who will be equipped with the requisite skillset to hold the torch of Africa on global platforms in the legal circles of cross-border disputes, international arbitrations and international law.

In addition to the strategic action plan for legal education, my Office is prepared to dedicate policy to guide the reform of legal education in Ghana. I have already asked the Minister for Justice and Attorney-General, who is here today, to fast-track the balance of consultations on the Legal Profession Bill and lay it before Parliament as soon as possible. The Legal Profession

Act of 1960 was drafted when my father was a young lawyer and it cannot be fit-for-purpose in 21st century Ghana.

The Bill, therefore, aims to comprehensively address the issues of legal education in Ghana today. It must dispel the notion that the legal profession is a guild, a small club of mostly men, which is difficult to penetrate. It must also streamline the regulatory dualism between the Ghana Tertiary Education Commission and the General Legal Council when it comes to legal education. Finally, it must provide for a more transparent process for the management of legal education, including the processes for progressing from law faculties, through the Ghana School of Law, to the Bar.

Yes, we will still be faced with resource problems which have always been a distraction to Africa's development initiative. However, we may tap into various resources, including the Endowment Fund I will launch today, to finance the implementation of solutions for the future of legal education in Ghana. I call on private and public sector CEOs here today to join the crusade of supporting the design of a system of legal education that will provide the lawyers they so badly need in their companies.

As a lawyer myself, I keenly await the results of this conference so that the Minister for Justice and Attorney-General may include them in the forthcoming Bill on the Legal Profession. It is my fervent hope that the new Legal Profession Act and the various Regulations that will result from it, will bring the many issues surrounding legal education in Ghana to fruitful resolution once and for all.

I thank you for your attention.

May God bless us all.

And may God bless Our Homeland Ghana and make her great and strong.

RECOMMENDATIONS AND CLOSING REMARKS

HER LADYSHIP JUSTICE PROFESSOR HENRIETTA J.A.N. MENSA-BONSU
Justice of the Supreme Court of Ghana

The Dean of the University of Ghana School of Law, Professor Raymond Akongburo Atuguba;

The Director of Legal Education and the Ghana School of Law, Mr. Kwasi Prempeh-Eck;

Highly Esteemed Deans of Law Faculties in Ghana and abroad;

Distinguished Members of Law Faculties in Ghana and abroad;

Representatives of International Development Partners;

The Media;

Ladies and Gentlemen,

Let me begin by thanking the Dean and the organisers of this Conference for turning to me during "injury time" to execute this assignment. While muttering about the inconvenience of such a last-minute request, I cannot help but observe that it not only bespeaks the great confidence they must have in my ability to deliver at short notice but also the subliminal message it conveys that “when in trouble, see Mensabee and she will come through for you”. I therefore accept the honour of this assignment with good grace and deep humility.

Legal education is about more than a discipline. It represents the hopes, aspirations, nay fates and destinies of many young people, families, communities, the State and society at large. Therefore, to be tasked with the responsibility of driving it into the future when it must retain its function, meaning and relevance is no mean task. This is what all of us led by the Deans of Law have gathered here to think through these past four days.

Once upon a time, I became a law student, little knowing that it was a state from which one could never withdraw, and so I have remained a student of the law ever since, for the enterprise of law is a continuing one — never letting up, never relenting. As a former law student, I know the endless slog at studies that studying law entailed, as well as the endless trips to the Law Library that were demanded of me. Acquiring mastery of particular aspects of Law, as our teachers emphasized time and again at our weekly tutorials (or small groups as some call them), meant applying ourselves to our studies in a manner that surprised our peers in the Social Sciences.

When I gained admission into this University to read law, my parents were excited at the new possibilities for me and the hopes and aspirations that the event ignited in their breasts. As a parent, I have myself experienced those emotions twice over and so I know the hopes, elation and raised expectations when a child achieves the enviable title of 'law student'. The instantaneous respect that is accorded a person introduced as a 'law student' by peers is not only an ego boost but also well-earned. For, it must serve as a reminder to him or her that having made a choice to enter the legal profession, the person has assumed a burden of serving the world through representation of the voiceless and re-shaping the world for the future.

As a law teacher for much of my life, I have known the highs and lows of trying to work on a young, brilliant and eager mind, to lead it to explore existing ideas and open it up to its own potential to create and re-create ideas — even unpopular ones. I have known the thrill of hearing a once shy and diffident young person articulate with confidence and conviction, a position that more eloquent peers may have spurned. There certainly must be few occasions that rival such days in the life of a law teacher.

I have also experienced the look of trepidation followed by pleasure, that always greeted my assurance at Tutorials that the students in the class represented the "brightest and best" of their generation. It also served to convey not only the fact that their endeavours would represent the heights of human achievement in their generation but also that the gift of high intellectual capacity imposed upon them a commitment to learn hard to be the best they could be. The unstated message was that "To whom much is given, much is expected".

As an academic, I have also known the stress of trying to build a career alongside all the other social aspirations human beings crave in a profession which is jealous of its own and which is constantly changing its assumptions as the circumstances of human beings change. This, unlike other professions, constantly reminds a teacher that one will never be free of the people one teaches and that the results of one's work and one's reputation will be constantly on display before one's very eyes, either in the corridors of power or in the halls of justice. The question every law teacher must ask of himself or herself is, "Will I be able to hold up my head during such encounters, or feel compelled to proffer mumbled apologies for not having been what I should have been to this former student at the time that was and in the circumstances that were?"

When I became the Deputy Special Representative for the Rule of Law in the United Nations Mission in Liberia (UNMIL), I had responsibility for leading the UN's efforts at post-war reconstruction of the legal sector. I began to appreciate how important it was for a leader to be respected for discipline-competence in the specialized Sector. I also appreciated how enduring habits of industry ingrained in the practice of all aspects of the profession are, when deployed in other areas of life. The special nature of the discipline became much clearer to me when I

found that to rebuild a legal sector, one had to consider not only those already administering the law in its various aspects but also those being recruited to join their ranks to take the profession into the future. The content of the training had to be of interest and responsive to the needs of society, both in the present and in the future. One had to ensure access to legal education for the widest range of citizens by securing appropriate funding to support the vulnerable – for every rung of society deserves its own – so that its needs and interests could be properly articulated.

The need to provide assistance and support for the chief civil society instrument, the Bar Association, also became an imperative because the association of lawyers, howsoever called, represents a nerve-centre for ensuring not just the adherence to ethical standards by lawyers but also the capacity to provide opportunities for continuous legal education. These became imperatives because as far as I know, Law is the only sector where all functions are interlinked; thus, producing the law, determining the law, applying the law to adjust rights and obligations of citizens, enforcing the law to maintain societal order and development, predicting the predilection of the law in foreseen as well as unforeseen circumstances, enforcing ethical standards within the profession, extending the boundaries of law, cultivating a culture of respect for law and human rights to shore up the functioning of the institutions of law, and improving access to law by citizens to assuage yearnings for justice.

In short, law and its adherents, practitioners and advocates must achieve all these functions if it is to become and/or remain a pillar on which society may lean for its good order and orderly development. The consequences of it not living up to the billing in moments of difficulty is that self-help (read “war”) acquires the aspect of being the only viable option, of course, with devastating effects. Therefore, a restoration of rule of law in which the legal profession plays no mean part is literally the best indicator of the restoration of civil order and a marker of the health of the society. This makes the state and society at large a major stakeholder in the quality of its legal profession and the training of its future assets.

Now I am on the Bench, and having to live the critiques I spent my life putting forward, I have a better appreciation of the value that my legal education has served in my development. As one whose stock-in-trade is serving up justice in the highest court of the land, I am particularly conscious of the extent of trust reposed in me by society at large and affected persons in particular.

I speak of these things because that is what these past four days have been about: giving value to our stakeholders — students, families, professional colleagues, the ordinary person (in days of yore called 'the reasonable man'), the State and the global community.

It is also about the output and eventual product of what all Law Faculties are about and/or have been set up to achieve: quality human resource well-trained in the law for the ordering of the society of the future. Into this mix of varied stakeholders, with their varied expectations, has been thrown technology which has changed our modes of communication and research. Each of these stakeholder communities has its own peculiar interests that impose certain imperatives on schools dedicated to the study of Law.

These past four days, you have joined minds and hearts to look at what you have been doing, to ascertain whether what you have been doing is fit for purpose and whether you should change tack and redirect your efforts or continue to do what you have always done, with the necessary modifications as circumstances dictate.

These then are the issues, whether articulated or not, that have taken your attention these past four days. The in-depth discussions on topical issues confronting legal education in Ghana and Africa have been a blessing, for we have been alerted to the conditions that we either have to take control of or be controlled by in the ever-changing social terrain.

A public health emergency has descended upon us without warning and challenged all our paradigms of rights and responsibilities as well as the use of the state's police powers and the protection of the state's economic interests and general well-being. What is required of the discipline of Law in times like these, and how may we be positioned to take the best benefits from circumstances over which we have no control? Deep thought and philosophical inquiry are required. However, competence in the functioning of existing law and doctrines of law cannot be overlooked or underplayed as we soar into speculative realms and deal with possibilities that fertile minds can conjure, but which may have no immediate practical application. The average person looks to the law for the here and now solutions to issues confronting them, but unless the boundaries of law are continuously examined, explored and tested, new and emerging situations would overwhelm the system. To achieve this balance, we must therefore engage the attention of those whose task is to develop the minds of the next generation.

In doing all of this, sight must not be lost of the fact that in a globalized world, we need to take account of developments that put us in competition with people trained elsewhere. Many Ghanaians serve in international organisations or in other jurisdictions. Ghanaian-trained judges and lawyers, including my own sister who was Chief Justice of The Gambia and is now Chief Justice of the British Dependency of Turks and Caicos Islands in the Caribbean, have long been a resource for the Commonwealth office. This reality imposes a duty on us to constantly improve the quality of the legal education we offer, for the competition is global now and the market is an unforgiving terrain.

We cannot also overlook the quality of students we recruit because the effort to cultivate an enquiring mind can be made even more arduous if there is very little, by way of a mind, at the other end of the pole. As a Ghanaian proverb goes, "However good cassava tastes, it can never pass itself off as yam, for the tell-tale string in the middle will always give it away." Recruitment based upon careful selection and by merit rather than family connections will yield good returns for the enterprise of quality legal education.

In these four days of exciting discourse, the broad themes covered have spanned the following:

- The Policy, Legal, Management, and Ethical Frameworks of Legal Education, comprising the sub-themes: policy framework; legal framework; management and administrative framework; and ethical framework.
- Curriculum Development and Teaching Methodologies, comprising the sub-themes: curriculum; teaching methodologies; quality control; and examination and testing.
- Resources for Legal Education, comprising the sub-themes: human resource; institutional resources; infrastructural resources; and financial resources.

After-action is always a critical factor in achieving impact. Having spent such valuable time expounding on issues of relevance, it is the hope that the detailed Conference Report would be made available for the consideration of all Faculty, Bench and Bar in the countries here represented. Fortuitously, the Attorney-General of Ghana is working on a Legal Profession Bill, so hopefully, this conference report would be a resource for generating provisions to meet the expressed aspirations of lawyers – both current and future.

The international participants:

- Hon. Justice Dr. Abou B.M. Binneh-Kamara (Justice of Sierra Leone's Superior Court of Judicature and Dean, Faculty of Law, Fourah Bay College, University of Sierra Leone);
- Professor Anthony Diala (Director, Centre for Legal Integration in Africa);
- Professor Olaolu Opadere (Dean, Faculty of Law, University of Gambia);
- Professor lge Bolodeoku, (Dean, Faculty of Law, University of Lagos, Nigeria),

have all added some spice to the discussions and moved them from parochial streams into international waters. In the end, their participation has justified the belief that the human

condition is the same and so are the issues confronting legal education in the common law world. This conference marks our effort to swim together to navigate the shark-infested waters more efficiently.

I am informed that discussions have been initiated for the setting up of an Inter-African Law Deans Administrative Law Network to ensure an integrative approach to resolving the issues surrounding legal education in Africa. The effort should not end here today. I call on all Law faculties to organize follow-up seminars and other interactive sessions to increase the sense of ownership that these recommendations represent. Everyone has problems, but only those who are so minded can effect the necessary changes to achieve desired reform. The buy-in of all important players in the sector is imperative if success through joined up effort is to be achieved.

All the reforms we wish to see require funding from all stakeholders to implement. It is for this reason that we are grateful to H.E. the President, Nana Addo Dankwa Akufo-Addo for setting the sterling example of making a personal pledge to donate one hundred thousand cedis to the Endowment Fund. In this fundraising effort, Judges, Lawyers, alumni and the private commercial sector are all encouraged to make their presence felt. It must always be remembered that the quality of those who handle their legal affairs may either save them money or impose needless expense on them. Therefore, helping to fund quality legal education is in their own best interests.

I cannot end this speech without specially acknowledging the support of the leaders of all three branches of the Government of Ghana: H.E. the President of Ghana, Nana Addo Dankwa Akufo-Addo; The Speaker of Parliament, Right Honourable Speaker Alban Bagbin, represented by the First Deputy Speaker, Honourable Joe Osei-Owusu, MP for Bekwai; and His Lordship the Chief Justice, Mr. Kwasi Anin Yeboah, also represented by Mr. Justice Jones Dotse, the most senior Justice of the Supreme Court; The Honourable Attorney-General and Minister for Justice, Mr. Godfred Yeboah Dame; Ministers and Deputy Ministers; H.E. the German Ambassador, Mr. Daniel Krull and the GIZ; the Vice-Chancellor of the University of Ghana, Prof Nana Aba Appiah Amfo. All these distinguished personalities lent gravitas and fillip to the Opening Ceremony. The publicity that was engendered in the media by their presence was of immeasurable value to the purpose and purport of the conference. Not to cast in the shade the contribution of the institutional players, I acknowledge with gratitude the contribution of the Law Deans, roundtable chairpersons, speakers, panellists, moderators and conference participants, who have all ensured a very successful conference.

To the Conference organisers, we who participated cannot thank you enough for the dedication which made a four-day event pass without incident. To the Dean of UG School of Law in particular, who not only dreamt of such a conference at this time but put muscle and will behind

it to make it a reality, go our heartiest congratulations. To all other categories of staff who worked hard for weeks to make the arrangements for these four days seem effortless, go our appreciation.

It is said that the strength of a chain is in its weakest link, and so the success of this conference is traceable to the contribution of its least and lowest. The Speeches have now ended. Now begins the hard work.

May God bless our efforts.

Thank you.

Presentations/ Papers

THE POLICY, LEGAL, MANAGEMENT AND ETHICAL FRAMEWORKS OF LEGAL EDUCATION IN AFRICA

NANA DR. S.K.B. ASANTE

Omanhene, Asokore Traditional Area

Salutations, Ladies and Gentlemen, special welcome to our colleagues from other African jurisdictions. Feel at home.

Although the focus of this conference is on Ghana, our problems of legal education are similar. Some Ghanaians have taught in the law faculties of other African countries. Some Ghanaian lawyers have been trained in Nigerian legal systems, while others have found it expedient to be admitted to the Gambian Bar in order to overcome local difficulties in Ghana. I have in my 61-year legal career undertaken many legal assignments in many African countries.

I understand from the background papers of this maiden international conference that although it is organised with the more specific objective of providing solutions to the ailing legal education sector in Africa, with a major focus on Ghana, the broader objective is to tackle the dearth of lawyers and other legal practitioners on the continent and ensure there are adequate resources, both human and institutional, to guarantee the attainment of certain Sustainable Development Goals (SDGs).

This session is however mandated to discuss the policy, legal, management and ethical framework for legal education in Africa. According to the brief, the focus will be on whether the current structure of legal education is relevant to the fast-changing times, whether the governing laws have outlived their usefulness, whether there is the need to broaden the scope of legal training beyond just lawyers to include paralegals and law clerks, and whether ethics should be included in the faculty of law as a core subject.

The identification of these issues reminds me of the controversies which have over the years raged over the structure and objectives of the system of legal education in Africa post-independence.

As we all know, colonial policy in Africa strenuously opposed local facilities for legal education, yet did not provide law scholarships tenable in the UK. Legal training in the UK was however permitted for those who could afford it. In Ghana, this policy was slightly amended just before independence to provide scholarships for legal training in the UK for prospective law officers in Government Legal Departments.

After independence, the new leaders of Africa appreciated the critical importance of providing local facilities for legal training because they recognised the role of lawyers in development. In the words of President Kaunda of Zambia, "I think the lawyer through his training and experience is perhaps better fitted than anyone else to work out solutions to the social and economic problems of society." I shared lodgings in London with the first two Zambian Africans to qualify as lawyers, namely Mainza Chona (who later became Prime Minister) and Fitzpatrick Chuula (who later became Attorney-General). In Ghana, Nkrumah and his Attorney-General, Geoffrey Bing, also advocated a dynamic role for the legal profession in development and deplored the perceived preoccupation of the Bar with the protection of private interests.

The establishment of local facilities for legal education in Anglophone Africa was preceded by a conference on the future of African law in London in 1960, where British colonial judges, officials and academics concluded that the very future of the law in Africa depended on a proper system of legal education in Africa. This movement gained the support of eminent jurists like Lord Denning. Ghana established its Law Faculty and the Ghana School of Law in 1958, though they became operational in 1959.

Law faculties were established in numerous African countries within the following decade, most between 1959 and 1963 and others between 1963 and 1968.

DIVERGENT CONCEPTS OF LEGAL EDUCATION

Geoffrey Bing was motivated by the idea of training as many people as possible to provide the needed legal services to advance the cause of development as against protecting private, particularly, foreign interests. Consequently, he advocated a compressed three-year diploma programme that would enable Ghanaian students to take Parts I and II of the English Bar exam. The Ghana Bar Association insisted that Roman law should be compulsory.

The International Advisory Board, comprising Professors LCB Gower (UK), Zelman Cowen (Australia) and Arthur Sutherland (US), resisted the inclusion of Roman law and rejected Bing's idea of rapid supply of lawyers for the State but emphasised the critical importance of a liberal or humanistic educational background for lawyers. It was "of the highest importance to any community that its lawyers should be persons of a wide and liberal understanding" and this could be acquired through a university law degree.

The International Advisory Board recommended that instead of the original plan of an LLB degree course at the university followed by vocational training at the Law School for one year,

the Law School should be absorbed into the university with no provision for a part-time diploma programme.

Harvey recommended the abolition of the Law School altogether and the introduction of a three-year BA in Law followed by a two-year LLB, leading to qualification as a lawyer. Harvey argued that lawyers required a broad and liberal education entitled to a full acceptance by the international community. The Ghana Law Faculty rejected Harvey's concept and reverted to a degree course at the university, followed by a vocational course at the Law School. Many countries in Anglophone Africa followed this pattern.

In 1995, I was retained by the World Bank to join a team of Ugandan lawyers, headed by Justice Udochi, later CJ, to review the legal education system of Uganda.

The above debate was somewhat theoretical or a priori because it preceded the establishment and operation of legal education systems in Africa. In my respectful submission, our current debate should be informed by empirical evidence or lived experience of the past 60 years of legal education in Africa. However, in undertaking this review, we should ask a number of questions:

WHAT DO GRADUATES OF INSTITUTIONS OF LEGAL EDUCATION AND TRAINING DO?

This question in my respectful submission is highly pertinent not only to what is to be taught at those institutions but also who should determine the substance and curricula of such institutions. It is not sufficient to assert that the graduates are expected to practise law. First, the practice of law should be examined as to its scope. Equally important, however, is the role of lawyers in society, which cannot be characterised as legal practice *stricto sensu*. The concept of legal practice in the modern era is wider than is usually imagined.

The bulk of law graduates engage in litigation before the courts as advocates and also do noncontentious work in their chambers as solicitors largely representing individual entities. Some operate as legal advisers or secretaries to corporate entities. Law graduates also serve as magistrates and judges in various levels of the judiciary. However, the insistence of national leaders on the pivotal role of lawyers in development finds expression in the work of lawyers in Government Legal Departments such as the Attorney-General's Department, Lands Commission and the Registrar General’s Department. Some also become law teachers and academics.

In the Attorney-General's Department, lawyers serve as prosecutors and legal advisers to Government. I would emphasise legislative drafting, which is the source of virtually all legislation in Parliament. Here, lawyers depart from the traditional law of litigating for private clients towards preparing the basis of Parliament's vast legislative programme. My Commonwealth Secretariat consulting assignment to assess the needs of West African governments in legislative drafting is an illustration of such.

Another role of the Attorney-General's Department which is critical to development but not sufficiently appreciated as such is the drafting, negotiation and administration of government contracts, both international and national.[1]

Defective agreements or faulty administration or settlement of government contracts account for substantial losses of public resources. Lawyers and concerned citizens including MPs and religious leaders should show concern about this terrible deficit in our development strategies.

Justice Professor S.K. Date-Bah has presented a brilliant account of the contributions of the Law Faculty at Legon to development in Ghana. I fully endorse this assessment and would add the international accomplishments of the graduates of this Faculty: Legal Counsel to World Intellectual Property Organisation (WIPO), Vice President and Secretary of the World Bank, Director of Legal Department at the Commonwealth Secretariat, Member of the International Criminal Court, Deputy Res. Secretary General in Liberia Legal Rehabilitation, Dean of law schools in the Caribbean, Professors in numerous universities across the world, and Special Advisor (Legal) International Business Transactions at the Commonwealth Secretariat. In Ghana, Chief Justices, Supreme Court Judges, Judges of the Superior Courts, Attorney-Generals and Speakers of Parliament are all alumni of the Legon Law Faculty.

Products of Law Faculties in other African countries have also excelled in the international arena. Dipo Akande, a graduate of the University of Ife Law Faculty is now Professor of International Law at Oxford and the UK's candidate for election to the International Law Commission.

A graduate of the Law Faculty of Calabar University, incidentally a former student of Justice Professor S.K. Date-Bah, is President of the International Criminal Court, and Muna Ndulo, an alumnus of Zambia University's Law Faculty, is now a highly distinguished Professor of International Investment Law and African Legal Studies at Cornell University, USA.

[1] Refer to my JIC Taylor Memorial Lectures, 1978 at Lagos University on "Transnational Investment Law and National Development", elaborating on the complexity of these transactions – financing, construction and petroleum.

Lawyers also use their legal knowledge in important fields not traditionally characterised as law such as politics, debates in parliament, legislative work in parliament, business, board membership of corporations, ministerial positions and various aspects of public life.

QUESTIONS

The following questions may be posed as issues which may be addressed in assessing and reforming our systems of legal education:

1. Although the law schools of Africa have done well in the past, are they, and in particular the newly established law faculties, capable of handling the challenges of a changing era? Justice Date-Bah, for instance, has urged law faculties to include comparative law in their curricula. I would strongly advocate urgent expansion of the traditional offerings of law schools in Africa to address international business transactions. As economies based on natural sources, I think that every system of legal education should include the study of at least the structure of mining and petroleum agreements, either at the faculty level or at the Law School.

2. If law schools claim to be devoted to the practical aspects of professional legal training, do they provide clinical facilities for this purpose? If their pedagogical techniques merely replicate those of law faculties, should some of the curricula be reserved for law faculties? How practically oriented are law schools?

3. While it is conceded that the legal profession should have a regulatory body which maintains high standards, ethics and prescribes the criteria for admission, are regulators necessarily competent to prescribe the content of legal education and training? Are regulators also educators?

4. If regulators opt to be educators, should access to the legal profession be limited to the training facilities organised by the regulators?

5. In view of the diverse ways in which law graduates employ their legal education, should the scope of the law schools be limited to traditional litigation and traditional Solicitor's work? The changing world, replete with various kinds of international business transactions and digitization, demands a much broader perspective than the traditional curriculum of a typical African law school.

6. Are African systems of legal education instilling a sense of personal integrity in their alumni? If so, how does this manifest itself in society and public life? A highly skilled lawyer without personal integrity is a danger to society.

7. What is the impact of the patriotic role of the early generation of lawyers— Sarbah, Casely Hayford and Danquah and their pro bono work?[2]

8. How limited is access to legal services in rural communities? For example, there is not a single lawyer's office Ejisu, Juaben, Effiduase, Asokore and Kumamu. The law chambers and legal offices are concentrated in Kumasi, which is clearly an unsatisfactory situation.

<u>SOURCES</u>

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[2] See my article on the contribution of the early generation of Ghanaian lawyers to good governance in the University of Ghana Law Journal honouring John Mensah Sarbah.

THE POLICY, LEGAL, MANAGEMENT AND ETHICAL FRAMEWORKS OF LEGAL EDUCATION IN AFRICA

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1.0 Background and Context

I must extend my sincere thanks and appreciation to the organisers of this conference for inviting legal academics and practitioners across Africa, to deliberate on the way forward for legal education, which is certainly crucial to the socio-economic and political development of our beloved continent. However, our structure of legal education, in this third decade of the twenty-first century, must reflect the dynamics of the contemporary governance systems of Africa. This presupposes that they must be tailored in tandem with the ideals of democratisation, human rights and good governance[1], which are the structural architectures upon which the political systems of member states of the African Union (AU) are built[2]. This will certainly bring about sustainable development, progress and prosperity to a continent that is still trapped in abject poverty, political instability and underdevelopment as a result of some of its subsisting dysfunctional governance structure and regulatory regimes[3].

The cultivation of knowledge through the right, proper, genuine and exact education, is a sovereign virtue[4] which every state in the world, must hold sacred. Significantly, it is upon knowledge, more than anything else, that the good life depends[5]. Indeed, the mesmerising developments of the Western hemisphere in this modern era, are undoubtedly constructed on sound education. This is the reason why the academic, professional, technical and vocational

[1] S P Huntington, The Clash of Civilizations and the Remaking of World Order (1996 Edition, Simon and Schuster, UK Ltd.) 192- 206. In chapter 8 of this classical political masterpiece, concerning the rubric 'The West and the Rest: Intercivilizational Issues, Huntington, espoused the synergy between democracy and human rights and economic growth and development; and established how the quest for democratisation in other civilizations, was largely shaped by this mesmerising nexus, that propelled political stability and economic development in the West.

[2] C Heyns and M Killander, Compendium of Key Human Rights Documents of the African Union (6 edn. Pretoria University Law Press) 4-6. Also, see the Preamble to the May 26, 2001, Constitutive Act of the African Union and Articles 3 and 4 of same.

[3] H Lowe, Mastering Modern World History (5th Edition, Macmillan International Higher Education, Red Globe Press) 563-565 and 605-606

[4] J Cottingham, Western Philosophy: An Anthology (3rd Edition, Willey Blackwell) 1-60. The first part of this text concerns an in-depth analysis of the concept of knowledge from the standpoint of a clear epistemological perspective, encompassing the views of Socrates, Plato, Aristotle, Descartes, Lock, Berkley, Hume and Kant. See also J Garvey J Stangroom, The History of Philosophy: A History of Western Thought (2012 Edition Quercus) 62-74.

[5] Ibid.

architectures of that part of the globe are designed to give meaning and essence to a functional and a progressive system that is certainly making the West a better place. Essentially, some of the best brains the world over are found in that part of the globe and some of Africa's renowned scholars and professionals, who are genuinely willing to return home but are finding it very hard to come back, are still meaningfully contributing to the overwhelming developments of the West.

The principal reason for this is not unconnected with the apparent malfunctional systems in most parts of our beloved Africa. Meanwhile, our concern in this third decade of the twenty-first century is to make Africa a better place, not only for Africans but also for other global citizens whose vision is to dwell in Africa and simultaneously uphold its ideals.

How then can we make Africa a better place in this era of democratisation, respect for human rights and good governance? What role can legal education in particular play in making Africa a better place? How can we re-design/re-engineer our structural architecture to meet the challenges of legal education in Africa? Which behavioural/attitudinal postures should we deploy towards legal education on the continent? What is the future of legal education in Africa?

The foregoing questions are framed to reflect the central thematic issues of the topic of this paper, 'The Policy, Legal, Management and Ethical Frameworks of Legal Education in Africa'. Moreover, a plethora of interwoven narratives will be contextualised in this paper as I proceed to unpick the issues underpinning the aforementioned questions.

2.0 Making Africa a Better Place

The question of how we can make Africa a better place in this era new era of democratisation, protection of human rights and good governance is not new[6]. The founding fathers of the African Union (AU), which succeeded the Organisation of African Unity (OAU), realised that the foregoing ideals were certainly crucial in making Africa a better place[7]. However, as we are aware, the establishment of the OAU on May 25, 1963, made it somewhat implausible for it to generate a sui generis legal order[8] that would have given effect to such ideals on the continent. This was indeed a fundamental problem that catalytically undermined the rule law, democratic legitimacy and accountability in Africa, and this was why it was practically impossible for the impacts of economic growth and development to have been felt in most parts

[6] See the Preamble and Articles 3 and 4 of the AU's Constitutive Act (2001)
[7] Ibid.
[8] O Amao, African Union Law: The Emergence of Sui Generis Legal 0rder (2019 edn. Routledge) 16.

of Africa's fragile socio-political environment, which is underscored by a relatively high level of insecurity/instability[9].

When the AU's Constitutive Act was adopted on May 26, 2001, African leaders ensured that the ideals of democratisation, human rights protection and good governance were made prominent, with the appropriate salience and valence, in the Union's fundamental objectives and principles[10]. Subsequently, most of its member states saw the need to constitutionalise these ideals. This was indeed a clear manifestation of the determination of Africa to catch up with the challenges of the modern world, driven by sound systems of education. Nonetheless, prior to even the laudable efforts of the AU's founding fathers to institutionalise the said ideals in the context of regional international law, some of its member states had framed their constitutions to reflect them.

For example, the multi-party democratic constitutions of most English-Speaking countries[11] of the Economic Community of West African States (ECOWAS), clearly contain defined articles reflecting the ideals of democratisation, human rights protection and good governance as the fundamental architecture of their respective political governance, which is also sanctified in the 1993 Revised Treaty of ECOWAS. We must therefore re-design our legal education systems to reflect the foregoing ideals and their incidental values, which will certainly bring about sustainable development, progress and prosperity to Africa.

It was the desire to achieve these ideals that influenced the framers of the constitutions of the anglophone countries to create the apposite institutional and legal architecture pursuant to which their citizens' rights, freedoms and liberties are relatively secured. The foregoing ideals are crucial to making Africa a better place. So, in our quest to re-design our systems of legal education, we must not lose sight of developing the appropriate legal regimes and policies to reflect the dynamics of such ideals on the continent. Catalytically, this analytic prognosis therefore triggers the next question which this paper focuses on, that is, what role can legal education in particular play in making Africa a better place?

2.1 Legal Education, the Rule of Law and Good Governance in Africa

The right to know is a *sine qua non* in Africa and beyond. Hence, the responsibility of the state is to create the enabling environment for its citizens to acquire the right, proper, genuine and exact education, to the best of the state's abilities. This is essentially because, there is a strong positive or linear correlation between education and development. The acquisition of education

[9] G K Kieh, The State and Political Instability in Africa, Journal of Developing Societies 25, 1 (2009): 1-25.
[10] See the Preamble and Articles 3 and 4 of the AU's Constitutive Act (2001)
[11] See the Constitutions of Nigeria (1999), Ghana (1992), Sierra Leone (1991) and The Gambia (1997)

does not necessarily have to be formal, it can as well be acquired informally, particularly through communications media and the dynamic forces and instruments of culture and information technology. However, our concern here is formal education, with specific emphasis on legal education and its role in making Africa a better place.

The desire to make education accessible is not only a fundamental objective and a directive principle of state policy (as in Sierra Leone[12] and Nigeria[13]) but is also undeniably a fundamental human right for all African citizens, which should be constitutionally guaranteed. Thus, Article 25 of the Republic of Ghana's multi-party democratic Constitution of 1992, with Amendments through 1996, is clearly instructive of this right. This is indicative of the fact that Ghana has constitutionalized the right to education, which is the basis for her socio-economic and political developments. As Africans in a community of shared interests we must remember that in law, a right is only as powerful as its justification can make it[14]. This is exactly what Ghana's legal pundits have manifested in their quest to make Ghana a better place.

So, unlike the situation in Ghana, where the right to education is constitutionally guaranteed and justified as a fundamental human right, this position is not so clear with the situations in Sierra Leone, Nigeria and other African countries. Nevertheless, the clamour for effective legal education in Ghana in particular and Africa in general is not unconnected with this fundamental human right, which has to be sanctified and held constant and sacred by every stakeholder and institution in the governance and development milieu of Africa.

Legal education is therefore the basis for the legitimate operationalization of the rule of law across the broad spectrum of a state's governance institutions and structures. Legal education is also the foundation for effective social engineering, social control, dispute settlements, environmental and cultural protection and preservation of the state's minerals and natural resources. Legal education is undoubtedly the pivot around which the survival, stability, continuity and peaceful co-existence of every society revolves.

In fact, without effective, sound, reliable and credible legal education, the architecture and structure of a state collapses and crumbles in the face of the competing operating forces in society that can only be legitimately controlled and held accountable by the rule of law. Thus, the basis of every functional governance system is the rule of law[15]. Governance is strictly about law making, law implementation and law interpretation. Essentially, the centrality of

[12] Chapter II of the Constitution of Sierra Leone clarifies the fundamental principles of state policy. This chapter articulates the significance of its political, economic, social/cultural and educational policies. However, section 14 makes it clear that this chapter is not justiciable.

[13] The 1999 Constitution of the Federal Republic of Nigeria, with Amendment through 2011, deals with education in Section 18 under the Fundamental Objectives and Directive Principles of State Policy.

[14] J D Riddle, Jurisprudence (2nd Edition, Oxford University Press) 167- 194.

[15] T Bingham, The Rule of Law, (Penguin Books, 2010)

sound legal education to the functionalities of the governance architecture and structure in Africa can never be underestimated. As depicted above, the ideals of democratisation, good governance and human rights promotion and protection are crucial to making Africa a better place.

Therefore, we must re-design our legal educational systems to reflect the aforementioned ideals and their incidental values. This leads me to the next question which this paper is poised to answer.

2.2 The Policy Frameworks for Re-engineering Legal Education in Africa

How can we re-design/re-engineer our structural architecture to meet the challenges of legal education in Africa? This question concerns issues relative to the policy and managerial frameworks of legal education on the continent.

Policy is as central to lawmaking as it is to strategic management. In general, policies are born in the womb of necessity. When rationalised into enactments, they are dubbed legislation, which is the principal source of law in every jurisdiction. In the managerial context, it is the formulation of policy that underpins the structural dimensions of functional management. This does not however imply that there is no synergy between policy formulation and behavioural management.

I will first discuss the issues of law and policy in the impartation and acquisition of legal education in Africa, and then proceed to examine the fundamental issues relative to the management and ethics of legal education on the continent.

In general, the constitutions of most African states contain their fundamental objectives and directive principles of state policy. One such objective purls around a point which has already been mentioned; that is, the state's responsibility to provide education for its nationals to the best of its abilities. Consequently, making legal education accessible to a state's nationals undoubtedly resonates with the above-mentioned state policy. This directive principle of state policy must underscore the legislative and regulatory frameworks of legal education in Africa.

The peculiarity of legal education makes it somewhat challenging for the University to be its sole provider. The School of Law (Council of Legal Education) also plays a crucial role in the provision of legal education. Although both are state institutions created and regulated by law, they are both specialized in the provision of different aspects of legal education. Whereas the University focuses on effective academic training, that is, making students appreciate the substantive law which creates rights and obligations, the Law School concentrates on getting

law graduates to appreciate the adjectival law[16], which does not create rights and obligations but is constitutive of the mechanisms pursuant to which rights and obligations are enforced by courts of competent jurisdictions.

Nonetheless, both institutions set their own criteria for admission. Their admission criteria are shaped by their respective institutional policies which must not contravene the state policy on education in general and the law, relative to the fundamental human rights of non-discrimination, the right to education and the responsibility of the state to provide the enabling environment for its nationals to be educated to the best of its abilities.

In tandem with these rights and national virtues, there is the right to academic freedom, which both institutions must prioritize and hold sacred in imparting legal education. The state must as well capacitate both institutions with the apposite resources (human, economic and technological) in the exercise of their intellectual and professional functions to promote efficiency in learning and academic and professional excellence.

Indeed, legal education is one area that African states really need to step up and invest in. As it stands, most African countries have not invested much in legal education, which is the pivot around which the governance processes of the state and the functionalities of its operatives revolves. The fact that legal education is crucial to both private and public sector managements, makes it inevitable for the state to seriously invest in it as the University and the Law School must be equipped to churn out a good number of competent graduates and professional barristers and solicitors who will conscientiously serve both sectors in different professional capacities.

Apparently, the limited State investment in legal education is one factor that is undermining the quality, efficiency and credibility of the processes pursuant to which legal education is delivered and acquired on the continent, and simultaneously frustrating academics and professionals in the University and the Law School to give their best. Such frustrations also prevent their compatriots living in the diaspora from returning home and complementing their efforts in making legal education accessible to deserving and qualified Africans. How do you expect scholars and professionals in the legal field to give in their best when their emoluments, allowances and pensions are nothing to write home about?

The clamour of a significant proportion of African states' nationals for quality legal education in this era of democratic governance is also a cause for concern. Historically, during the colonial and immediate post-colonial periods, leading to the institutionalization of the one-party governance system in some African countries, there were very few institutions providing legal education. Thus, the processes of regulating entry to the legal profession were not

[16] The rules of evidence and procedure.

complex to handle and manage. However, the need for legal education became more important with the awareness that citizens' fundamental freedoms, rights and liberties are very crucial to good governance and holding state operatives accountable, responsible and transparent to the people in democratic societies.

This awareness whetted the appetites of a large number of African nationals to pursue studies in law. Presently, the universities across Africa have more law faculties with relatively large numbers of students that qualify every year for enrolment at law schools that do not have the resources, personnel and capacity to admit every law graduate. As a consequence, in the processes of admission into law schools, a plethora of allegations of unfairness and discrimination are being raised. How can this issue of common concern be handled? Do we break the monopoly of the Council for Legal Education and establish more law schools? Do we capacitate the universities with the requisite resources and personnel and get the Council for Legal Education to relinquish responsibility for the provision of professional education and concentrate on setting the criteria that must be met for entry into the Bar? The answers to these questions necessitate consultations with stakeholders in the legal sector, civil society, the media, etc.

The University and Law School should as well develop their schemes and policies to be reflective of the need for constant curricula reviews of their respective academic and professional programmes. This will necessitate the involvement of renowned legal academics, barristers and solicitors, legal executives and other academics particularly in the liberal arts, humanities, social and behavioural sciences to review processes taking into consideration the challenges of society's modern socio-cultural, economic, environmental, technological and political systems. When the courses offered are not reviewed to reflect the foregoing challenges, there will always be a knowledge gap in the impartation and acquisition of legal education.

This will negatively impact the delivery of essential legal services to the state, its institutions and the general public. In tandem with the schemes and policies for curricula review, the clamour for continuous legal education for both academics and professionals is a *sine qua non* for efficiency and quality assurance. The quest for continuous legal education can be augmented by clearly defined policies on research and development. As it stands, the literature on African jurisprudence is quite sparse. African scholars have a lot to do to fill the gaps in our legal literature, as it is unimpressive to reckon that African legal scholars are letting much of our legal narratives be remotely told by non-Africans. Some of such narratives are devoid of exactitudes and proper contexts.

The peculiarity of the academic and professional circumstances surrounding Africa's legal environment is a key factor that makes it hard for African legal scholars to constantly indulge

in groundbreaking research to promote the continent's ability to develop sound policies for socio-economic and political developments.

When laws are enacted on the basis of necessities and sound policies, the stability and progression of the state and its institutions are thereby assured. But how can Africa effectively promote the ideals of research and development in an environment that struggles with the issues of paucity of highly qualified legal academics and the unavailability of financial resources to fund groundbreaking legal research? Do African universities and law schools have the requisite funds to facilitate and promote legal research? How can they indulge in effective legal research when their administrators are struggling to even keep them afloat, either because the fees that students pay, or annual state subventions are grossly infinitesimal?

The obvious answers to these questions should serve as pointers to the reasons why the state in our context should be prepared to hugely invest in legal education to propel national and continental developments. The issue of abject poverty in Africa is a debilitating scourge that is crippling legal education as well. The majority of Africans are trapped in abject poverty. This presupposes that those Africans who do not have the financial wherewithal to send their offspring to the University and the Law School will never acquire legal education without the state's intervention. This is simply because such parents cannot and will never meet the exorbitant and astronomically high fees which they are expected to pay in the University and the Law School to educate their children on the law.

State intervention in this regard should take the form of the inauguration of just, fair and reasonable scholarship schemes and policies that cater for the deserving and qualified children of particularly the impecunious, who cannot meet the cost of sending their children to the University and subsequently to the Law School. Such scholarship schemes and policies should be designed to get its beneficiaries to subsequently serve the state in different academic and professional capacities. In the UK for example, the state loan scheme, rationalised in their national policy on education is what is really helping the less privileged of that society to access quality legal education, with the caveat that such loans are eventually paid when their beneficiaries become active players in the labour market.

Can this policy which is being inaugurated in some African countries work when the twin economic malaise of inflation and unemployment, coupled with political instability, are driving away investors in our private sectors? Where then shall a majority of the beneficiaries work to pay back such loans? Can such a policy work in an environment where African states are financially over-burdened with already astronomically high wage bills?

On the professional side, members of the Bar Associations on the continent must be prepared to put the apposite structures in place to groom their upcoming colleagues who have been

through the University and the Law School. The young barristers and solicitors are indeed the future of the legal profession. The very senior colleagues in the profession should always teach their juniors that the law is a science in content but an art in practice[17]. So, a lawyer is not a lawyer if his/her knowledge in the science and the art of the law does not meet the threshold of being able to give clearly defined legal pieces of advice, based on the science and the art of the law.

The seniors must get the juniors to imbibe the ideals of democratisation, human rights protection and good governance, for these are fundamental ideals which are anchored by the sovereign virtues of liberty, freedom and justice, which every legal system and environment that is built on a democratic architecture must uphold. Thus, it is undeniable that the legal community of shared interests in Africa should constantly be upholding and giving credence to these ideals upon which our revered AU was established.

Another structural concern for sound legal education in Africa, which can be addressed through policy, in this era of globalisation and post-modernism is predicated on Information and Communication Technologies (ICTs). ICTs have undoubtedly impacted every facet of humanity's activities and operations. Thus, the impacts of ICTs on our legal and regulatory regimes in Africa cannot be underrated. ICTs have even rendered some of our laws obsolete and are now giving credence to the rise in cybercrimes and internet frauds and scams across Africa. ICTs are indeed the oxygen of e-learning. They are crucial to modern legal research and the manner of adducing evidence and accessing the appropriate laws in support of legal arguments in courts of competent jurisdictions. The question to be posed at this stage is whether Africa made the much-needed effort to transform its legal environment to reflect the current demands and necessities of information technology.

This can be answered in the negative with an addendum that even when the COVID-19 pandemic devastated the world and made e-learning a *sine qua non*, most of our law faculties and schools in Africa could not cope with the vicissitudes of e-learning because they did not have enough experts in ICTs. Additionally, there were issues of intermittent electricity supply and a lack of laptops, computers and smart phones to expedite the e-learning process. Furthermore, the upsurge in crimes in the cyber space and the extent to which ICTs can ease the burden of adducing evidence and accessing the law to support legal arguments are all areas that require huge financial resources which neither the University, Law School nor the courts can handle on their own. This also necessitates state intervention, pursuant to a specially designed legal policy on ICTs for the promotion of legal education in this era of cybernetics.

[17]G Robertson Q. C., Crimes Against Humanity: The Struggle for Global Justice (4 edn. Penguin Book).

Moreover, a crucial structural framework which must be accordingly rationalised in a clearly defined policy concerns legal teaching and research methodology; that is to say, the standard approaches deployed by academics and professionals in capacitating their students in the science and the art of the law. The scientific side, which swirls around the contents of the law is the basis of the architectural side which whirls around an incisive combination of the law's contents and how they can be marshalled and fused with the appropriate rules of evidence and procedures in courts of competent jurisdictions, statutorily empowered to give effects to the rights and obligations embedded in the laws' contents.

This is what really makes the impartation and acquisition of quality legal education in the University and the Law School quite heavy going and peculiar. In fact, the peculiarity of legal education is supposedly rooted in the fact that the law touches and concerns everything that impacts humanity's multidimensional interests. When I say everything, I mean everything; whether it subsists on earth or beneath the earth surface or in space or outer space. Thus, it is assumed that knowing a little of law presupposes knowing a little of everything.

The psychic energy that is required in the study of law is presumably unparalleled to that which is required for the study of any other academic or professional qualification. This is the daunting task confronting law students and academics, tutors, professionals and practitioners, who should always be undaunted in the exercise of their academic, civic and constitutional functions. Moreover, it is the University and the Law School that are producing the eminent persons who are absolutely relevant in the operationalisation of the law machine that gives effect to the rule of law which holds society together and without which society is destined for doom and destruction, that even the rocket scientists, architects and engineers can neither repair nor re-construct.

Imparting legal education, inter alia, presupposes an appreciation of the distinction between imparting liberal education, which concerns the general development of human potentials and the narrower specifics of vocational (professional) education, which focuses on the impartation and acquisition of particular skills. Thus, law tutors, particularly in the University, must always strive to first adopt the liberal approach, with a concentrated emphasis on how to develop the academic potentials of students through critical thinking, introspection and analysis of the fundamental conceptual phenomena upon which the epistemology of law is built.

Further, the impartation of legal education must be based on a multi-disciplinary approach. This is simply because courses in philosophy of law, sociology of law, psychology of law, anthropology of law, logic, communication skills, semantics etc. are arguably the building blocks of the foundation of sound legal education upon which the narrower specific legal skills can be taught and acquired, pursuant to a thorough coverage of particularly the core law courses (law of contract, criminal law, constitutional and administrative law, law of real property,

equity and the law of trusts and the law of evidence) at undergraduate level in the University. With a sound knowledge and penetrating insight of the foregoing courses and research methods at the undergraduate level colleagues in the learning process, who are determined and prepared to pursue their studies, can embark on the study of any branch of the law at post-graduate level with a sophisticated degree of robustness.

The other pertinent liberal issue in imparting and acquiring legal education that is worth mentioning is the need to practicalize the modern theories of pedagogy, which increasingly identify the tutors as facilitators and the students as agents in the learning process. This approach does not contravene the Socratic method that emphasizes the significance of critical thinking, introspection and analysis[18]. Rather, it discourages the rote method of learning that is devoid of any independent and critical reflection and evaluation of what is learnt at any stage. This rote method of learning is akin to what Paulo Freire dubs 'Banking Concept of Education' in his classical work 'Pedagogy of the Oppressed'[19]. This Concept considers tutors as the holders of all requisite knowledge while students are mere recipients of that knowledge. However, it is an undeniable fact that the imparting and acquisition of contemporary legal knowledge certainly goes beyond this point.

Meanwhile, at the Law School, it is expected that the science of the law should have already been learnt at the University. So, its emphasis is on the art of the law which mostly reflects the evidential and procedural approaches by which legal solutions and remedies can be provided to legal problems. The essence of the modern theories of pedagogy, rationalised in the Socratic approach to learning, is as well the basis for the impartation and acquisition of knowledge in the Law School, where (LLB) law graduates are rigorously exposed to the processes pursuant to which intricate and complex legal issues are resolved within the context of the state's legal and regulatory regimes.

What is peculiar about the resolution of legal problems is that two or more persons can apply the same law to the same problems but can arrive at different conclusions. This peculiarity is rooted in the fact that the law can best be learnt by a heuristic technique as opposed to the rote approach. In fact, the knowledge that is acquired by rote is deficient of the requisite cognitive activism that is required in resolving intricate and complex legal problems. Hence, tutors in the Law School must always train LLB graduates to be able to identify complicated legal issues, and then set themselves the cognitive tasks of resolving them. This approach presupposes the study of legal texts in specific legal contexts. The text and context approach resonates with

[18] W J Prior, Ancient Philosophy: A Beginner's Guide (One world Publications, 2016) xi- xiv

[19] P Freire, Pedagogy of the Oppressed (30th Edition Anniversary Edition of 2000, Continuum, New York and London).

framing, discourse and textual analyses, which are communication and linguistic tools that legal academics can make use of in deconstructing legal texts[20].

Regarding legal research, the procedure reflects the problematising of legal issues from which research questions and hypotheses are drawn and connected to the theoretical and conceptual frameworks embedded in the shared body of knowledge found in the subsisting legal literature. The methods pursuant to which the research questions are answered are accordingly designed to justify the research findings and conclusions geared towards advancing the frontiers of legal knowledge. It therefore holds true that clearly defined policy on teaching and research must extend to issues relating to the setting up of academic and professional law journals at the University and the Law School, for the dissemination of newly constructed knowledge based on the research procedures mentioned above. The final research reports produced for publication must go through a credible and rigorous peer review process to meet the threshold of validity and reliability in legal research.

The other area that requires the development of robust schemes and policies relates to continuous assessment, examination and evaluation of learning outcomes. These three conceptual phenomena are definitely cognate with the progression to the next stage and the completion of law courses, leading to graduation from the University and the eventual call to the Bar. The processes that permeate the stages leading to the completion of law courses require high degree of integrity which I will address as the contents of this paper unfold under the appropriate rubric.

Another policy area that we must investigate is the provision of legal education for civil society and the media, which are empowered to hold the government accountable, responsible and transparent to the political sovereign (the people). This social, political and constitutional responsibility can never be properly done in the context of democratic good governance and human rights, when neither civil society activists nor the media is equipped with the right education to disseminate credible information relative to the functions of state institutions and the functionalities of their operatives.

Gone are the days when it was assumed that legal education was only meant for lawyers. The legal and justice sector institutions and the University must develop clearly defined policies, geared towards capacitating civil society and the media on the ideals of the rule of law, democratisation, respect for human rights and good governance. The security sector should also not be left out of the policy and legal framework of legal education. The sector's

[20] S Askey and I McLeod, Studying Law (4 edn. Palgrave Macmillan) 102, R Wodak, Discourse Studies-Important Concepts and Terms (1 edn. Palgrave Macmillan) 2; T Kelsall, Culture under Cross-Examination: International Justice and the Special Court for Sierra Leone (Cambridge University Press) 23; D Treadwell, Introducing Communication Research (Sage Publications Ltd.) 17.

functionality is indubitably impacted by a plethora of issues concerning how lives and property and the security of the state can be defended and protected, while maintaining law and order, and simultaneously accord the apposite credence and deference to the fundamental rights of persons, including those reasonably suspected of having committed the most egregious crimes against the state, its institutions and other entities. This balance can best be struck by personnel in the security sector when they are academically and professionally capacitated with the appropriate legal education in the execution of their functions.

2.3 Strategic and Functional Management Ideals and Ethics in Legal Education

This aspect of the paper examines the question of which behavioural/attitudinal postures should be deployed towards legal education on the continent. It necessitates an examination of the issues of management and ethics in legal education. I will first deal with the managerial aspect before exploring the ethical dimension herein.

As indicated in 2.2 above, policy is as central to lawmaking as it is to strategic management. Theoretically and conceptually, management is all about getting things done through others. Ideally, things can only be done through others when the appropriate managerial structures pursuant to which things are done are accordingly institutionalised[21]. This presupposes that the management of people and systems in an organisational context is the basis of the practice of management which is globally shaped by organisational theory.

The practice of management is underpinned by two ideals: the first emphasizes the inevitability of 'control' and the second pinpoints the importance of 'motivation' in every organisational context. Control is about making use of the appropriate procedural frameworks to regulate staff to get things done within a reasonable time frame to achieve the goals of an organisation. The essence of motivation is to influence staff to get things done within a reasonable time frame to achieve the goals of an organisation portrayed in its mission and vision statements[22]. For this reason, motivation is as central to behavioural management as control is to structural management.

Further, strategic management, which concerns policy formulation, policy implementation and policy evaluation, is directly tied to functional management, which encapsulates the principles

[21] L. W Rue and L. L Byers, Management Skills and Application (10th Edition, McGraw hill Companies Ltd.) 246-262

[22] G A Cole, Organisational Behaviour: Theory and Practice (1995 Edition, Letts Educational, Aldine Place, London) 246-262

and ideals of production and operations, marketing, human resource and financial managements.

Functional management theory mirrors the implementation of strategic policies relative to the foregoing functional environments of management, while strategic management theory views organisational arrangements as a holistic functional system. In consequence, a malfunction in any part of a system certainly affects the functionality of the whole system. Significantly, institutions that provide legal education are statutorily established to perform specific functions. Their functionalities can be viewed through lenses coloured by different institutional perspectives.

In our context, the University's Senate formulates academic policies to promote academic excellence through teaching, research and service to the State. The University's Court formulates policies relative to the plethora of administrative issues which the University must constantly address. Regarding the Law School, it is the Council of Legal Education that formulates policies in consonance with its professional and administrative dimensions to principally regulate entry into the legal profession. Thus, both the University and the Law School have created structures relative to production and operations, marketing, human resource and financial managements, within which people actually work under controlled conditions.

The staff of both institutions are their most essential assets; they are dubbed human resources. Issues concerning their recruitment and selection, training and development, motivation, performance appraisal, etc. are supposedly resolved within the frameworks of the human resource policies pursuant to which personnel (academic/professional and administrative staff) of both institutions are managed. Both institutions deliver a unique intangible (legal education) to the state, its institutions and the public as a whole. Essentially, it is their operations wings that really manage their academic and professional affairs. The core managerial issues with which their operations wings should be concerned are quality and flexibility. Quality in terms of maintaining and augmenting academic and professional standards presupposes efficiency in teaching, research and publications and delivery of other essential services to the state. Flexibility mirrors how both institutions can adapt their operational strategies to meet the challenges of the modern trends in the academic and professional realms.

Also, both institutions principally raise their own funds through fees and subventions from the state. Such finances are quite relevant to meeting not only their operational costs but also every other medium and long-term costs and projects which they facilitate in their pursuit of making legal education accessible to those who are qualified to acquire it at that level. Thus, it is their financial management wings that accordingly manage such finances.

Again, in the context of the contemporary functional management of marketing, it is not only tangibles that are marketed. Intangibles are marketed through public relations and the communications units of even organisations that render essential services to society, for society has to be in the know about the essentiality of their activities and operations in the national context. The public relations and communications units of both institutions should be designed to let society know about what the University and Law School can offer, how their services are delivered and of what meaning and essence such services are to the socio-economic and political and developments of the state.

An examination of the issues relating to the schemes and policies referenced in 2.2 above depicts the centrality of both strategic and functional management theories to the provision of legal education in the continent. In the context of management, theory and practice are inseparable in every circumstance where efficiency is the norm, and not the exception. For example, issues concerning admissions into the University and the Law School are regulated by the schemes and policies on admission formulated by Senate and Council of Legal Education and implemented by the operations wings (Registries) of both institutions. There is no way such issues can be handled by the academic staff without raising a plethora of ethical issues that would warrant the setting up of administrative tribunals to investigate the circumstances culminating in such administrative impropriety.

Again, the schemes and policies regarding financial management are implemented by the financial management wings of both institutions. Apart from fees and subventions from the state, other schemes and policies can as well be formulated to enable both institutions to legitimately raise funds by running essential professional and short courses on the legal and regulatory regimes of institutions in the public and private sectors. Thus, it is time for our academic and professional legal institutions, which provide legal education, to augment their efforts in generating their own funds to motivate their personnel to give in their best through teaching, research and service to the state, its institutions and the general public. Moreover, in circumstances where there are allegations of financial misallocation, misappropriation, misrepresentation and mismanagement, issues of ethics certainly emerge, compelling the setting up of the apposite administrative tribunals to investigate such financial improprieties.

The aforementioned examples first depict that the management of legal education, when approached from the systems perspective, is affected if there is a malfunction in any part of the systems' administration. Secondly, issues of ethics can easily arise in a managerial context. This does not however presuppose those issues of ethics are unconnected with the dubious operations of rogue academics and professionals in the University and the Law School. There are rogues in every institution, even outside the academic and professional realms of the institutions that are being examined herein. Rogues are found in every part of the world, posing challenges to the credibility and integrity of institutions whose personnel have worked

extremely hard to earn them the admirable recognition of institutional credibility, integrity and reliability in the contemporary world.

Issues of ethics are critical to the integrity and credibility of academic and professional institutions and are very central to the provision of legal education in Africa. It is also worthy of note that ethical issues are not new; they are ingrained in our nature as human beings. So, they have always been the principal concern of moral philosophy. The English word 'ethics' is distilled from the Greek word 'ethos'. At the micro level, ethics literally means the ideals (intellectual and moral virtues) or conventions governing the recognised and accepted practices of a corpus of persons in a particular culture, profession or discipline. The conundrum of ethics is its applicability at the macro level, which is not the concern of this paper. Meanwhile, there are indeed a plethora of conceptual and philosophical perspectives upon which the issues of ethics in legal education have been built.

Before unpicking the central thematic constructs of such philosophical perspectives in relation to legal education in Africa, let me examine a fundamental issue of ethics which though as old as Methuselah still resonates with the human race. This ethical issue, which some will call a conundrum, is discernible in Plato's Republic. It touches and concerns the dialogue between Socrates on the one hand and Thrasymachus and Glaucon on the other hand. The former argues that it is better to suffer injustice than to do injustice to others, because the person who suffers injustice does not corrupt his soul, whereas the person who perpetrates injustice corrupts his. The latter however argue that there is nothing like justice. It is rather a creation born in the womb of those with the apposite political wherewithal for whom it is designed[23].

They further argue that it is better do injustice than to suffer it because the happiest of persons in society are those who really help themselves to more than they deserve[24]. This philosophical argument is a clear reflection of humanity's dilemma of ethics in the twenty-first century. The followers of Socrates have chosen contentment over corruption and do not believe that they should help themselves to more than they deserve in society. Those of Thrasymachus and Glaucon have chosen the inverse and believe they should help themselves to more than they deserve. They now seem to be in the majority in some parts of Africa.

Which of the paths must the providers of legal education choose? The answer to this question is certainly Socrates' path, for it is better to be a Socrates dissatisfied than a pig satisfied. The providers of legal education should be the Socrates of the University and the Law School.

[23] Plato, The Republic: A New Translation by Robin Waterfield (Oxford World's Classics) (2008), Chapters 1, 2, 3 & 8.

[24] Ibid.

Those who have chosen Socrates' path have grounded their conceptions of ethics on a plethora of theoretical frameworks.

The concept of Aristotle's Golden Mean, which generically seeks to strike the balance between competing extremes from an ethical perspective, has influenced the evolution of the ideals of justness, fairness and reasonableness, which are not only central to the dispensation of justice but are also cognate with the provision of legal education[25]. Additionally, Kant's categorical imperative principally emphasizes the significance of truth as a moral universalism/objectivism that ought to underpin every human decision[26]. The central theme in this philosophical notion is that the morality of decisions is unconnected with their consequences. What really matters is the intention pursuant to which decisions are made. Therefore, exposing one's brothers and sisters who are fraudsters that indulge in compromising academic and professional standards in the names of bribery and corruption, sex for grades, examination malpractices and other forms of malfeasances, is considered ethically accepted, even though that may subsequently breed disillusionment with one's family.

Bentham and Mill's utilitarianism is a consequentialist theory of moral subjectivism/relativism. Their ethical perspective underscores the idea that morally right decisions are those that are made in consideration of the greatest good for the greatest number in society[27]. Thus, in our context, a conscientious decision to stamp-out criminality and immorality on the part of the Thrasymachuses and Glaucons in academic and professional circles is considered ethically right because the codes of ethics pursuant to which their criminality and immorality are forestalled, resonate with our academic and professional dignity and sanctity as ratified by the vast majority of our civilized communities. Again, Rawls' veil of ignorance is an egalitarian perspective of ethics that requires one and all in society to imbibe the idea of liberty and respect for others, irrespective of their social positions.

The ethical principles of justice are fairly chosen behind a veil of ignorance because the circumstances would not allow members of society to look at things through lenses coloured by their own perspectives[28]. This ethical perspective also gives credence to the sovereign virtues of justice, fairness, reasonableness, liberty, equality and the recognition of the

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[25]Aristotle, Politics, trans. Sir Earnest Baker (Oxford University Press) 35; The Nicomachean Ethics (Oxford World's Classics), Translated by David Ross and Revised with an Introduction and Notes by Lesley Brown: See Books I – V.

[26] E Kant 'Groundwork for the Metaphysics of Morals' in S M. Cahn's Classics of Moral and Political Philosophy with introductory notes by Paul Guyer, op. cit: 731- 775.

[27] J Bentham, 'An Introduction to the Principles of Morals and Legislation', with introductory notes by Waldron ibid: 708- 230. See particularly chapters IV and VII, dealing with legislation and pains and pleasures considered as sanctions.

[28] J Rawls, A Theory of Justice (Revised edn. The Belknap Press of Harvard University Press Cambridge, Massachusetts, 1999) 3 - 4.

fundamental rights of all and sundry, including the right against non-discrimination in the provision of legal education. Also, there is the ethical perspective of the world's leading monotheistic religions (Judaism, Christianity and Islam), which is based on the philosophical notion that human beings are ends in themselves and not means to the ends of others. This principle of religious ethics entreats humanity to see the human race as one.

This ethical perspective which is germane to Rawls' veil of ignorance depicts the foregoing sovereign virtues, which are the fundamental ethical edifices in the provision of quality legal education. There is also the idea of situational ethics which is based on the philosophy of pragmatism. This ideology is based on the fact that human beings are regularly faced with making very controversial decisions in exercising their daily academic and professional functions. Against this backdrop, it appears quite practically implausible to make their mostly prompt decisions on the basis of philosophical theories of ethics. So, it is argued that their prompt decisions in the exercise of their functions are determined by the factuality and peculiarity of the circumstances in which they operate.

This notion of situational ethics at the individual or micro level does not really support our position as academics and professionals. To avoid this, we develop codes of ethics reflective of the ethos of our academic and professional pursuits, in accordance with the above philosophical perspectives in the exercise of our functions. We are oriented and inclined to consider the dynamics of situational ethics when our codes of ethics are salient to the emerging issues with which we are faced. Even in such circumstances, our decisions are deemed ethically right when they do not contravene the sovereign virtues of justice, fairness, reasonableness, equality and human rights.

3.0 Conclusion - The Future of Legal Education in Africa

This final bit examines the question concerning the future of legal education in Africa. Indeed, the progressive development of Africa hinges on quality legal education pursuant to which its governance and development ideals are to be upheld. This presupposes that the foregoing policy, legal, managerial and ethical frameworks, as so clearly articulated, should be formulated, operationalized and evaluated for quality assurance and efficiency by member states of the AU to make Africa a better place for its already impoverished, malnourished and traumatized people, who have unfairly continued to struggle for basic electricity and water supply, primary health care facilities, quality education and the requisite infrastructure in this era of cybernetics and post-modernism.

It is no secret that progressive nations of the West and Asia are beginning to take human beings to Mars at a time when our beloved continent is trapped in abject poverty. Nonetheless, we

hope that in a not-too-distant future, with emphasis on sound legal education, we will soon begin to address our fundamental issues of common concern and simultaneously map the path for Africa's development.

THE POLICY, LEGAL, MANAGEMENT AND ETHICAL FRAMEWORKS OF LEGAL EDUCATION IN AFRICA

GLORIA OFORI-BOADU

Managing Legal Practitioner, GOB Law Consult

INTRODUCTION

I began teaching at the GIMPA Law School in the first semester of 2012. I taught Public International Law to the evening postgraduate class and Constitutional Law to the modular class. My students graduated in 2015 and wrote the entrance exams for the Ghana School of Law. The pass mark at the time was 66%. Out of the 1,200 students who wrote the exams, 301 passed with marks of 66% and above. However, 50 of them did not gain admission following the less-than-10-minute exit interviews. Some of my best students did not gain admission despite their high scores in the exam. In fact, one lady who had scored 68% informed me that she had passed the interview. However, on the evening of the interview day, she received a call asking her which campus she preferred. She indicated that because of her family obligations, she would prefer the Accra campus. That was it. She never heard back from the caller, neither did she find her name on the admission list.

I had the opportunity to call Her Ladyship the Chief Justice who indicated that if I felt strongly about it, I should put it in writing which I did. That provided the opportunity for the publication of an open letter to the Chief Justice as head of the General Legal Council (GLC) to admit the 50 LLB graduates who had passed the Law School Entrance Exam but had been refused admission into the Ghana School of Law because of an interview.

PART ONE

Below is the letter I wrote to the Chief Justice:

ADMIT 50 LLB GRADUATES WHO PASSED ENTRANCE EXAMINATIONS; A PETITION TO THE CHIEF JUSTICE

Wednesday, 4th November 2015

I humbly write this petition to you requesting your consideration and admission of the 50 LLB graduates who passed the latest entrance examinations to the Ghana School of Law but were denied admission after the interviews.

I humbly plead that the interviews are not considered as a means of disqualifying or eliminating the interviewees, but as an opportunity to ascertain their additional training needs and strategies to ensure their continuing quality education at the professional legal education level.

It is my humble plea that the General Legal Council, with your legislative mandate for the organization of and arrangements for legal education under section 1(a) and section 13 of the Legal Profession Act, 1960 (Act 32), admit the law graduates accordingly.

Low Participation

With reference to the Bar records, out of a total number of 5,835 lawyers called to the Ghana Bar from 1981 to October 2014, there are 1,319 females and 4,516 males.

My humble submission is that there is currently an extremely low participation of lawyers, particularly female lawyers, at the Bar and in the staffing of the Judicial Service, Judiciary, Attorney-General's Department in all 10 regions of Ghana, the Commission on Human Rights and Administrative Justice (CHRAJ), ministries, departments and agencies of state, the 275 metropolitan, municipal and district assemblies (MMDAs), Regional and National Houses of Chiefs and the National Legal Aid Scheme. The same is true of criminal lawyers, prosecutors, public defence lawyers for the poor and under-privileged, legal advisors and contract facilitators in public-private partnership agreements.

Inadequate Access to Legal Aid Services

Research findings indicate a high incidence of inadequate access to legal aid services for the poor and low-income groups who form a sizeable chunk of Ghana's population.

There is also an inadequate number of female lawyers to provide voluntary pro-bono support for the legal aid services of the International Federation of Women Lawyers (FIDA-GHANA), which serves women and children in all 10 regions from two offices located in Accra and Kumasi.

Law students in the LLB Programme are trained for 3 years, each year having 2 semesters, making a total of 6 semesters in 3 years. Thus, on the average, a student in the LLB programme would have done 21 courses in 3 years.

LEVEL 100

1. *Legal System and Legal Methods*

2. *Constitutional Law*
3. *Law of Contract*
4. *Legal Writing and Research*
5. *Public International Law*
6. *Labour and Employment Law*
7. *Human Rights Law*
8. *Alternative Dispute Resolution*
9. *Administrative Law*

LEVEL 200

1. *Criminal Law*
2. *Commercial Law*
3. *Torts*
4. *Immovable Property*
5. *Intellectual Property Law*
6. *Environmental Law*

LEVEL 300

1. *Conflict of Laws*
2. *Equity and Succession*
3. *International Trade and Investment Law*
4. *Jurisprudence*
5. *Tax and Revenue Law*
6. *Company Law*

Financial Burden on Students

The cost of training one lawyer, which includes salaries of administrative personnel, support services staff and lecturers at the respective private and quasi-governmental law faculties as

well as the cost of transportation and utility bills, is borne by the students and not the government.

This is a form of public-private partnership in accessing quality legal education, which will in the short and long-term impact on national development since several lawyers will provide full or part-time services to the public sector.

Ghana is a developing country which has need of judges in lower courts across the country and lawyers in many sectors including the legal departments of all 275 Metropolitan, Municipal and District Assemblies in the 10 regions with their respective Urban and Zonal councils.

Elimination Interviews

As a developing country, we cannot afford the luxury of discarding the expertise of 50 law students who passed the Law School entrance exams but failed the five-to-ten-minute elimination interviews. One cannot ignore the considerable investments made in developing the pool of human resources.

These interviews, which ask law students their names, who they are, why they want to become lawyers; questions on current affairs such as the global migration crisis, the Arab spring uprisings and recent events in Burkina Faso, may be relevant in getting to know students better and confirming their knowledge, expertise and strategies for further training but not for purposes of elimination.

In addition to my plea that the 50 students are admitted in the short-term, I humbly recommend that further steps are taken to increase the numbers of law graduates enrolled in the Ghana School of Law and its campuses in subsequent years.

I humbly recommend the institution of a six-month-to-one-year mandatory national legal service, which will constitute mandatory internship or legal apprenticeship schemes for newly enrolled lawyers, with civil and public services including the Judicial Service, Attorney General's Department, MMDAs, Houses of Chiefs, National Legal Aid Schemes, Domestic Violence and Victim Support Unit (DOVVSU), FIDA Legal Aid Services and CHRAJ as part of promoting public-private partnership in legal education and contributing to national development.

The Attorney-General's Department, which has about 200 lawyers instead of over 1,000, is seriously under-staffed and the number of cases one attorney handles each day places an unbearable burden on the access to and delivery of justice for the citizens of Ghana.

I hereby affirm my humble petition for your consideration and supplementary admission of the 50 LLB graduates who passed the latest entrance examinations to the Ghana School of Law but were denied admission after the interviews.

ADVOCACY ACTIONS

Some of my former students managed to organize the 50 students and created a WhatsApp chat group on 15th November 2015. They wrote and presented copies of their petition to the representative of the Chief Justice, the Director of the Ghana School of Law and the then President of the Ghana Bar Association but were denied admission. In 2017 and 2018, there was so much clamour against the interviews that Parliament intervened by inviting representatives of the General Legal Council and the Board of Legal Education to discuss the concerns raised about the elimination interviews. After much discussion and engagement from both stakeholders, the interviews for admission to the law school were scrapped.

PART TWO

<u>Down Memory Lane</u>

Ladies and Gentlemen, this is my new petition to the Chief Justice of our Republic. Some of you may recall my earlier petition published in the Daily Graphic on 4th November 2015 to the then Chief Justice, Georgina Wood, for the admission/exit interviews at the Ghana School of Law to be scrapped.

The thought that some of us might probably never have become lawyers had we gone through an exit interview after fulfilling the requirements of legal education, proving good character and passing the courses required to pursue further courses of instruction to become lawyers due to the subjective nature of these interviews is quite disturbing.

I found the interviews to be discriminatory because Ghanaian citizens who qualified abroad to practice as lawyers in other Commonwealth jurisdictions were admitted for a post-call qualification process with no exit interview. In addition, what challenged me to write the petition was that some of my best students, who excelled in the Law School entrance exams, were denied admission after a 7-to-10-minute exit interview.

Recent Developments

The recent LLB graduates were not required to undertake an elimination interview. In the last law school entrance exams held on 27th July 2019, only a fraction of students who took the examination passed. In his bestseller *The Power of Positive Leadership*, Jon Gordon wrote, "If every leader committed to coaching people, true performances, productivity and profits would soar! Years ago, the U.S. Army would send its best men to the 75th Ranger Regiment, but only a fraction would make it through. Army leadership decided to invest more to prepare candidates for the challenge in training; the following years 80 percent became Rangers. The difference was coaching and investment in people, process and preparation."

Ghana as a developing country has recognized the need to invest in people, process and preparation through the Free SHS scheme. A country with a high percentage of trained professionals including lawyers will speed up our nation's development. The Washington D.C. Metropolis, where I studied for my Master of Laws degree at the Georgetown University Law Center, has over 33,000 lawyers.

Ghana has less than 4,000 lawyers to serve a population of about 30 million. Of this 4,000, only about 3,000 are practising lawyers who are mostly based in Accra, Kumasi, and Takoradi. It is little wonder that the average citizen is so handicapped that the *'fama nyame'* (i.e. 'give it to God') syndrome has permeated the whole fabric of our land.

The need to train more qualified lawyers is an economic and developmental issue of priority to our national development. If every institution including the Attorney-General's Department, the Judiciary and Local Government had at least 1,000 lawyers in each constituency, that would give us a total of 275,000 lawyers in Ghana, which is still inadequate but better than the mere 4,000.

RECOMMENDATIONS

As a legal practitioner and law lecturer, I join the call for the Ghana School of Law Exams to be decentralized to the Ghana School of Law and accredited Law Faculties, with the management and staff of the General Legal Council becoming an accreditation and regulatory Board.

Only ten subjects are taught at the Ghana School of Law and the curriculum has not changed since I studied there and was called to the Bar in October 1990, almost thirty-one (31) years ago. The subjects are Civil Procedure, Criminal Procedure, Law of Evidence, Conveyancing and Drafting, Law Practice Management and Legal Accountancy, Law of Advocacy and Legal

Ethics, Alternative Dispute Resolution, Company and Commercial Law and Practice, Family Law and Practice and Law of Interpretation of Deeds and Statutes.

All accredited Law Faculties instruct students for a period of at least three (3) years in not less than twenty-one courses. Ten (10) additional courses over a period of two (2) years would not be a problem. The eminent and distinguished Justices of the Superior Court of Judicature can choose whichever law faculty they will affiliate with to share their immeasurable legal knowledge.

Thus, we can have a Ghana School of Law Bar Exam across the board and the best law faculties will stand out in respect of their coaching process, preparation and investment in their law students.

Scarcity of Qualified Human Resource

In order to have an impactful and inclusive access to justice delivery by all and sundry, a paralegal certification can be considered for LLB graduates who may not have the opportunity to be called to the Bar to offer their knowledge in legal education to institutions of state, the private sector and local communities. A number of them can also be recruited as lay magistrates, law clerks, ADR practitioners and for those with higher degrees, as academics. Depending on Ghana's needs as a developing country, the list is unending.

CONCLUSION

Like his predecessors, the newly appointed Chief Justice was a seasoned legal practitioner who practised in several regions across the country and is familiar with the needs of the local communities in Ghana. We anticipate his contributions to the development of legal education, practice, legal protection and legal redress in Ghana. This would be in line with the provision below, which was made by the Committee of Experts in their proposals for the draft Constitution of Ghana on 31st July 1991 which formed the framework for the 1992 Constitution: **"the democratic order will only be meaningful if the humblest person in the remotest village or hamlet has been made aware of his or her constitutional rights and the prospects for enforcing such rights have been assured. Only then will the ordinary Ghanaian feel he or she has a vested interest in the preservation of the constitution."** Without this provision, the Constitution of Ghana would not have served its purpose.

MANAGEMENT AND ADMINISTRATIVE FRAMEWORKS OF LEGAL EDUCATION IN GHANA/AFRICA

MRS. JULIET ADU-ADJEI
Registrar, Ghana School of Law

INTRODUCTION

I thank the organizers for the opportunity to speak on the Management and Administrative Framework of Legal Education. I hope to do this by sharing my experience as the Registrar of the Ghana School of Law (GSL or the School). I will also touch on the challenges facing the GSL and proffer some solutions.

Management has been defined variously; first as an act of managing people and their work and using the organization's resources to achieve its goals, and second, as the direction and guidance of people toward organizational goals and the achievement of these identified/desired objectives. In production, Management brings together the five (5) Ms of the organization: Men, Material, Machines, Methods and Money. In all the definitions, the major activities or functions performed by Managers are Planning, Organizing, Staffing, Leading, Directing, Controlling, Coordination and Decision making.

Administration is considered a component of Management and also lays down the fundamental framework of an organization within which the Management functions. Management involves the formulation of plans, programmes and policies, while Administration is basically responsible for the execution or implementation of these plans, programmes and policies. In the academic/educational setting, Administration is the process of using resources for effective teaching and learning in a school to achieve the goals of academics. Academic Administration is responsible for the maintenance and supervision of the school.

Management and Administration are different terms but are more or less the same and thus used interchangeably. Managers perform both administrative and management roles. I will proceed with my presentation, bearing in mind the above definitions of Management and Administration as a framework for legal education.

BACKGROUND OF LEGAL EDUCATION IN GHANA

The Ghana School of Law was established in 1958 by Ghana's first President, Dr. Kwame Nkrumah, and it was the first of its kind in Sub-Saharan Africa. The Legal Practitioners Act of

1958 created the General Legal Council (GLC) and charged it with the responsibility of organizing, *inter alia*, legal education. The Act also created the Board of Legal Education to which the GLC delegated the immediate administration and supervision of legal education. Currently, the Legal Profession Act, 1960 (Act 32), Legal Profession (Professional Conduct and Etiquette) Rules, 2020 (L.I. 2423) and the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) and its amendment (L.I. 2427) govern professional legal education in Ghana.

Section 13 of Act 32 charges the GLC with the responsibility of organizing legal education, including selecting examinable subjects for potential lawyers and establishing courses of instruction for students. Section 14 enjoins the GLC by legislative instrument, with the approval of the Attorney-General and Minister for Justice, to make regulations concerning matters of legal education, particularly the conduct of examinations and fees chargeable. The GLC is therefore the sole competent body responsible for the running of Professional Legal Education. Currently, by virtue of section 15 of Act 32, the GLC has delegated the administration and supervision of legal education to the Board of Legal Education, with the Ghana School of Law as the vehicle.

The mission of the GLC is to ensure fair and efficient operation of Legal Education through improved human and institutional capacity. The Council aims at securing the public's interest in a legal profession with the highest standard in the practice of law in Ghana.

The vision of the Ghana School of Law is to become a centre of excellence for professional legal training and research in Africa and the world at large.

MANAGEMENT OF THE GHANA SCHOOL OF LAW

The Ghana School of Law is headed by the Director, who is also the Director of Legal Education, assisted by the Registrar, Deputy Registrar (Academic) and the Chief Accountant. The Internal Auditor, Librarian and a lecturer are members of the extended Management team. The team ensures the smooth running of the school through laid down policies and regulations as stipulated by the GLC. The supervising ministry is the Ministry of Justice and Attorney-General's Department (MOJAGD).

The Management is supported by the following departments:

- Registry – Coordination and oversight of all units and departments, admissions, registration, preparation of teaching and examination timetables, enrolment, etc.
- Library – Reference and research

- IT – Technology support
- Accounts/Finance – Preparation of accounts and financial reports for audit, budgeting to ensure proper management of funds, all payments (tuition fees, examination fees, registration fees, etc.)
- Internal Audit
- Procurement – Assets, materials, stationery, all purchases (school cloth, jackets, etc.)
- Records – Student records, records/status verification, transcripts, results, data
- Stores – Custody/stock of stationery, first aid, manuals etc.
- Works – Maintenance of infrastructure (plants and facilities), biometric attendance devices, repairs of faulty equipment and appliances (P.A. systems, projectors, air conditioners, learning aids), maintenance of good sanitation.
- Transport
- Security Department.

The Management and Administrative framework of the Ghana School of Law will be looked at under two (2) main sections: Academic and Non-Academic.

A. ACADEMIC

i. Courses of Instruction

The GSL runs two statutory programmes: the Professional Law Course (PLC) and the Post-Call Law Course. The Professional Law Course is a qualifying certificate course for enrolment and Call to the Ghanaian Bar. The GSL runs the PLC for LLB graduates of GLC-approved faculties. The Post-Call Law Course is for Ghanaians and applicants from other common law jurisdictions as well as applicants qualified to practise in a country with a system of law analogous to that of Ghana.

The PLC and the Post-Call Law Course have a two-year and one-year duration respectively. Subjects taught in the two main statutory programmes of the School are as directed by Act 32.

Subjects taught during the first year of the PLC are Criminal Procedure, Civil Procedure, Law Practice Management and Legal Accountancy, Law of Evidence, Alternative Dispute Resolution (ADR) and Company and Commercial Law and Practice. Subjects taught in the second year are Law of Interpretation of Deeds and Statutes, Conveyancing and Drafting, Family Law and Practice and Advocacy and Legal Ethics. Subjects taught in the Post-Call Law Course are Constitutional Law of Ghana/Ghana Legal System and Methods, Law of Evidence, Criminal Procedure, Civil Procedure, Family Law and Practice, Law of Interpretation of Deeds and Statutes and Conveyancing and Drafting, which is non-examinable.

The School also regularly runs non-statutory courses such as the Criminal Prosecution and Litigation course, which is currently being organized for the public.

ii. Teaching/Learning

For the 2021/2022 Academic Year, there are over two thousand (2000) students being tutored in the Ghana School of Law.

Currently, GSL has approximately fifty (50) Lecturers/Tutorial Masters, only four (4) of whom are permanent. Management/Administration handles the recruitment of lecturers, paying close attention to the individual's competence. Good lawyers are not necessarily good teachers; therefore, much consideration goes into the choice of lecturers.

To ensure a good teaching experience, Management facilitates improved teaching and increased interaction between lecturers and students. Lecturers and Tutorial Masters work hard to impart knowledge to students using learning aids such as P.A. systems and projectors procured by Management to make teaching better and learning enjoyable in a conducive environment. Lecturers are also encouraged to visit all campuses so that students receive instruction from different perspectives.

To streamline teaching, course manuals have been provided to both lecturers and students. This goes a long way to ensure that the same topics are taught across the campuses. It also helps students in their studies and preparations for lectures. This results in a uniform impartation of knowledge.

iii. Manual Revision

As and when changes occur in the law, the manuals are revised to reflect same. Academic retreats and Board meetings are organized to exchange ideas and to brainstorm for better

outcomes. Lecturers, facilities and support services are evaluated regularly to improve upon teaching and provision of services. The last two evaluation exercises conducted at the GSL were administered by the Quality Assurance Unit of the University of Ghana. The feedback was used to improve upon services and teaching.

Management regularly uses the platform of Academic Board Meetings and Retreats to organize seminars on teaching skills for lecturers. Management intends to continue this to enhance the teaching skills of lecturers.

The School also facilitates teaching and learning for students with special needs. A Students' Affairs Officer has been appointed to assist students handle issues negatively affecting their studies. Plans are underway to employ Academic Counsellors and a Clinical Psychologist to assist students manage their academic challenges.

iv. Library Services

The GSL library has one of the finest collections of printed legal materials and secondary legal resources and provides access to online services and free internet sources. The library supports legal researchers by providing access to print and online sources. The primary function of the library is to provide efficient and effective services that meet the needs of faculty, staff and library patrons. After years of collaboration with the law faculty of the Kwame Nkrumah University of Science and Technology (KNUST), the Kumasi campus of the GSL now has a dedicated library. There has been a similar collaboration with the authorities at the GIMPA campus. Discussions are underway for a similar arrangement at the new UPSA campus.

v. Examinations

Regulation 12 of L.I. 2355 provides for the appointment of the Independent Examinations Committee (IEC) to conduct entrance and exit examinations for the School. The Management and Administration of the School supports the IEC in the following: registering students for all examinations; procuring and preparing the venues for entrance and exit examinations; ensuring the printing of answer booklets for all examinations; generating index numbers for entrance examination candidates; preparing examination attendance sheets and the list of registered students for all examinations; preparing examination photo albums where needed; providing seating charts; assisting with the engagement of examination invigilators and other relevant personnel; dealing with student queries; publishing examination results and coordinating other examination-related logistics.

vi. Internship

Regulations 16 to 19 of L.I. 2355 govern internship. As part of legal education/training for students, Management ensures that students undergo a period of internship to give them exposure and professional/lawyering skills. GSL provides administrative support by liaising with the GLC Secretariat for the list of approved law firms and legal departments to which students may be posted. For students placed in Courts, the School works in consultation with the Clerkship Committee of the Judicial Service.

vii. Student Communication

Information to students is circulated via notice boards, Campus Coordinators, admissions portal, class WhatsApp platforms, the School's website, the SRC and class prefects to ensure that students receive information timeously. The School also regularly uses Google Sheets as a means of collating feedback on notices circulated. Additionally, Management regularly meets with students and operates an open-door policy to ensure that student complaints are quickly dealt with.

viii. Discipline

Management ensures the enforcement of rules and the various codes as contained in the Students' Handbook. There are sanctions for misconduct or violation of the code. Some strict rules include the School's dress code and respect for lecturers and staff. The Registry also maintains a Book of Shame for student misconduct. Students found in breach of the School's rules have their names recorded in the Book. The list is regularly published to enhance students' compliance with the rules.

B. NON-ACADEMIC

i. Human Resource Management (HRM)

Human Resource (HR) is one of the key resources in the administrative or management framework for the provision of quality legal education. Management relies on HR to facilitate recruitment, placement and training of employees, appraisal of staff and management of employee contracts. There is the need to recruit highly qualified persons who are motivated to assist in achieving the goals of the School. The skills of these persons are upgraded regularly

to improve their capacity to realize the School's vision and goals. This is important because an employee with the right attitude makes the learning experience of students better and memorable. Other HR duties involve planning, organizing, programming, staffing, budgeting and coordinating reports.

ii. Infrastructure/Safe School Facilities

Adequate infrastructure is essential for quality legal education. Provision of requisite facilities, physical assets, lecture rooms, libraries, infrastructural tools and writing materials is necessary to enhance the academic performance of students.

The Ghana School of Law currently operates four campuses to meet the increasing number of applicants. However, the School continues to battle with infrastructural constraints. It is hoped that the commencement of the first phase of the Law Village project will bring some much-needed relief once completed.

Management continues to ensure that learning and teaching take place in a safe, secure and conducive environment by putting safety measures in place and attending to safety needs including, but not limited to, repairing electrical faults, replacing broken doors and locks and fixing up damaged bathrooms and ceilings.

RELATIONSHIP WITH SRC

The Student Representative Council (SRC) represents the interests of students and serves as a link between students and Management. The cordial relationship between the SRC and Management has been impactful in managing students' issues.

CHALLENGES

The challenges that the School faces are numerous and cut across the academic and non-academic spectrum. Some of these challenges include the following:

- The ratio of permanent (full-time) lecturers to part-time lecturers.
- Students with weak academic foundation from some of the new faculties, coupled with over reliance on objective tests and pre-answered questions.

- Part-time LLB graduates transitioning into the PLC programme, who have a "part-time" mentality towards the study of the law. These students approach the course in a lackadaisical manner which affects their performance.
- Students' poor language skills
- Inadequate facilities
- Calibre of Staff – Though staff are regularly trained, there is still the need to ensure that more skilled staff with the right attitude are employed.
- Staff/Student Ratio – The increases in the size of the student population and the number of campuses are not reflected in staff numbers.
- Capping of Internally Generated Fund (IGF) (66% retention, 34% to Government), which is not the case in most public institutions of higher learning, impacts negatively on our infrastructural development.
- Different teaching paces (one campus may be ahead in terms of course delivery).
- Indiscipline in terms of adherence to dress code, respect for the ethics/ethos of the profession.
- No influx of capital expenditure from Government
- Weak IT infrastructure

SOLUTIONS

The following solutions are proffered to resolve the problems outlined above:

- Introduction of Industry Specific non-statutory Courses as this might also reduce the pressure and demand for training in the statutory programmes.
- Development of a strategy to improve access to professional legal education without compromising quality such as the expansion of infrastructure through the multi-purpose Law Village.
- Review of LLB programme as offered by some of the faculties.
- Review of the calibre of students admitted into the programme.

- Evaluation of lecturers employed by the School.
- Appraisal of school facilities.
- Appointment of more permanent lecturers; enticement and recruitment of dedicated lecturers from the Bar and the Bench.
- Qualified staff to provide the requisite support.
- Increase in Government funding (100% retention of IGF to help in expansion of infrastructure).
- Increased use of Information Technology to enhance effective teaching and learning, provision of student services and management of students. Administration must be primed to adapt to new challenges as they emerge, especially in the area of technology.

CONCLUSION

A strong management and administrative framework is important for meaningful Legal Education. A good school goes beyond the mere impartation of knowledge. Good teaching and learning are crucial, but a good Administrative/Management framework is the key to the provision of holistic legal education.

CURRICULUM DEVELOPMENT AND TEACHING METHODOLOGIES

BENJAMIN KUNBUOR[1]

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Introduction

The issue of the nature, context and relevance of legal education in post-independent common law African countries has been and continues to be of scholarly interest. It is also an issue for reform in most countries. To highlight the context and need for such reform in Africa, some scholars have traced the nature of legal training back to the pre-colonial period.

This paper outlines the broad trends of the content, nature and contexts of legal education in African countries from the pre-colonial period to present times. This outline indicates the need for reforms in legal education. As several narratives show, this need is not only one dictated by the imperatives of the continent's political economy but also by a number of conceptual and theoretical shifts in scholarly thinking on legal education.

The paper also presents a summary of the areas for reforms suggested by scholars, which include directed research, changes in course structure, training in practical skill, development of legal clinics and changes in teaching methods.

Using the experience of the University of Ghana School of Law (UGSoL), the paper illustrates the approach UGSoL has adopted to make changes to curricula, teaching methods and grading systems. Finally, it draws some general conclusions on possible steps to reforming legal education in Africa to meet the exigencies of the times.

Trends in Legal Education in Africa

As indicated earlier, legal scholars have been engaged in discussions on the issue of legal education in Africa for some time. Some scholars have gone as far as discussing how law was done during the pre-colonial period. They have underscored the nuances of the inseparability between the legal realm and other social, political and economic realms. These narratives see contemporary interest in mediation and arbitration as alternative dispute resolution mechanisms as having their roots in 'doing law' in most pre-colonial social formations in Africa (see Rattray, 1926; Yelpaala, 1983; Ndulo, 2002; Ayittey, 2006; Manteaw, 2016).

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During the colonial era, African lawyers were trained in law faculties and Inns of Court outside the continent based on the curricula of those countries. No law faculties were established in Africa until much later. There was also a conscious effort by the colonial administration to marginalize the need for legal education in its wider educational policy. The colonial administration defined the development priorities of African colonies narrowly to involve only the production of 'colonial resources' such as minerals, timber and cash crops. Therefore, priority attention in education was given to training in agriculture, engineering, administration and to a lesser extent, medicine. However, other accounts suggest that the influential role of lawyers in the nationalist agitation for African representation and participation in government and later, demands for independence, cast them in a bad light before the colonial administration. The view was that the colonial administration was not interested in producing 'politicians' (see Gower, 1967; Ndulo, 1985, 2002; Manteaw, 2016).

From the post-colonial period to present times, a number of developments converged to kindle interest in legal education reforms. First, from the 1960s to the 1970s (referred to as 'Africa's Development Decade'), the law was seen as an important tool to bring about development, hence the need to train the 'development lawyer' in Africa. This need required change, modification and adaption of the curricula for legal education. Second, the immediate post-colonial leaders saw western law as the very instrument used in colonizing them. Therefore, to register the new political presence of independence, various legal reform projects including legal education were initiated (see Allot, 1960; Denning Committee Report, 1960; Huber, 1969; da Rocha, 2002). In the context of Ghana, during the CPP era, the call was for training 'socialist lawyers' for a 'socialist state'[2]. Third, globalization in general and the law in particular introduced new dynamics within the world of knowing and 'doing' the law. Of particular significance was how Africa could position itself to be globally relevant and competitive. This concern is against the backdrop of the fact that globalization put Africa on the periphery of the global system, where it experienced burdens but not benefits (see Harsch, 2002; Ndulo, 2002).

In recent times, economic development which is specially aimed at reducing poverty, such as the Millennium Development Goals (Thomas, 2004) (MDGs) (now Sustainable Development Goals), has taken on the limited meaning of the practice of development agencies. The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by all United Nations Member States (including African states) in 2015 as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030 (UNDP, 2020).

[2] See Harrington, J. and Manji, A. (2019) Africa Needs Many Lawyers Trained for the Need of their Peoples: Struggles over Legal Education in Kwame Nkrumah's Ghana. *American Journal of Legal History*, *vol.59*, pp. 149-177.

The relevant goal of the SDGs is Goal 16, which seeks to promote peaceful and inclusive societies for sustainable development, ***provide access to justice for all and build effective, accountable and inclusive institutions at all levels***. As succinctly stated by the United Nations:

"At the core of the 2030 Agenda lies a clear understanding that human rights, peace and security, and development are deeply interlinked and mutually reinforcing. Through its entirety, the importance of enhancing *access to justice, ensuring safety and security, and promoting human rights* for sustainable development are reflected, while Sustainable Development Goal 16 marks the intersection between sustaining peace and the 2030 Agenda[3] (emphasis mine)."

The AU Common Position on SDG 16 on peace and security is that to address the 'causes of conflict' and 'prevent the outbreak of armed conflict', member states should commit themselves to:

"[…] tackle economic and social inequalities and exclusion; strengthen good and inclusive governance; fight against all forms of discrimination; and forge unity in diversity through democratic practices and mechanisms at the local, national and continental levels. [...]

[…] take measures to prevent the outbreak of armed conflicts by: strengthening cross-border cooperation for the resolution of disputes and the promotion of cross-border security; implementing comprehensive, post-conflict reconstruction programmes, including the African Peace and Security Architecture (APSA), in countries emerging from conflict through effective partnership at regional and continental levels; supporting domestic financing for conflict resolution and stabilization; and promoting the use of mediators for conflict resolution, including traditional conflict resolution mechanisms (AU, 2014)."

This new thrust and imperatives of development require several changes in the law and the development of lawyering skills to address them, and legal education provides the training ground for the acquisition of such skills. In this context, issues of security sector governance come up. Law faculties in many jurisdictions have already developed curricula and are teaching 'security sector governance'. Law faculties in Africa are yet to venture into this field in a determined and decisive manner.

However, the triggers of the need for reforms in legal education in Africa are not only ones of political economy or technological development such as ICT. There are also conceptual and theoretical underpinnings to justify the need for reforms.

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[3] United Nations and the Rule of Law: Sustainable Development Goal 16. https://www.un.org/ruleoflaw/sdg-16/

Conceptual and Theoretical Justification

(a) The Law in Context Approach

According to McConville and Chui (2007), legal scholarship has historically followed two broad traditions. The first, commonly called black-letter law, focuses heavily (if not exclusively) upon the law itself as an internal self-sustaining set of principles which can be accessed through reading court judgments and statutes, with little or no reference to the world outside the law. Deriving principles and values from decided cases and re-assembling them into a coherent framework in the search for order, rationality and theoretical cohesion has been the focus of traditional legal scholarship.

A second legal tradition which emerged in the late 1960s, often referred to as the law in context methodological approach, has its starting point not in the law but in problems in society which are likely to be generalized or are generalizable. Here, law itself becomes problematic in the sense that it may be both a contributor to or the cause of the social problem. This approach also argues that whilst law may provide a solution or part of a solution, other non-law solutions including political and social re-arrangement are not precluded and may indeed be preferred[4].

The law in context approach has given an extra dimension to legal education and its reform. Many African law faculties are beginning to take up this approach, albeit with different terminology such as 'law in action', 'law and society' and 'community lawyering'.

(b)Transformative Legal Education

Professor Geo Quinot of the Department of Public Law, Stellenbosch University argues that significantly increased attention to theory (or theories) of legal education is not only imperative in order to improve the quality of legal education in South Africa but is also a crucial ingredient of constitutional transformation grounded in law.

His argument is based on insights from three dimensions of legal education: the subject matter or discipline being taught (in this case, law), the teacher or the act of teaching and the student or learner. He puts forward a theoretical framework called 'transformative legal education' in terms of which law could be taught in South African universities. He argues further that these insights call for a fundamental shift from formalistic legal reasoning to substantive reasoning under a transformative constitution, for a shift towards a constructivist student-centred teaching model and for the recognition of a paradigm shift in knowledge from linear to non-linear, relational or complex[5]. He concludes that these different insights force law teachers to critically reassess their approach to legal education by explaining how these insights can contribute to a

[4] McConville, M. and Chui, W. H. (2007) eds. *Research Methods in Law*, Edinburg University Press: UK
[5] Quinot, G. (2012). Transformative Legal Education. *South African Law Journal*, *129(3)*, 411-433

meaningful framework within which law can be taught responsibly in contemporary South Africa[6].

Professor Quinot is not a lone voice on the need for a new approach to law as the subject of education and one peculiar to only South Africa. Alfred Cockrell is of the view that a new constitutional dispensation requires a fundamental shift in legal culture to accommodate the new constitutional order. He further asserts that the pre-constitutional vision of law, which placed emphasis on narrowly-construed "private law" subjects in the training of law students, an aversion to the teaching of policy matters as part of the law syllabus at universities and a belief that good lawyering was largely a matter of textual exegesis and technical expertise, was no more tenable[7].

(c) The Impact of COVID-19 (Law in Times of Crisis)

COVID-19 did not only bring in its wake challenges to substantive law but also the re-conceptualization or re-theorization of how to do law in times of crisis. This involved a re-assessment of the methods of teaching, curricula content and pedagogy. The theoretical significance here is that during crises such as the COVID-19 Pandemic, a 'state of exception' is created, which often occasions emergency laws. However, such laws are supposed to be temporary and terminate upon a return to a 'state of normalcy'[8]. The issues are: Is a 'state of exception' sufficient to trigger reform in legal education? What will be the nature of such reform? And what happens in the situation of a return to the state of normalcy?

Areas of Suggested Reforms

What therefore is the trajectory of the change in legal education in Africa? Several suggestions have been made by legal scholars on the continent.

(i) Directed Research

Research-oriented courses would enable law students to conduct comprehensive independent research projects under the supervision of a faculty member, resulting in scholarly, meaningful and informative papers for use by those charged with decision making[9]. Relevant areas for such

[6] Ibid.

[7] Cockrell, A. (1996). Rainbow Jurisprudence. 12 SAJHR, *vol. 12 (1)*, pp.1-7. https://www.tandfonline.com/doi/abs/10.1080/02587203.1996.11834900

[8] See Gronigen, A.Z (2012). The Rule of Law in Times of Crisis: A Legal Theory on the State of Emergency in the Liberal Democracy. *Philosophy of Law and Social Philosophy*, *Vol. 98*, No. 1, pp. 95-111.

[9] See Ndulo, M. (2002), supra, p. 503. "There must be an opening and a realization on the part of African governments that the role of lawyers and law in decision making is important. Presently, African governmental processes attach very little significance to lawyer participation."

research include evaluating ongoing development programs, evaluating land tenure and land acquisition practices with proposals for reform, designing new arrangements for investment, funding improvements in transportation, health delivery and education, and creating provisions for social services. Stamping out corruption in the civil service, reforming some customary practices, curbing the scourge of HIV/AIDS and many other topical issues serve as illustrative problem projects with substantial field study inputs.

(ii) Change in Course Structure

The curricula of law schools should be expanded to include health, public interest law and the evolving field of information technology, particularly ecommerce, computer and internet law[10]. In addition, reducing some courses from full-year to half-year courses to create space for new courses would be beneficial.

(iii) Training in Practical Skills

Law schools need to provide rigorous practical training programmes by introducing relevant courses and programmes that enhance students' abilities to handle practical problems. There might have to be programmes that practically address skills in areas such as counselling, advocacy, negotiation, dispute resolution, arbitration, law office management, computer applications, legal drafting and the construction of documents, as well as the use of law as an aid to development. Some of the courses should be packaged and delivered via clinical and practical means[11].

(iv) Legal Clinics

The approach to legal education in African law schools must be practical and multi-disciplinary, drawing upon intellectual strength and clinical skills to address development and societal problems. Law schools in Africa need to become centres of professional and practical legal training. The clinical approach must be effectively utilized in the law schools, in addition to a reduced use of the current teaching (or lecturing) pedagogy. Law schools in Africa might have to introduce legal clinics with experienced full-time instructors[12].

(v) Teaching Methods

African law schools need to revisit the traditional clinical and practical teaching/learning pedagogy that has served indigenous African societies so well for thousands of years. Clinical work might have to become an integral part of the legal education process in Africa, and

[10] Ndulo, M. (1985), supra, p. 505.
[11] See Ndulo, M. (1984), supra
[12] Manteaw, S.0 (2016), supra.

academic credit should be given to participating students. Law schools can use externships, in-house or live client simulated projects, mediation clinics and advocacy clinics, including moot court and public education programs, street law clinics, legal aid clinics, as well as legal research and publication as vehicles to facilitate clinical work. These might have to be combined with tutorials or seminars and a reduced use of the lecture pedagogy. Not only would such clinics help students develop lawyering skills that are necessary in practice, but they would also advance social justice, help improve access to legal services, address the problems of the poor and contribute to initiatives aimed at entrenching the rule of law in Africa[13] .

Some of the above recommendations guided the Teaching Methodology Committee of the UGSoL in its work.

<u>The UGSoL Experience</u>

Following a visit by the joint National Accreditation Board (NAB) and the General Legal Council (GLC) to Law Faculties, a number of requests to the faculties including the University of Ghana School of Law were made.

The relevant areas involved teaching and teaching-related issues such as:

- Quantity and quality of law lecturers
- Student Staff Ratio (SSR)
- Quality of the Law Library
- Peer mentoring policy [14]

These requests are broad categories which need an operational and conceptual clarification for implementation. For instance, the quantitative and qualitative requirement of lecturers needs to be looked at from a number of perspectives. First, in what contexts do we assess quantity and quality? Is there a direct relationship between the two? What are the triggers of low 'quantity' and 'quality' of lecturers? Can both issues be addressed within the means of the UGSoL?

The UGSoL has since responded to these requests and has developed a 'Strategic Plan Implementation Framework'. In the 2019/2020 Annual Report, UGSoL set out a number of strategic objectives. Though all the objectives have a bearing on teaching and learning, the most relevant to teaching methodology include:

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[13] Ibid.

[14] 2020 UGSoL General Purposes Committee (GPC) Proceedings, October 2020, Ada

• *Improving the Student Experience and Progression*: This involves meeting the NAB requirements on numbers and quality of faculty, teaching assistants, students, course content, examinations, etc.; satisfying the requirements by the GLC for students to enter the Ghana School of Law; and producing excellent lawyers and productive citizens.

• *Creating a Mentoring, Research, Conferencing, Publications and Outreach Hub*: This is to ensure optimal research output; obtain strategic conferencing activities; turn research output into peer-reviewed publications; facilitate outreach to the immediate university environment and the country at large; engage students in research, conferencing, publications and outreach programmes; and establish a world-class multidisciplinary law research centre.

• *Putting Student, Staff and Faculty Wellbeing First*: This involves addressing general dissatisfaction of students, staff and faculty in terms of working conditions; ensuring better training and career development opportunities; enabling faster career progression; improving teaching and learning facilities; and providing mentorship of students by faculty, senior staff and retired staff.

Five Technical Working Groups (TWGs) were set up to follow through and implement the five strategic objectives within the short, medium and long term[15]. The 'Teaching Methodology Technical Working Group' was tasked to do a review of the current approach to teaching and learning the law with recommendations for areas for reform. The Committee has since submitted its report to the School of Law for further action.

The Committee's recommendations were general as well as specific. The general recommendations include:

❖ The UGSoL should implement its strategic objective 2 on outreach to other institutions outside the university in terms of its proposed course topics. This will provide important feedback on the nature of legal products to be further developed. It will also expose both faculty and students to the 'law in action' spaces.

❖ Special attention needs to be paid to 'vulnerabilities' of some students. This relates not only to physically challenged persons but also includes those with 'financial, geographic and social vulnerabilities'. Students nurtured in the cities, 'law homes and families' adjust to their learning environment and law differently from students whose first encounter with city life and the law is at the UGSoL. The latter category of students tends to be intimidated not by anybody in particular but by their new environment. They tend to be introverted and

[15] Ibid.

do not participate much in the learning experience. As the saying goes, "It's better to keep your mouth shut and appear stupid than to open it and remove all doubt."

- The concept of legal clinics for students facilitated by faculty should be consciously developed. Students at levels 200 and 300 should be assigned to rural communities to undertake 'clinical legal work' on specific topics and submit written reports on their experiences. These reports can form part of their assessment.

Specific recommendations include:

- The law in action or context is a more forward-looking approach to legal education and is a preferred option. However, we should take note of the fact that at the LL.B level, our products will be competing with graduates from other faculties in the Ghana School of Law Entrance Examination. We have to ascertain the nature of their marking schemes to enable us to tailor our courses in such a way that our products are not at a disadvantage if the focus of the examination is on 'black-lettered law'. Invariably, about 70% or more of our students are anticipating a career as professional lawyers. How to cross that hurdle to practise the law in its social context is at issue. The consideration here is how to strike the balance, which could vary from subject to subject. For graduate studies (LL.M & Ph.D.), the law in context and interdisciplinary approaches should be the focus. Graduate Students' knowledge of the substantive law should be presumed unless there is a special reason to revisit such principles.

- Courses such as Legal System & Methods and Jurisprudence should be the foundational courses for a law-in-action approach and would need to be re-tailored to meet such a need. There should be a balance between teaching the traditional schools of law and teaching the inter-disciplinary areas such as law and society, law and economics, law and technology, law and development, etc.

- Faculty would have to make a gradual shift to a law-in-action approach over a period of 3 to 4 years — a full LL.B cycle. This would require a revision of our curriculum in line with the University guidelines and the vision and mission of the UGSoL. We will need students' input (through their representatives) on how they can play a lead role in the approach to teaching and learning of the law. Faculty members should be required to indicate the areas of their respective subjects which they intend to revise or adapt to the law-in-action approach. This should be discussed with their respective heads of department and the Dean with input from the students.

- In the next academic year, faculty should begin to introduce new cases and allow students to explore whether the decisions of the courts and legislation mirror the reality. In addition,

faculty should have recourse to introduce students in their subject areas to relevant non-legal material and how students relate same to the law.

- A law-in-action approach to teaching and learning the law in present times requires a robust, stable and reliable ICT infrastructure and this must be improved as a matter of priority. As indicated earlier, there are still areas in the school's ICT infrastructure that need improvement. These improvements will allow faculty to stream visuals of best practices from other jurisdictions. Clips from recordings of international and national legal conferences, symposia and workshops can bring home to the student developments in the law in many subject areas. There are now many online legal sources for such material.

- It must be acknowledged that there are varied approaches to doing law in action. We will need to combine and adapt these approaches to our circumstances and resource base. A lot of creativity would be needed from faculty in some crystalized if not ossified principles of law. For instance, some common law principles of land law and general principles of equity can be very abstract to Ghanaian students if not handled from a background of English history and its social structure. A contextual knowledge of Ghana's history and social structure can assist the student to appreciate the differences. We are aware that this is currently being done by some faculty members, but it should be a conscious commitment.

- Assessment of LL.B programs should be a mix of 'continuous-assessment' tests and 'end-of-semester' (sit-in) examinations in a 60:40 ratio. For graduate students, the emphasis should be on the quality of papers presented. Take-home exams for a duration of a week for LL.M and a month for Ph.D. would be ideal and the expected standard should be high. Measures for quality control, best academic practices and independent work should be the guide.

Conclusion

When we bring together insights from the three areas of legal education discussed earlier (our discipline, teaching and students), one conclusion to draw is that we have a unique opportunity —and even more than an opportunity, an obligation—in contemporary African legal education to respond to various fundamental changes that we witness in the society around us. Legal education stands at a unique crossroads in this regard. We are faced with a fundamental change in our discipline. This change is not merely an adjustment of what existed before but a paradigm shift in law and legal method; a shift in teaching and learning, putting learning, learner and context at the centre; a shift in dealing with knowledge, moving from dominance of the printed word to digital immersion. All these changes force us to critically reassess where we stand in

legal education in relation to what is happening around us. Will we close our eyes to the paradigm shifts affecting every aspect of our craft or will we engage with them head-on?

It is my candid view that legal education must change radically. But as responsible intellectuals, it is also our duty to drive that change in terms of proper theoretical frameworks. In the absence of a guiding theoretical framework, the change will amount to little more than Cockrell's 'rainbow jurisprudence'. In our context, education that flits before our eyes like rainbows, beguiling us with their lack of substance[16], projects a false sense of harmony where none exists or should exist. Thus, for change in legal education in Africa to proceed responsibly, it must be grounded in theory.

I believe also that transformative legal education can provide us with such a theoretical framework. This framework embraces transformative constitutionalism as the guiding theory of our discipline, constructivist pedagogies as directing our teaching strategies, and an acknowledgement of the advent of a fundamentally different notion of knowledge brought about by the digital revolution. Moreover, as I have attempted to show in this paper, the theoretical insights from the three elements of legal education that I highlighted can all be aligned with the overarching aims of transformative constitutionalism.

If we are serious about societal change grounded in law in Africa, law teachers must consciously assume their roles in the transformative project. We must acknowledge that the way we go about teaching law will shape the next generation's perception of law and its role in Africa. Neil Gold states that the ways law teachers behave are 'metastatements' about law, lawyering and justice to their students. He thus concludes that 'consciousness about teaching makes it more likely that we will be intentional in respect of both content and form in our instruction.'[17]

Over sixty years into independence, I think that it is high time that we as law teachers start to critically question what we are doing in our classes to further the cause of the post-1990s African Constitutions, which seek to induce large-scale social change through nonviolent political processes grounded in law, towards a society based on democratic values, social justice and fundamental human rights.

[16] Cockrell, A. (1996), supra.

[17] Gold, N. (2014) "Nurturing Professionalism through Clinical Legal Education". Paper presented for the *International Journal of Clinical Legal Education and European Network for Clinical Legal Education Joint Conference*. Olomouc, Czech Republic, July 17, 2014.

TESTING THE ROBUSTNESS OF THE CURRENT EXAMINATION PRACTICES IN RELATION TO LEGAL EDUCATION IN GHANA: SHIFTING THE REGIME TOWARDS CONTINUOUS ASSESSMENT

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Abstract

Whatever an assessment's purpose, to achieve it, it must be valid, reliable and fair. Failure means that the process has not met the cardinal pedagogical principle of evaluating learning. Although stress has always been part of the law school experience, it is chiefly the uncertainty around examinations which is often the dominant source of stress for students. An example of assumption is the outcome of recent examinations conducted by Ghana School of Law which failed to pass the test of credibility. It is on this basis that this article intends to review the current thinking and practices in assessment used in legal education in Ghana and intends to question its robustness and future possibilities. The authors analyse the literature and the historical underpinnings of the current assessment landscape in the background of examination disruptions partly induced by Covid-19 pandemic and argue on the need to shift towards an assessment regime that is robust, efficient, and more significantly, produces a reasonable outcome. A follow up policy proposition is that a more radical way of making the assessment more continuous would be to rely more on teacher assessment. This argument is premised on the viewpoint that the over-reliance on examination, which is in itself not always valid, neither reliable nor fair also occasionally produces arbitrary, inequitable, and unjust outcomes and this practice fails to satisfy the reasonable expectation of key stakeholders, such as, students, teachers, parents, families, community members, and government officials.

1. Introduction

Improving learning success rates is a policy priority of every education system.[1] In a more liberal sense, examination and testing form an integral part of the teaching and learning process and used in different ways for many reasons.[2] The often-pursued analogy is that formal examination, and especially, standardised test is expected to provide an objective, reliable measure of the relevant skills and competencies acquired in learning.[3] Examination and testing are a type of evaluation defined by its usage to measure particular skills and competencies.[4] When the results of examinations and tests are used to pass judgments on students, equally they affect the performance of teachers and standing of schools.[5]

Thus, a great deal of the results from examination and testing influence the future prospects and opportunities for students. Hence, much research has focused on their significance.[6] In fact, summative assessments are widely used in assessing law students, however, students learn very little from this approach given that they are provided with little or no useful feedback on their performance at all.[7] Remarkably, it is also the case that formative assessments or continuous assessments are the most effective tools to improve student learning and performance in law schools and on the bar exam.[8] An assessment is formative when it is continuous and either formal or informal procedures are used to gather evidence of learning during the learning process, and are used to adapt teaching to meet students' needs.[9]

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[1] Every Child Learns UNICEF Education Strategy 2019–2030 (United Nations Children's Fund, September 2019) at 4, finding that this presents a fundamental challenge to the way that governments, development partners and communities are managing and supporting education systems.

[2] Kulamakan Kulasegaram and Patangri Rangachari, "Beyond 'Formative': Assessments to Enrich Student Learning" (2018) 42 *Advances in Physiology Education* 2, at 5, stating that learning and assessment are inextricably linked. *The Role of Teachers in the Assessment of Learning* (Assessment Reform Group, The Nuffield Foundation, 2003) at 1.

[3] Steven Friedland, "A Critical Inquiry into the Traditional Uses of Law School Evaluation" (2002) 23 *Pace Law Review* 1, at 156.

[4] Stacy Brustin and David Chavkin, "Testing the Grades: Evaluating Grading Models in Clinical Legal Education" (1997) 3 *Clinical Law Review* 2, at 306.

[5] Everlyn Oluoch Suleh, "Challenges Faced by Tutors in Setting of Examinations" (2014) 5 *Journal of Education and Practice* 17, at 70.

[6] Martha Stassen, Kathryn Doherty and Mya Poe, *Course-based Review and Assessment: Methods for Understanding Student Learning* (Robert Langhorst & Company Booksellers, 2011) at 5, defining assessment as "the systematic collection and analysis of information to improve student learning".

[7] Carol Evans, "Making Sense of Assessment Feedback in Higher Education" (2013) 83 *Review of Educational Research* 1, at 72, emphasising on the importance of feedback on learning.

[8] Rogelio Lasso, "Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance" (2010) 15 *Barry Law Review* 1 at 106.

[9] David Nicol, Debra Macfarlane-Dick, "Formative Assessment and Self-Regulated Learning: A Model and Seven Principles of Good Feedback Practice (2006) 31 *Studies in Higher Education* 2, at 200, arguing that a parallel shift in relation to formative assessment and feedback has been slower to emerge.

The primary purpose of law schools is to make sure students are learning the skills they need to think, perform, and conduct themselves as competent lawyers.[10] The existing method for assessing students in most law schools primarily comprises one summative examination.[11] However, assigning a score or grade to end-of-the-semester examination does little to help students understand what they ought to do to develop their skills, knowledge and competencies.[12] This is because the feedback of these final examinations is commonly not returned to students unless individual students make a request to see them.[13] What further confounds logic is the lack of transparency in the entire assessment process premised on summative assessment. Although, examination processes entail some guidelines including grading and moderation which form an integral part of the contract between students and the examination body.[14]

While concerns about the poor quality of education in Ghana is nothing new, what is unprecedented in terms of legal education is the scale at which the current examination system for example, at Ghana School of Law is failing its key stakeholders. Current practices have raised doubts as to the transparent nature of the grading criteria applied. The examination guidelines and how they will be applied and adjusted or used in practical sense are not provided to students before and after examinations.[15] This administrative practice makes the examination process in the Ghana School of Law not credible because students are not able to gauge how the examination guidelines as applied practically remained consistent with the rules. Therefore,

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[10] John Mudd, "Beyond Rationalism: Performance-Referenced Legal Education" (1986) 36 *Journal of Legal Education* 2, at 191. See also Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (University of North Carolina Press, 1987) at 720.

[11] Steve Sheppard, "An Informal History of How Law Schools Evaluate Students, with a Predictable Emphasis on Law School Final Exams Academic Evaluations Focus" (1997) 65 *University of Missouri, Kansas City Law Review* 4, at 657. Note that in Ghana the Ghana Tertiary Education Commission recommends for 70% examination and 30% coursework this is not set in stone. For example, the University of Ghana during Covid-19 pandemic reversed each module's weight form 30% coursework and 70% examination in aggregate terms. School Assignments Will Now Be Marked Over 70 Percent - University of Ghana (Ghanaweb, Monday, 11 January 2021). Available at: <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/School-assignments-will-now-be-marked-over-70-percent-University-of-Ghana-1151318> [accessed 14 January 2021].

[12] Roy Stuckey, *Best Practices for Legal Education: A Vision and a Road Map* (Clinical Legal Education Association, 1st Edition, 2007) at 260.

[13] Ann Poulos and Mary Mahony, "Effectiveness of Feedback: The Students' Perspective" (2008) 33 *Assessment and Evaluation in Higher Education* 2, at 144, arguing that how the student interprets and deals with feedback is critical to the success of formative assessment. Melissa Nelson and Christian Schunn, "The Nature of Feedback: How Different Types of Peer Feedback Affect Writing Performance (2009) 37 *Instructional Science* 4, at 375, commenting that there is no general agreement regarding what type of feedback is most helpful and why it is helpful.

[14] Note that students pay 1000s of Ghana Cedis to sit for examinations. See Ghana Law School Fees <https://gslaw.edu.gh/fees/> [accessed 12, December 2021].

[15] Harry Torrance, "Assessment 'as' Learning? How the Use of Explicit Learning Objectives, Assessment Criteria and Feedback in Post-Secondary Education and Training Can Come to Dominate Learning" (2010) 14 *Assessment in Education: Principles, Policy and Practice* 3, at 278, mentioning that some level of transparency are required as part of effective assessment.

if law schools are serious about their mission to prepare students to become competent lawyers, they must develop comprehensive examination programmes that is valid, reliable and fair.[16]

The Covid-19 pandemic, the University Teachers Association of Ghana (UTAG) strike action have all affected examinations in Ghana, however, Ghana School of Law examination results over the years appear to cast doubt as the validity, reliability and fairness of their examination regime.[17] It is on this basis that this article intends to review the current thinking and practices in assessment used in legal education in Ghana and intends to question its robustness and future possibilities. The authors analyse the literature and the historical underpinnings of the current assessment landscape in the background of examination disruptions partly induced by Covid-19 pandemic and argue on the need to shift towards an assessment regime that is robust, efficient, and more significantly, produces a reasonable outcome. A follow up policy proposition is that a more radical way of making the assessment more continuous would be to rely more on teacher assessment. This argument is premised on the viewpoint that the over-reliance on examination, which is in itself not always valid, neither reliable nor fair also occasionally produces arbitrary, inequitable, and unjust outcomes and this practice fails to satisfy the reasonable expectation of key stakeholders, such as, students, teachers, parents, families, community members, and government officials.

2. Understanding Classification of Assessment

Assessments can generally be classified into classroom assessments, national examinations and national assessments.[18] Assessment methods include summative and formative. Summative and formative assessments are often referred to as "assessments of learning" and "assessments for learning," respectively.[19] Assessment has traditionally held a summative purpose, aiming to explain and document learning that has occurred. Its main aim is to generate a measure that "sums up" student learning and is used at the end of the course of study.[20] Summative

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[16] *Report and Recommendations of the Task Force on Lawyer Competency: The Role of the Law Schools/ABA Section of Legal Education and Admissions to the Bar* (American Bar Association, Section of Legal Education and Admissions to the Bar, 1979) at 4, finding that law schools and law teachers should develop and use more comprehensive methods of measuring law student performance than the typical end-of-the-term examination.

[17] For validity, reliability and fairness in assessment see Dylan Wiliam, "Reliability, Validity, And All That Jazz" (2001) 29 *Journal of Education* 3, 17–21.

[18] Innovative Strategies for Accelerated Human Resource Development in South Asia Student Assessment and Examination Special Focus on Bangladesh, Nepal, and Sri Lanka (Asian Development Bank, 2017) at 12-15.

[19] William Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, and Lee Shulman, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass; 1st edition, 2007) at 164. Rosario Hernandez, "Does Continuous Assessment in Higher Education Support Student Learning? (2012) 64 *High Education* 4, at 490.

[20] Kulasegaram and Rangachari (note 2) at 6, stating that summative assessments provide legitimacy to the educational enterprise in the form of certification that students have gained measurable skills from the learning experience.

assessment is broad in nature and is primarily concerned with learning outcomes.[21] While summative assessment is often useful to provide information about patterns of student achievement, it does so without providing the prospect for students to reflect on and determine growth in identified areas for improvement and does not provide the possibility for the teachers to adjust teaching approach during the teaching and learning process.[22]

An example of summative assessment is external assessment. It refers to standardised examinations that are designed and marked outside individual schools and normally take the form of a written test.[23] The major advantage of external assessment is its high reliability. It ensures that all students are assessed on the same tasks and that their results are measured by the same standards. Moreover, external assessment is usually conducted in supervised conditions which ensure that the work being assessed has actually been done by the student.[24] However, external assessment is often criticised for having lower validity than teacher-based assessment. It tends to be in the form of a written test under supervised conditions, so that only a limited range of curriculum goals can be covered. It can also have detrimental effects on teaching and learning. The risk is that teachers may end up focussing on test-taking skills, especially when high stakes for their students are attached to the test results.[25]

Formative assessments are used interchangeably as continuous assessment or teacher-based assessment, and it involves the evaluation of student learning over the course of time. Continuous assessment is a form of educational examination that evaluates regular student's progress throughout a prescribed course.[26] This form of testing is an alternative to the final examination system that can be counted in whole, in part or not at all in the students' final scores. Formative assessment is now recognised to be a key part of the teaching and learning process and has been shown to have one of the most significant positive impacts on student achievement among all educational policy interventions.[27] Its central purpose is to estimate

[21] Greg Sergienko, "New Modes of Assessment" (2001) 38 *San Diego Law Review* 2, at 465.

[22] Jaclyn Broadbent, Ernesto Panadero and David Boud, "Implementing Summative Assessment with a Formative Flavour: A Case Study in a Large Class" (2018) 43 *Assessment and Evaluation in Higher Education* 2, at 312, finding that students should complete several assessment pieces to determine their final course grade.

[23] Akunu Agbeti, "How External Assessment Mediates Teaching, Learning and Assessment in Junior High School in Ghana" (2014) 1 *International Journal of Humanities Social Sciences and Education* 12, at 115, explaining that external assessment is traditionally regarded as a neutral activity detached from teaching and learning.

[24] Measurement, Assessment and Evaluation in Education. In *Educational Measurement and Evaluation*, Goldy Gupta and Manjet Kumari (eds.) (Bookrivers, 2020) at 10.

[25] *ibid.*

[26] Getinet Seifu Walde, "Assessment of the Implementation of Continuous Assessment: The Case of METTU University" (2016) 4 *European Journal of Science and Mathematics Education* 4, at 535, stating that the teaching learning process requires continuous follow up and the educational progress of the learners need frequent assessment.

[27] Sue Swaffield, *The Assessment for Learning Strategy* (National Conference of Association for Achievement and Improvement through Assessment, Bournemouth, 16 – 18 September, 2009) at 8.

students' level of achievement in order to enhance student learning during the learning process.[28]

A further purpose is to aid learning by providing students with feedback to enhance their learning and performance.[29] Formative assessments help teachers determine whether students are learning, and help students develop learning skills.[30] By interpreting students' performance through formative assessment and sharing the results with them, teachers help students to understand their strengths and weaknesses and to reflect on how they need to improve over the course of their remaining studies.[31] Many countries are now also emphasising the importance of formative assessment, which aims to understand learning as it occurs in order to inform and improve subsequent instruction and learning.[32]

For all purposes, examination and testing are types of assessment used as synonyms, except that fundamental differences exist. A test is used to examine students' knowledge of the objectives of a lesson to determine what that they know or have learned. Therefore, test refers to a procedure where a student's knowledge is assessed about a specific lesson. Notably, in the field of education, tests are tools used to examine the knowledge and skill sets of students and adjust the learning material accordingly. A test is based on a series of questions that intends to measure the learning outcome on a particular lesson with the purpose to have students learn. That is, it involves the answering of often some short questions that evaluate the level of each student's understanding of the core points of a lesson. On the other hand, examination is a more formal form of a test that is often conducted at the end of a semester or the year. It is a procedure where a student's knowledge and skills about a number of lessons is measured to give an indication if a student has passed or failed in a course or programme.

The main contrasting features of both are as follows: a test is a short exam but unlike examination tests are not very formal. Whilst tests take place at a class level, examination takes place at the cohort level. A test can be written, oral or practical in form but examinations are often written in answer booklets supplied by the examiners. Failing a test will not have a serious

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[28] Peggy Maki, "Developing an Assessment Plan to Learn about Student Learning" (2002) 28 *The Journal of Academic Librarianship* 1, at 11. Darrell Evans, Paul Zeun and Robert Stanier, Motivating Student Learning Using a Formative Assessment Journey (2014) 224 *Journal of Anatomy* 3, at 296.

[29] Carol Springer Sargent and Andrea Curcio, "Empirical Evidence that Formative Assessments Improve Final Exams" (2012) 61 *Journal of Legal Education* 3, at 383.

[30] Harry Torrance, Formative Assessment at the Crossroads: Conformative, Deformative and Transformative Assessment" (2012) 38 *Oxford Review Education* 3, at 324, explaining that formative assessment is intended to "provide feedback to both students and teachers on student progress and what more might be done to facilitate such progress.

[31] Lasso (notes 8) at 78.

[32] Ninomiya, Shuichi, "The Possibilities and Limitations of Assessment for Learning: Exploring the Theory of Formative Assessment and the Notion of 'Closing the Learning Gap'" (2016) *Learning Educational Studies in Japan: International* Yearbook 1, at 81.

consequence, however, examinations are the ones that affect a student's grade in the school the most. In most cases a student has to study again in order to re-take or re-sit the examination or has to start the subject all over again upon a second chance. In some situations, examination attracts fees whilst this is not the case in tests.

Moreover, tests are conducted in a friendly classroom environment, however, there is a specific centre or examination place where students sit and write their examination. In examination situation, students are given an exact time to answer a question paper under strict invigilation rules and once the time runs out, the paper is collected by the invigilators or examiners, whereas test is conducted with less restrictive rules with the class teacher controlling events. In a typical test situation, the identity of students is not anonymised but in examination circumstances, students are provided with a unique or index numbers to blank out their identity. Finally, results subsequent a test is prompt without any moderation by a second teacher, whereas after marking of examination, grades have to go through moderation and examination board approval before the results are published on a specific date.

3. Pedagogical and Practical Purposes of Examination and Testing

The main purpose of examination and testing in educational institutions is to determine whether students are learning what teachers believe they should be learning.[33] They enable teachers to measure the success of teaching by relating the performance of students to specific learning objectives.[34] That is, for effective learning to take place, students require several opportunities to reflect on what they have learned, what they still need to know, and how to improve their learning.[35]

In other words, the most critical impetus in learning is feedback that allows students to take control over their own learning journey by getting the essential remediation for identified weaknesses in their understanding, and to adjust their approaches to future learning tasks.[36] In this connection, teachers are also able to implement efficient teaching choices and review

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Alison Bone, *Ensuring Successful Assessment.* Roger Burridge and Tracey Varnava eds. (The National Centre for Legal Education, 1999) at 3.

[34] Stephen Brookfield, *Becoming a Critically Reflective Teacher* (Jossey-Bass; 1st edition, 1995) at 17, stating that student assessment also buttresses critical reflective teaching.

[35] *The Seven Principles in Action: Improving Undergraduate Education*. Susan Rickey Hatfield (ed) (Anker Publishing Co, 1995) at 55.

[36] Lasso (note 8) at 75. Karen Handley and Benita Cox, "Beyond Model Answers: Learners' Perceptions of Self-Assessment Materials in E-Learning Applications (2007) 15 *ALT-J Research in Learning Technology* 1, at 24, examining that the most effective students generate internal feedback by monitoring their performance.

ineffective ones in their pedagogy in order to enhance the learning experience and improve the performance of students.[37] As Gregory Munro states:

> *The focus of student assessment in law school should be on enhancing student performance, providing multiple evaluations of student performance, and giving appropriate feedback to students. Hence, assessment is more than just tests and testing. Rather, it is an approach to legal education that fosters more active teaching and learning*.[38]

Importantly, examination and testing are also used to grade and rank students, to motivate students, to help employers more easily to select employees, to provide feedback to students about their progress, and to teachers about their effectiveness.[39] The measurement of learning through examination and testing is vital because it affords useful feedback to both teachers and students about the extent to which students are meeting course teaching and learning objectives.[40]

Furthermore, in our context, the outcome of examination and testing provide institutional information to professional bodies such as the Ghana Law School and the Ghana Bar Association, and, to some extent, predict success in future legal employment. Additionally, aside from protecting the public by denying graduation to students who are not expected to become competent lawyers, examination and testing foster learning, inspire confidence in students, enhance their ability to self-monitor, and drive institutional self-assessment and curricular change.[41]

4. Current Practice: The Do-Or-Die Final Exam

In most law school programmes, the widely used assessment most students experience is the end-of-the-semester final exam.[42] In a more specific understanding, assessment for Ghana law schools in their current format can be described as "linear". This means that most or all of the

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[37] Laura Goe, Courtney Bell and Olivia Little, *Approaches to Evaluating Teacher Effectiveness: A Research Synthesis* (National Comprehensive Centre for Teacher Quality, 2008) at 8-9, discussing the effective teacher.

[38] Gregory Munro, "Outcomes Assessment for Law Schools" (Institute for Law School Teaching, 2000) at 11.

[39] Susan Wawrose, "What Do Legal Employers Want to See in New Graduates?: Using Focus Groups to Find Out" (2013) 39 *Ohio Northern University Law Review* 2, at 522, recommending changes to law school curricula to develop skills desired by employers.

[40] Grant Wiggins and Jay McTighe, *Understanding by Design* (Association for Supervision & Curriculum Development; 2nd Expanded edition 2005) at 18.

[41] Ronald Epstein and Edward Hundert, "Defining and Assessing Professional Competence" (2002) 287 *The Journal of the American Medical Association* 2, at 226.

[42] Sheppard (note 11) at 657.

assessment occurs at the end of the course in a single examination session, where candidates usually sit for components of examination in each subject. A problem with the linear system is that events like lockdowns that prevent large number of students being in the same place at the same time have a particularly bad effect.

These do-or-die final examination normally comprise of essay questions that require students to apply memorised legal principles to hypothetical fact patterns.[43] While multiple choice and short-answer questions have also become the norm, the primary type of final exam remains the problem-based essay mostly used by law schools.[44] Problem-based essay questions test the ability to read, identify facts, and engage in analysis by applying legal rules to relevant facts.[45] In other words, the strength of problem-based essay examination is that they require students to apply recalled law to new factual circumstances, much like lawyers do in professional practice.[46]

In order to innovate and redefine the robust nature of examination, we must first understand more about the current assessment methods and why they are putting untold pressures on not only students but teachers and parents due to systemic failures.[47] The fact is that the current assessment practice of a single end-of-the-semester do-or-die final examination does not provide students the feedback they need to develop self-learning skills and improve performance in law school and beyond.[48] That is, students are given no feedback whether, and to what extent, they are learning the course materials prior to the final exam. These examinations only provide students with a score or a grade,[49] and when students seek to review their final exam performance with their teacher, they find that most law teachers provide little additional meaningful feedback on their individual final exam performance.[50] In short, the after-the-fact nature of these summative assessments "forecloses the possibility of giving meaningful feedback to the student about progress in learning."[51]

[43] Stuckey (note 12) at 236.
[44] Munro (note 38) at 34. Stuckey (note 12) at 236.
[45] *ibid.*
[46] Sergienko (note 21) at 469.
[47] Gilbert Jessup, *Outcomes. NVQs and the Emerging Model of Education and Training* (The Falmer Press, 1991) at 192, stating that there is often a lack of clarity as to what the objectives of the final examination are.
[48] Lasso (note 8) at 97.
[49] Steven Nickles, "Examining and Grading in American Law Schools" (1977) 30 *Arkansas Law Review* 3, at 438, finding that law teachers generally provide no final exam feedback to students. See also Sheppard (notes 11) at 681.
[50] Munro (note 38) at 35. Lasso (note 8) at 79.
[51] Sullivan, *et al,* (note 12) at 164.

5. Historical Antecedent of the Do-Or-Die Final Exam

The end-of-the-course final exam as the sole student assessment is a relatively recent development in the evolution of legal education. It was initiated in the late 19th century by Dean Christopher Langdell at Harvard Law School.[52] From the 14th to 17th centuries, legal education in England took place at the Inns of Court where the assessments of students were conducted throughout the school term by senior Barristers and consisted primarily of oral arguments of moot cases lasting several hours.[53]

Law students attended lectures and were mooted on set topics. The school year consisted of four terms, and each student performed at least one moot case argument per term.[54] By the early 17th century, in addition to moot court arguments, students wishing to graduate from an English law school had to stand for oral examinations conducted by several examiners.[55] Eventually, written examinations were also required of Barristers studying at the Inns of Court and of Clerks wishing to become solicitors.[56]

Early American law schools borrowed this approach to their assessment of students.[57] In the late 18th and early 19th centuries they required weekly oral or written examinations as well as end-of-a-topic written examinations. These examinations focused on analytical skills rather than the ability to memorise black letter rules.[58] During Harvard's early years, for example, the law school used weekly oral examinations augmented by written examinations, and a summative assessment at the end of each topic. The questions in the written examinations often involved problem solving, requiring students not only to recall applicable doctrine, but to apply it to determine which hypothetical party would succeed.[59]

In the early 19th century, law schools gave students the option to take examinations and tests in class, often several times a week administered by third-year student tutors.[60] By the middle of the 19th century, although many schools continued to hold daily or weekly examinations, the end-of-term final examination was becoming the sole assessment at some American law schools.[61] In 1860, for example, the University of Michigan started to use a combination of daily oral and written examinations, conducted by recent graduates, and end-of-the term

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[52] Ron Aizen, "Four Ways to Better Assessments" (2004) 54 *Duke Law Journal* 3, at 768-69.

[53] Sheppard (notes 19) at 658-59. Lasso (notes 8) at 80.

[54] *ibid.* at 660.

[55] *ibid.* at 661.

[56] *ibid*. at 662-63.

[57] *ibid.*

[58] *ibid*. at 664-66.

[59] *ibid.* at 665. Lasso (note 8) at 80.

[60] *ibid.* at 666, mentioning the names of well-known legal educators such as Judge Joseph Story and Professor Simon Greenleaf.

[61] *ibid.* at 670.

examinations.[62] The University of Iowa law school required tests, end-of-the-term final examinations, and a graduation exam; Cornell law school held daily examinations, end-of-the-term exam, and graduation examinations.[63]

Although it had earlier abandoned examinations, Harvard reintroduced end-of-the-term final examinations around 1870 to compliment new case method of instruction.[64] These new examinations, the precursors to the current end-of-the-term final examination, were essay questions whose complexity increased over time with an emphasis on application of legal principles to varying factual scenarios.[65] As this new assessment form developed, Harvard gave final examinations over a period of six days at the end of the year, most courses were year-long courses, and students who scored below 70% were dropped from the law school.[66] Columbia law school soon followed Harvard's end-of-the-term final examination model, but for several years law schools outside of the northeast continued to use weekly or monthly assessments and a graduation exam.[67]

By the early 20th century, the end-of-the-term examination model had taken hold nationwide, as influential professors had advocated for the use of end-of-the-term examinations, urging that they be no longer than three or four hours and "receive neither a perfunctory nor a long-delayed review." [68] The end-of-the-term, do-or-die final exam remains the primary form of assessment in law schools today.

6. The Shortcomings of the End-Of-The-Term, Do-Or-Die Final Exam

As already provided, schools administer examination and testing in theory to determine whether students are learning what we want them to learn.[69] That is, law school examination and testing should help students to define their level of competency.[70] Although, the end-of-the-semester, do-or-die final exam has served us well, however, what is not clear from the foregoing brief history is that when teachers draft their end-of-the-semester, do-or-die final exam questions, many would hope this would lead to increased bespoke feedback and evaluation of final exam results.[71] The lone exception is perhaps legal writing and research

[62] Lasso (note 8) at 80.
[63] *ibid.* at 671.
[64] Lasso (note 8) at 81.
[65] *ibid.*
[66] *ibid.* at 672.
[67] Aizen (note 54) at 673-675.
[68] *ibid*. at 676. Sheppard (note 11) 29.
[69] Stuckey (note 12) at 236. Lasso (note 8) at 82.
[70] Bone (note 33) 2. Stuckey (note 12) at 245.
[71] *ibid.* at 81.

courses, which usually involve significant feedback on student progress, sadly, regarding the end-of-the-semester, do-or-die final exam this has not been the case.

Remarkably, the current assessment practices at law schools function less as a means for measuring student learning than as a means for sorting and ranking students and for "weeding out" students who are not developing the requisite knowledge, skills, and values to pass examinations.[72] This is because the essay examinations seem to track "expertise" in dealing with complex factual scenarios, but grading systems in law schools fail to recognise that expertise develops over time.[73] The end-of-the-semester, do-or-die final exam is an inadequate tool for assessing student's achievement, and does little to help students learn or improve their performance.[74]

The worst feature of the current assessment practice, however, is that "students are not provided a chance to practice what will actually be tested and do not get feedback during the course of the semester to gauge how they might do when the day of reckoning arrives."[75] Although stress is a critical part of the law school experience, most students complain about unimaginable stress, ordinarily caused by the fact that, in most courses, they have no idea what is expected of them on the final exam and what is necessary to perform well in any given course.[76] That is, students are concerned about the amount of work vis-à-vis the quality of law school assessments and the seeming arbitrariness of the grading process.

Therefore, the current assessment practice of end-of-the-semester final examinations not only does little to help students learn but is also a source of needless stress and frustration to students.[77] As former president of the American Bar Association puts it:

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[72] Kelly Terry, "Embedding Assessment Principles in Externships" (2014) 20 *Clinical Law Review* 2 at 469, citing Judith Wegner, *"Thinking Like a Lawyer about Law School Assessment"* [unpublished manuscript].

[73] Judith Welch Wegner, "Reframing Legal Education's Wicked Problems" (2010) 61 *Rutgers Law Review* 4, at 886.

[74] Stuckey (notes 12) at 260. See also, Measuring Student Knowledge and Skills. OECD Programme for International Student Assessment (OECD, 1999) at 9 finding that students cannot learn in school everything they will need to know in adult life.

[75] Sullivan, *et al,* (note 19) at 166. Lasso (note 8) at 82.

[76] Gerald Hess, "Heads and Hearts: The Teaching and Learning Environment in Law School" (2002) 52 *Journal of Legal Education* 1/2 at 77.

[77] Philip Kissam, "Law School Examinations" (1989) 42 *Vanderbilt Law Review* 2 at 438-56, criticising the form and content of the end-of-the-semester final exam. See also Lasso (note 8) at 83, finding that many students have expressed similar frustration for many years.

> *Is there any educational theorist who would endorse a program that has students take a class for a full semester or a full year and get a single examination at the end? People who conduct that kind of educational program are not trying to educate*.[78]

Despite long-standing criticisms from academics, practitioners, and students, the single end-of-the-term exam tradition remains with us today. This assessment practice in law schools is not valid, reliable, or fair.[79]

7. **Current Assessment Practices and the Link Between Policy and Practice**

While teachers generally comply with regulations to engage in assessment practices such as continuous assessment and student portfolio assessment, their ability to use these practices to assess a wider range of student competences and use results to improve learning remains limited. For example, teachers are complying with the requirement to provide a continuous assessment mark but are not using the results formatively as may be envisioned by the university policy on continuous assessment. Several factors have contributed to this limited shift in classroom assessment practices.[80]

Key to this is that rules and regulations are sometimes unclear and require further clarification to help teachers incorporate the practices found in the new framework into their pedagogy, particularly, this is lacking in newly recruited teachers in universities.[81] For example, while learning outcomes are defined by stage, very little if any guidance is provided to teachers on the learning outcomes their students should attain by the end of each grade.[82] Some university policies such as teacher appraisal also contradict the developmental intent of key assessment benchmarks and continue to reinforce a predominantly summative assessment culture in classrooms.[83]

Most importantly, teachers in universities need additional support and guidance to understand the key assessment tasks and how it can be implemented effectively in their classrooms. This will require significant changes to how teachers are trained to assess students. Several gaps in

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[78] Talbot D'Alemberte, "Talbot D'Alemberte on Legal Education" (1990) 76 *American Bar Association Journal* 9 at 52.

[79] Stuckey (note 12) at 238.

[80] For detailed analysis see, Soumaya Maghnouj, Elizabeth Fordham, Caitlyn Guthrie, Kirsteen Henderson and Daniel Trujillo, OECD Reviews of Evaluation and Assessment in Education: Albania (OECD, 07 May 2020).

[81] Robin Alexander, Towards Dialogic Thinking: Rethinking Classroom Talk (York, England: 4th edn., Dialogos, 2008) at 47, defining pedagogy as the act of teaching together with its attendant discourse of educational theories, values, evidence and justifications.

[82] *ibid.*

[83] *ibid.*

assessment policies have limited understanding about the intent of these policies among teachers and hampered effective implementation.

First, there are no nationally defined learning outcomes by grade level that teachers and students can work towards, which means teachers do not have a reference point against which to form a valid and reliable assessment of where students are in their learning.[84] Second, there are no examples of marked student work or external benchmarks to signal what achievement at various levels looks like. This is particularly important as the GLC is making significant demands of providers, including the difficult task of assessing in a reliable and valid manner complex constructs such as critical thinking.

Third, over-reliance on examination means that the classification of formative assessment is unclear and inconsistent, which has contributed to the confusion of continuous assessment and summative assessment. Lastly, this confusion is further reinforced by the lack of detailed examiners reports which serve to monitor compliance with and quality of assessments.[85] These gaps and contradicting policies need to be addressed in order to provide clarity to teachers on what is expected of them.

8. Covid-19, UTAG Strike and Ghana School of Law Examination Results Confusion and their Implication on the Pedagogical Principles of Assessment

As the COVID-19 pandemic continues to spread, school systems everywhere are in crisis management, with education leaders and teachers struggling to provide continuous instruction via combinations of in-person, virtual, and hybrid learning modes. In this uncertain and fluid environment, the regular challenges of assessing what and how students are learning have become even more complex. This was further compounded when in response to the spread of Covid-19, the Government of Ghana banned all public gatherings including conferences, workshops, funerals, festivals, political rallies, church activities and other related events to reduce the spread of the virus. Basic schools, senior high schools and universities, both public and private, were also closed.[86]

[84] *ibid.*
[85] Ellaine Ball, “Annotation an Effective Device for Student Feedback: A Critical Review of the Literature” (2010) 10 *Nurse Education in Practice* 3, at 142 maintaining that there is always little published evidence.
[86] Jona Nyabor, *Coronavirus: Government Bans Religious Activities, Funerals, all other Public Gatherings* (CitiNews, 15 March 2020).

While this lockdown had already affected the academic calendar, on 2nd August 2021, the UTAG called for a nationwide indefinite strike to denounce alleged deteriorating working conditions.[87] End of term examination were supposed to have started on the 1st of August 2021. However, the UTAG members withdrew teaching and other activities such as invigilation, marking of examination scripts, and the processing of examination results.[88] This move in doubt affected the end of term examination.

Assessments conducted by the Ghana School of Law have recently been causing a stir in Ghana. Teachers, parents and students have faced the brunt of a failing assessment system over-reliance on examination. The outcome of examination in the Ghana School of Law where the General Legal Council (GLC) has an oversight responsibility has recently come under public scrutiny. The GLC was set up in 1960 by an Act to consolidate and amend the law relating to the Legal Profession in Ghana.[89] The scope of the Legal Profession Act includes organisation of legal education and upholding standards of professional conduct and discipline. Thus, the GLC administers examinations for admission to the professional law school training conducted by the Ghana School of Law.

In order to maintain strict standards and integrity, the GLC has setup an Independent Examination Board which fully oversees the administration of the examination. Within the short period of its existence, the accusation is that the board has not demonstrated complete competence in the conduct and marking of examinations casting doubt about the integrity, validity, reliability and fairness of the examination conducted by the board on behalf of the GLC. These events exposed the weakness in the current examination system which caused chaos and further deepening anxiety and frustration. This calls for a review of the current examination and testing system that is prone to inefficiency to make it more resilient, valid, reliable and fair.

9. The Way Forward: What Should Best Practice Achieve?

Legal educators need to clarify the purposes of examination and testing particularly those that stimulate rather than skew student experience or undermine their general credibility.[90]

[87] UTAG Communication to its Members. Ref No. UTAG/NAT/2021/UP03, 22 September 2021.

[88] See generally, UTAG Communication to its Members. Ref No. UTAG/NAT/2021/IM-002, 5 October 2021.

[89] The Legal Profession Act, 1960 (Act 32).

[90] Lasso (note 8) at 83, finding that good assessment must achieve the following: (a) stimulates student reflection on strengths, weaknesses, and learning approaches; (b) guides students toward relevant learning opportunities; (c) provides incentives that lead students to take more active responsibility for their own learning as they undertake increasingly sophisticated work throughout law school; and (d) documents information that reflects our graduates' professional capabilities and assists employers in making better hiring decisions.

Effective examination and testing regimes should maintain their pedagogical relevance.[91] That is, integrity in assessment must first pass the validity test.[92] Validity means that an assessment tool accomplishes the purpose for which it was intended.[93] In other words, validity in examination and testing is a question of measuring whether students learn what teachers teach.[94] An assessment tool is valid if it allows the teacher to draw inferences about the matters that the test purports to assess.[95] Congruence, a necessary aspect of validity means that the goals of the test match the goals of the instruction.[96]

Moreover, reliability means the assessment yields the same results on repeated trials. A reliable assessment reduces the impact of subjective influences of the test giver and grader on the assessment process.[97] A reliable assessment tool is one that accurately rates "those who have learned as having learned and those who have not learned as having not learned." [98] If an assessment is reliable, the outcome of it must consistently produce certainty.[99] Fundamental fairness in assessment refers to the consideration of learner's needs and characteristics, and any reasonable adjustments that need to be applied to take account of them. It is important to ensure that the learner is informed about, understands and is able to participate in the assessment process, and agrees that the process is appropriate to produce an outcome that is just and reasonable. It also includes an opportunity for the person being assessed to challenge the result of the assessment and to be reassessed if necessary.[100]

Summative assessment or single end-of-the-semester final examinations given under time pressure are not valid, reliable, or fair but continuous assessment does.[101] Formative assessments are perhaps the most effective way to improve student learning and performance

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[91] Michael Josephson, "*Learning and Evaluation in Law School*" (Association of American Law Schools, volume 1, 1984) at 7.

[92] Standards for Educational and Psychological Testing (Washington, DC: American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 1999) at 9, defining that validity refers to the degree to which evidence and theory support the interpretations of test scores entailed by proposed uses of tests.

[93] Arthur Hughes, Testing for Language Teachers (Cambridge University Press, 2nd edition, 2003) at 33.

[94] Bone (note 33) at 6, finding that validity measures the extent to which assessments and their results demonstrate the students' achievement of outcomes.

[95] Gerald Hess and Steven Friedland, *Techniques for Teaching Law* (Carolina Academic Press 1999) at 298.

[96] Patricia Smith and Tillman Ragan, *Instructional Design* (Merrill, 2nd edition, 1999) at 95.

[97] Bone (note 33) at 6.

[98] Smith and Ragan (note 96) at 97. Stuckey (note 12) at 243.

[99] *Id.*

[100] *Towards a Learning Culture of Safety and Resilience: Technical Guidance for Integrating Disaster Risk Reduction in the School Curriculum* (UNICEF, 2014) at 214. For further analysis see Caroline Gipps and Gordon Stobart, *Fairness in Assessment*. In EDUCATIONAL ASSESSMENT IN THE 21ST CENTURY, Claire Wyatt-Smith and Joy Cumming (eds) (Springer, 2009).

[101] Stuckey (note 12) at 238.

in law schools.[102] As such, regular formative assessments should be the primary form of assessment in law schools.[103] The implicit pedagogical philosophy underlying formative or continuous assessment is that the fundamental purpose of professional education is not sorting, but producing as many individuals proficient in legal reasoning and competent practice as possible.[104]

10. Developing an Inclusive National Assessment Regime and Governance Structure

A national assessment policy framework is an official document that states and discusses what an assessment system intends to achieve and what the assessment tools aim to measure.[105] In other words, a national assessment policy framework is a document that provides overall policies, guidelines, and procedures for developing, administering, and managing an assessment system from the central or national level to the classroom level. An assessment policy document is generally brought in line with the national education policy and the national curriculum policy framework and implemented interrelatedly and in parallel with each other. At the centre of an effective policy framework for assessment is the expectation that assessment supports student learning.[106]

This expectation requires clear and widely understood learning objectives in order to encourage a balanced use of summative and formative assessments to promote learning.[107] Assessments framework should encourage teachers to assess their students regularly and use the results to inform teaching and learning. It sets an expectation that teachers will use innovative assessment practices to assess the competencies found in the national curriculum framework, which are higher order in nature and include transversal skills.[108]

Effective assessment policy framework also includes assurance mechanisms such as marking, moderation, grading to regulate the quality of assessment instruments, in particular central,

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[102] Richard Henry Seamon, "Lightening and Enlightening Exam Conferences" (2006) 56 *Journal of Legal Education* 1, at 122.

[103] *ibid*. at 255. Sergienko (note 21) at 465.

[104] *ibid.* at 245. Lasso (notes 8) at 86.

[105] An assessment policy framework objective is to promote national assessments which give a reliable indication of achievement and indicate a consistent level of attainment.

[106] Wynne Harlen, *On the Relationship Between Assessment for Formative and Summative Purposes.* In ASSESSMENT AND LEARNING. John Gardner (ed.) (London: Sage) at 98.

[107] Paul Black, "Helping Students to Become Capable Learners" (2018) 53 *European Journal of Education* 2, at 144.

[108] UNESCO defines transversal skills as "Skills that are typically considered as not specifically related to a particular job, task, academic discipline or area of knowledge and that can be used in a wide variety of situations and work settings (for example, organisational skills)." See UNESCO International Bureau of Education (UNESCO, September 2013, IBE/2013/KPM/PI/01) at 58.

standardised assessments.[109] The policy framework provides stability or, where change is desired, it can be made explicit and implemented deliberately. Assessment systems in some countries emphasise more on examinations that evaluate a recall of facts and application of knowledge, there is growing use in many countries of more sophisticated approaches based on a variety of assessment types.[110]

In Ghana as assessments framework in schools is well-aligned with the curriculum, and one notable strength is the importance given to assessment of learning or summative assessment. That is, in the context of Ghana, there are few accompanying materials to help teachers translate changing expectations for student learning and assessment for learning or formative or continues assessment into practice. Key concepts such as formative assessment and continuous assessment lack clarity and ultimate concreteness. While teachers are encouraged to differentiate instruction in response to learner needs, they lack guidance on how to use assessment results to inform their planning and assess students in relation to curriculum standards.

Moreover, some regulations at the school level continue to run counter to the curriculum, reinforcing outdated teacher-centred methods of summative testing. This problem was laid bare following the outcome of the entrance examination to the Ghana School of Law. Even though students followed the guidelines for the assessment, however, it was obvious that pedagogical principles of validity, reliability and fairness were all missed by the examiners subsequent the release of the results. Therefore, any assessment policy framework should lay the principles upon which any assessment activity in the Ghana's legal education should be built.[111] In that case, assessments can be benched-marked against its pedagogical principles of validity, reliability and fairness.[112]

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[109] Viktoria Kis, Quality Assurance in Tertiary Education: Current Practices in OECD Countries and a Literature Review on Potential Effects (OECD Thematic Review of Tertiary Education, 2005) at 10, finding that quality assurance procedures can serve two major purposes: improvement and accountability.

[110] Thomas Reeves, "Alternative Assessment Approaches for Online Learning Environments in Higher Education", (2000) 3 *Educational Computing Research* 1, at 103, emphasising on the movement from traditional assessment toward alternative assessments.

[111] Note that an assessment policy framework would serve several other purposes such as the following: 1. It provides a common language to various stakeholders for discussion of the areas of assessment. 2. It directs assessment development, guaranteeing that each assessment tool serves the intended purposes and covers the spectrum of learning objectives and standards set. 3. Where continuity from one grade level to another is a concern, it realises an articulated plan for the assessment. For detailed analysis of validity

[112] For a detailed analysis of fairness, reliability and fairness in assessment see Wynne Harlen, A systematic Review of the Evidence of Reliability and Validity of Assessment by Teachers Used for Summative Purposes. In RESEARCH EVIDENCE IN EDUCATION LIBRARY (London: EPPI-Centre, Social Science Research Unit, Institute of Education, 2004).

11. Reforming the Independent Examination Board of the Ghana Legal Council

Developing high-quality national examinations and assessments require a range of assessment expertise.[113] Like Ghana, many countries have created agencies for examinations and assessments where this expertise is concentrated, and universities naturally hold key to this expertise.[114] Creating a separate organisation with stable funding and adequate resources also helps to ensure independence and integrity, which is especially important for high-stakes national examinations such as those in the Ghana School of Law. The question is do we need to reform the independent examination board under the GLC?

In terms of legal education, the GLC should set the education and training requirements for becoming a barrister in relation to the knowledge, skills and attributes required as a minimum standard to professional practice. This underpins the system of training, informing the design and delivery of education and training pathways, including the development of educational materials, learning outcomes and assessments. The GLC should have little involvement in important forms of assessment such as classroom assessment. Importantly, the GLC should set continuing training requirements to ensure that barristers skills are maintained throughout their careers.

In terms of assessment, the GLC should allow universities to use continuous assessment to evaluate learning and if anything at all, should as a matter of summative assessment conduct examination on few modules including, professional ethics, civil and criminal litigations. The responsibility for developing resources and training on assessment lies with the Quality Assurance Agency, which universities already have or the GLC may have its own quality assurance system.

Although, the GLC might have psychometric expertise and experience, it appears that they have limited human and financial resources. This might be limiting their capacity to take on greater responsibilities such as improving the reliability of the examinations or providing increased capacity-building support directly to universities that run LLB programmes. The GLC should envision improving its examination and testing capacity through digital solution and computer-based assessment. This will require a significant investment in infrastructure and resourcing in the GLC, however, such a move will provide validity, reliability and fairness.

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[113] The expertise includes fields such as psychometrics and statistics. See generally, Henry Braun and Matthias von Davier, "The Use of Test Scores from Large-Scale Assessment Surveys: Psychometric and Statistical Considerations" (2017) 5 *Large-Scale Assessment in Education* 17, 1-16.

[114] Royce Sadler, Interpretations of Criteria-Based Assessment and Grading in Higher Education (2005) 30 *Assessment and Evaluation in Higher Education* 2, at 175 finding that universities usually have some sort of official examination, assessment or grading policy.

12. Construct a National Policy on Continuous Assessment

The pandemic has accelerated numerous experiments in assessment for the digital age, moving beyond simple knowledge recall in a congregated examinations hall. But is the traditional examination really obsolete? The distinct potential of formative assessment or continuous assessment remains largely untapped within law schools. In the current COVID-19 situation, where summative assessments have been questioned for their efficacy on a global scale, we need a system in Ghana that is formative or continuous in nature. Systems that involve elements of both external assessment and teacher assessment could therefore seem to be a way to spread the risk from a disruptive event and thereby increase robustness. In other words, a more radical way of making the assessment more continuous would be to rely more on teacher assessment.[115]

The merits of continuous assessment are well documented for their success.[116] The more continuous the assessment, the more robust the system would be to disruptions in the case of Covid-19 preventing several students from being in the same place at the same time. The way the continuous assessment works is very much based on on-going evidenced feedback for both teacher and learner, and they provide a more accurate and complete picture of the learner's level and has a positive impact on learning. The aim is to encourage students to study throughout the entire study period and not just towards the end when the assessment occurs.[117]

Learning outcomes that can be readily assessed in external examination should be covered this way, whereas more complex competencies should be assessed through continuous teacher-based assessment.[118] More teacher assessment might either explicitly or implicitly increase the utility of the grades for predicting future achievement by including qualities and attributes that are hard to assess in examinations.[119] Therefore, frequent chances to assess, reflect and intervene with learning are integral to developing a skills-based learning approach and using the continuous learning process. Due to its continuous nature, teacher-based assessment often

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[115] Tom Sherrington, Assessment Too Often Fails to prioritise Learning – Let's Change That (The Guardian, Tuesday 23 January 2018), arguing that schools can give student assessment greater meaning if they rely more on teachers' judgment.

[116] Seemeen Rana and Raja Zubair1, "The Reality of Continuous Assessment Strategies on Saudi Students' Performance at University Level" (2019) 12 *Journal of English Language Teaching* 12, at 132. Anthony Nitko, "Curriculum-Based Continuous Assessment: A Framework for Concepts, Procedures and Policy" (1995) 2 *Journal of Assessment in Education* 3, at 321.

[117] Michael Eraut, "Feedback" (2006) 5 *Learning in Health and Social Care* 3, at 118, finding that feedback plays an important part in shaping future learning.

[118] Wiliam (note 17) "Validity, Reliability and all that Jazz" (2001) 29 *Education* 3, at 19, stating that teacher-based assessment provides a degree of reliability that has never been achieved in any system of timed written examination.

[119] Bede Blaise Chukwunyere Onwuagboke, Rita Chigozie Osuala and Timothy Agoha, "Continuous Assessment Feedback and Students' Performances in Semester Examinations in a College of Education" (2018) 6 *American Journal of Educational Research* 6, at 688.

allows for important achievements to be measured that could not be captured in a final examination.[120]

Although continuous assessment is more theoretically desirable than summative assessment, it risks being viewed by some teachers as too difficult to implement within their own educational setting because facilitating factors are not in place.[121] Hence, continuous assessment is not going to make the positive changes that the education system expected, and therefore key changes must be adopted if we are to solve the current crisis embedded in the over-reliance on final examination.[122] Key to this would be to ensuring a high quality of teacher assessment consistently applied across law schools in Ghana, maintaining standards, and commanding public confidence of fairness.[123]

In addition to fairness, teacher-based assessments can be perceived as unreliable.[124] Test items and grading standards may vary widely between teachers and schools, so that the results of internal assessment will lack external confidence and cannot be compared across schools. There might also be a high risk of bias in teacher-based assessment, i.e., the assessment is unfair to particular groups of students.[125] Apart from the notion of the possibility of grade inflation,[126] further concern is conflict of interest, where some students whom the teacher feels cannot be graded impartially because of some sort of shared history, positive or negative might affect the credibility of continuous assessment.[127]

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[120] Sandra Johnson, A Focus on Teacher Assessment Reliability in GCSE and GCE (The Office of Qualifications and Examinations Regulation, Ofqual/11/4807, 2011) at 3.

[121] Ashenafi Mohammedseid, "Challenges in Implementing Continuous Assessment" (2018) 4 *International Journal of Innovations in TESOL and Applied Linguistics* 2, at 2.3, citing examples such as, teachers skills in test construction and administration, and their attitudes toward the continuous assessment approach and record keeping.

[122] Paul Black and Dylan Wiliam, "Assessment in Education: Principles, Policy and Practice" (1998) 5 *Assessment in Education* 1, at 20, stating that formative assessment is not well understood by teachers and is weak in practice.

[123] Ensuring Statistical Models Command Public Confidence: Learning Lessons from the Approach to Developing Models for Awarding Grades in the UK in 2020 (Office for Statistics Regulation, March 2021) at 4, finding that achieving public confidence is key to the success of any model.

[124] Michelle Meadows and Lucy Billington, *A Review of the Literature on Marking Reliability* (National Assessment Agency, 2005) at 7-8.

[125] Research and Analysis. Systematic Divergence Between Teacher and Test-Based Assessment: Literature Review (The Office of Qualifications and Examinations Regulation, Ofqual/21/6781, May, 2021) at 22. See also Zoe Tidman, Evidence Shows 'Bias' Against Boys in Teacher Assessments, Exam Regulator Says (The Independent Newspaper, UK, Tuesday 18 May 2021).

[126] Tom Richmond, A Degree of Uncertainty: An Investigation into Grade Inflation in Universities (The Reform Research Trust, June 2018) at 5, citing examples to include intolerable pressures from internally and externally on academic staff to pass students who should rightfully fail and to award higher classes of degrees to the undeserving, and greater competition between institutions and a more 'consumerist' attitude from students.

[127] *ibid.*

Systems with a high proportion of teacher assessment in the final grade could change the teacher-student relationship, potentially in a bad way. If the teacher has the power to determine their students' futures it puts them in a potentially compromising position, opening up possibilities for bribery, intimidation or favouritism.[128] If this were combined with a highly continuous system where every piece of homework or class test could count towards a final grade it might create an oppressive atmosphere of constant assessment which might further undermine students' creativity, exploration and learning. Therefore, a combination of teacher-based and external assessments would be most suitable to safeguard maximum validity and reliability, however, in terms of proportion, the percentage in continuous assessment should outweigh that of the final examination.

13. Effective Moderation of Internal and External Examination Questions and Marking Criteria

Moderation is a process separate from the marking of assessments, which ensures that an assessment questions and marking are accurate, fair, valid and reliable to the level of the assessment and comparable with equivalent assessment.[129] It is an integral part of the marking process but mostly occurs before external examiners review the operation of the marking and internal moderation process.[130] Moderation also applies to examination questions to check the accuracy of the questions before students sit for the assessment. Having a second teacher cast an eye over the examination questions can help to filter out any unclear formulations and other imperfections.[131]

However, to obtain the most objective judgement possible, the examiner should submit the examination questions through an assessment coordinator (examination officer) to a peer who is not involved in the setting of the examination questions. In other words, it is a quality

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[128] Irene Glendinning, Stella-Maris Orim and Andrew King, Policies and Actions of Accreditation and Quality Assurance Bodies to Counter Corruption in Higher Education (Council for Higher Education Accreditation Project Report, February 2019) at 18, for corruption in student assessment. Jacques Hallak and Muriel Poisson, Corrupt Schools, Corrupt Universities: What Can Be Done? (UNESCO, International Institute for Educational Planning, 2007) at 6, observing that academic fraud is regarded as a serious threat to the integrity and reliability of certification in higher education, leading to scepticism as to the validity of results and suspicion about real performance. This type of fraud is more prevalent in the United States than in developing countries. See Table 2.4 at 63, for examples of corruption in schools and universities.

[129] Lenore Adie, Margaret Lloyd and Denise Beutel, "Identifying Discourses of Moderation in Higher Education" (2013) 38 *Assessment and Evaluation in Higher Education* 8, at 971, pointing out that the aim of a moderation processes is to provide "a way to develop a shared understanding of standards of achievement and the qualities that will denote evidence of these standards".

[130] *ibid.*

[131] Wiliam (note 17), at 20, suggesting that the key to improved reliability lies with increased use of teacher assessment, standardised and moderated to minimise the potential for bias.

assurance process to ensure that assessment criteria have been applied consistently within appropriate standards from the point of designing the assessment through to confirmation of the marks by examiners, and that any differences in academic judgement between individual markers can be acknowledged and addressed.[132] It ensures consistency in marking within cohorts and across time. In the context of more objectively marked work, moderation may take the form of procedural checking rather than academic judgement. In an analytic approach, judgements are made based on the use of assessment criteria; in a more holistic approach, judgements are made using the relevant attainment descriptors.[133]

The examiner is responsible for determining the form of moderation for each component of assessment, and for ensuring the appropriate operation of moderation processes.[134] Moderation is required for all components of summative assessment, irrespective of the level of the work or the credit weighting of the assessments.[135] Moderation is not required for assessment that is purely formative where the result will not contribute to the overall result for the course, although it is good practice to operate processes to ensure consistency of marking and feedback of formative assessment.

As a matter of empirical logic, moderation is painstaking exercise, and it is easy for the process to go completely wrong.[136] The first indicator that always lends credence regarding poor moderation is the result itself. On the face of the chaos following the results of examination conducted by the Ghana School of Law in relation to the absence of any moderation reports, one can only raise legitimate concern that certain adjustments were made during the moderation process, and this failed to meet standards.[137]

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[132] Sue Bloxham, Clair Hughes and Lenore Adie, "What's the Point of Moderation? A Discussion of the Purposes Achieved Through Contemporary Moderation Practices" (2016) 41 *Assessment and Evaluation in Higher Education* 4, at 638, explaining that one approach to quality assurance across many higher education institutions is to require some form of moderation, or verification of assessment judgements.

[133] Domeniter Naomi Kathula, Jacinta Adhiambo, Shem Mwalw'a, John Waweru, Effect of Internal and External Moderation on the Quality of Examinations in Public Universities in Kenya (2018) 5 *Strategic Journal of Business and Change Management* 3, at 475, finding that a statistically significant relationship between internal and external moderation and quality of examinations.

[134] Edwin Andama Ombasa, "Setting, Moderating and Marking University Examinations: A Comparative Review of Policies from Universities in East Africa and United Kingdom" (2017) 7 *International Journal of Scientific and Research Publications* 4, at 194, explaining the duties of a moderator.

[135] Wynne Harlen, *Assessment of Learning* (Sage, 2007) at 138, finding that teachers' judgements can, when moderated, provide more accurate information than external tests because they can cover a much wider range of outcomes and so provide a more complete picture of students' achievements.

[136] Sue Bloxham, "Marking and Moderation in the UK: False Assumptions and Wasted Resources" (2009) 34 *Journal of Assessment and Evaluation in Higher Education* 2, at 209, arguing that, in developing rigorous moderation procedures, we have created a huge burden for markers which adds little to accuracy and reliability but creates additional work for staff, constrains assessment choices and slows down feedback to students.

[137] Lois Harris and Gavin Brown, "The Complexity of Teachers' Conceptions of Assessment: Tensions Between the Needs of Schools and Students" (2019) 16 *Assessment in Education: Principles, Policy and Practice* 3, at

To ensure that the criteria given to students are robust and unambiguous, standard setting on moderation needs to be effective and transparent.[138] It is often a good practice for the examiners to meet with those involved in the marking and moderation process in advance of marking to ensure everyone understands how the processes will operate, who is responsible for which aspects of the process, and to arrive at a shared understanding of how the criteria should be applied.[139] Markers and Moderators should aim to reach a consensus regarding marks and grades if a similar chaos were to be avoided next time regarding the Ghana School of Law examination results.

14. Grading of Examination: Affirming the Principles of Consistency, Effectiveness, and Fairness

Grades have been and remain the centre point in education, which are often accepted as the final indicator of success or failure on learning.[140] Generally, the grading system is the process by which educators evaluate the performance of the student in examinations on specific standard scales which is based on the points entirely and consist of the grades.[141] After all the marking has been done, examiners set the grades. They use a mixture of statistical evidence and expert judgement to agree grade boundaries.[142] Once the grade boundaries have been agreed, they apply them to students' marks.[143]

While it is common knowledge that grading is an important part of the examination process, it is rather the fairness of it that is fundamental. Something is fair if it meets the legitimate

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365.compliance, external reporting, reporting to parents, extrinsically motivating students, organising group instruction, teacher use for individualising learning, and joint teacher-student use for individualising learning.

[138] Maddalena Taras, "Issues of Power and Equity in Two Models of Self-Assessment" (2008) 13 *Teaching in Higher Education* 1, at 90, finding that students are an integral part of the assessment process.

[139] Rosemary Hipkins and Sally Robertson, *Moderation and Teacher Learning: What Can Research Tell Us About their Interrelationships?* (Wellington: New Zealand Council for Educational Research, 2011) at 5, finding that teachers have always made judgments informally, moderation as an organised process requires making collaborative decisions to reach consensus agreement, and hence has become an important professional responsibility.

[140] Enwefa Chiekem, "Grading Practice as Valid Measures of Academic Achievement of Secondary Schools Students for National Development" (2015) 6 *Journal of Education and Practice* 26, at stating that grading policies have a direct effect on the grades that students receive, it is extremely important that schools carefully consider what practices best measures students' performance.

[141] Sadler (note 114) at 176-177.

[142] Tom Benton and Gill Elliot, "The Reliability of Setting Grade Boundaries Using Comparative Judgement (2015) 31 *Research Papers in Education* 3, at 1.

[143] Nicholas Raikes, Sara Scorey and Hannah Shiell, Grading Examinations Using Expert Judgements from a Diverse Pool of Judges (A paper presented to the 34th Annual Conference of the International Association for Educational Assessment, Cambridge, UK, September 2008) at 3, discussing how grade boundary marks are set operationally.

expectations of those affected.[144] Effective grading provides accurate information to students about their performance. The fairness of an examination can make the difference between students getting the grade they deserve and getting a grade that does not reflect their knowledge and skills. In addition to providing information on their performance, grading should be fair and consistent.[145] This means that all work should be assessed based on a defined set of criteria and that students should be treated equally. Students will work hard if they believe the grading is fair and consistent.

Grading is a complex decision-making process that requires teachers to make value judgements as to student learning, achievement, and growth.[146] Perceptions of unfairness or inconsistency can cause frustration and erode students' motivation and learning.[147] Fair grading is modelled on two fundamental principles. The first principle is that grading should be impartial and consistent. The second principle is that a fair grade should be based on the student's competence in the academic content of the course.[148] No grading criteria is perfect. But good practices can be adopted to promote consistency and fairness.[149] This includes the need for examiners to discuss grading criteria with all graders to align perspectives with the view to building greater consistency across graders to achieve fairness.[150]

Moreover, one thing that examiners must do in Ghana to cure mischief is to establish a clear grading criteria, share with the students and explain how it will be applied. If students know how they will be graded before they sit for any assessment, they are less likely to dispute the result even if they dislike their grade. Having well-established criteria will also provide support for their grade should students wish to challenge the grades. Maintaining fairness and consistent outcome also include as far as practicable the obligation to publish examiners report as to how the grading system have been applied or used post-examination.[151] This is because

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[144] Michael Gordon and Charles Fay, "The Effects of Grading and Teaching Practices on Students' Perceptions of Grading Fairness" (2010) 58 *College Teaching* 3, at 95.

[145] Ray Hull, "Fairness in Grading: Perceptions of Junior High School Students" (1980) 53 *The Clearing House* 7, at 343.

[146] Youyi Sun and Liying Cheng, "Teachers' Grading Practices: Meaning and Values Assigned" (2014) 21 *Assessment in Education: Principles, Policy and Practice* 3, at 326.

[147] Lars Owe Dahlgren, Andreas Fejes, Madeleine Abrandt-Dahlgren and Nils Trowald, "Grading Systems, Features of Assessment and Students' Approaches to Learning (2009) 14 *Teaching in Higher Education* 2, at 187, suggesting that the effects of grading systems need to be considered in order to support quality in learning.

[148] Daryl Close, Fair Grades (2009) 32 *Teaching Philosophy* 4, at 361.

[149] Joshua Kunnath, "Creating Meaningful Grades" (2017) 2 *Journal of School Administration Research and Development* 1, at 53, arguing that trades matter, and the future lives of students are in many ways dependent on teacher grading practices.

[150] Barbara Walvoord and Virginia Johnson Anderson, Effective Grading: A Tool for Learning and Assessment (San Francisco: Jossey-Bass, 1998) at 2, finding that the challenge for effective assessment is to manage the grading process.

[151] Publishing reports is important to provide transparency to stakeholders and to the wider public. Regulatory reports may provide assurance in relation to some aspects of validity. They may also highlight risks and other

examiners cannot always guarantee static criteria for grading examination and sometimes, they have to downgrade or upgrade grades to meet expectations.

As much as the grading system produces a consistent outcome, it can easily pass the credibility test. But what if the final grade is not fair? What if grades are not really true indicators of learning, success, or failure? Most grading scales in Ghana roughly reflect a 10-point-increment scale, moving down the scale.[152] This system was traditionally patterned after the British classifications scheme, but almost all universities now use variations of US-style 0-100 and A to F grading scales. University of Ghana, for example, currently uses the undergraduate grading scale where a minimum GPA of 1.0 is required for graduation in bachelor's programmes.[153] Many students and parents do not usually understand how the grading criteria works let alone understand how it is adjusted. They are given no information, and this is unfair.[154] There is no doubt that emotional reaction to unfairness was keenly felt during the recent examination in the Ghana School of Law.

An example of assumption is when students score less than 50 per cent, they know from their mark that they have failed to meet standard, and it makes sense to parents and other stakeholders. What about if a student is graded more than 50 per cent but it is still classified as failure? This examination result seems to have failed the transparency test. It came down to the final grade, which generally generated a source of anxiety for students, and truly, a source of contention among stakeholders when disagreement or confusion presented itself in regard to how the grades were determined, and perhaps most importantly, what the grade really meant and if it accurately indicated performance.

15. Conclusion

This essay seeks to place the importance of examination and testing into a broader context, by reframing key challenges regarding examination in Ghana School of Law and to propose some ideas that will make examination and testing more robust in terms of their validity, reliability and fairness. The foregoing discussion have emphasised on the importance of examination and

issues relating to validity and public confidence and provide a view on how these risks and issues are being managed by relevant responsible bodies. See Regulatory Framework for National Assessments (Ofqual/18/6354/3, March 2018) pp. 8,9,10.

[152] Percentage grading – From 0 to 100 Percent. Letter grading and variations – From A Grade to F Grade. Norm-referenced grading – Comparing students to each other usually letter grades. Pass/Fail – Using the common scale as pass/fail etc.

[153] New Grading Scheme for the Four-Year Degree Structure: Ayertey Committee Report 2010.

[154] Royce Sadler, "Beyond Feedback: Developing Student Capability in Complex Appraisal" (2010) 35 *Assessment and Evaluation in Higher Education* 5, at 547, suggesting that there remain many things that are not known about how best to design assessment events that lead to improved learning for students in higher education.

testing as an indispensable tool for measuring learning.[155] It has been shown that assessment methods and requirements have a greater influence on how and what students learn than any other single factor.[156]

While the success of every university programme depends generally on the acquisition of knowledge, specifically in the context of law schools, success is contingent on the ability of students to apply acquired knowledge and skills.[157] This application of knowledge and demonstration of skills is measured in examination and testing that ought to be valid, reliable, and fair.[158]

This is further premised on teachers ability to facilitate effective learning by engaging in a variety of activities including importantly, the use of assessment tools.[159] In law schools, the current norm is based on summative assessment or the end-of-the-semester do-or-die final exam, but the empirical evidence above regarding the subjective nature of a single final exam which is done by comparing exam answers adds to the lack of validity, reliability, and fairness.[160] In fact, the end-of-the-semester do-or-die final exam does little to help students learn and improve their performance.[161]

The outcome of examinations conducted by the Ghana School of Law in recent times have raised concerns about the general credibility or specifically the validity, fairness and reliability of the current examination and testing system. The strategy outlined in this article aims to pursue a shift towards a greater focus on improving learning outcomes, including supporting the development of the breadth of skills that allow law students to become agile, adaptive learners, equip them with skills to navigate personal, social, economic challenges. A key aspect of the solution is that the use of formative or continuous assessment based on multiple evaluations of student learning will increase the accuracy of the conclusions about student performance, improve student performance on the final examination, and heighten the range of skills, values, and knowledge that the teacher may evaluate.[162]

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[155] Sargent and Curcio (note 29) at 381.
[156] Stuckey (notes 12) at 243.
[157] Lasso (note 8) at 27.
[158] Sullivan, *et al,* (note 19) at 171, recounting that an effective assessment practice could profoundly influence how and what students learn in law school.
[159] Joseph Novak, Learning, *Creating, and Using Knowledge: Concept Maps as Facilitative Tools in Schools and Corporations* (Lawrence Erlbaum Associates Publishers,1998) at 112.
[160] Sergienko (note 21) at 468-70. Stuckey (note 12) at 260, finding that there is a greater potential for teacher error if only one summative assessment is administered per term, particularly when problem-based essay exams are used. Stuckey (note 12) at 260, noting that a single assessment produces higher levels of stress because of its significance to the student's grade in the course and future.
[161] Lasso (note 8) at 97.
[162] Hess and Friedland (note 95) 285.

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RESOURCES FOR LEGAL EDUCATION IN GHANA/AFRICA

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INTRODUCTION

In recent times, the Ghana School of Law (GSL or the School) has been popular for various reasons. Many hold the view that the system is deliberately denying prospective students access to legal education. Another school of thought asserts that the GSL has monopolized legal education but is unable to meet the current demand for legal education. Many also argue that it is time for the GSL to hand over its responsibilities to the law faculties of the universities that offer the Bachelor of Laws (LLB) programme. It is therefore imperative to critically examine the role resources play in the provision of legal education and prioritise same for the common good.

This conference has come at an opportune time and is therefore a good forum at which to brainstorm on the way forward and proffer practical solutions to the lingering challenges plaguing legal education in Ghana and Africa as a whole.

I will premise my discussion of resources for legal education on my experience as Director of Legal Education and the Ghana School of Law, which was established in 1958 by Ghana's first President, Dr. Kwame Nkrumah.

LEGISLATION

The Legal Practitioners Act of 1958 created the General Legal Council (GLC) and charged it with the responsibility of organizing legal education and among others, the immediate administration and supervision of legal education.

Currently, the Legal Profession Act, 1960 (Act 32) and the Legal Profession (Professional and Post-Call Law Course) Regulations, 2018 (L.I. 2355) as amended by L.I. 2427 govern professional legal education in Ghana.

RESOURCES

I will define Resources as everything, including materials available, which help us to satisfy our needs and wants; a source of supply, support or aid, especially one that can be readily drawn upon when needed. I will proceed to discuss institutional, human, financial, technical and infrastructural (facilities) resources.

1. HUMAN RESOURCES — TEACHING AND NON-TEACHING

The Ghana School of Law allows students with LLB degrees awarded by GLC-approved Faculties of Law to enrol for the two-year Professional Law Course. The Course is divided into two parts — PLC Part I and PLC Part II. PLC Part I covers six subjects, namely Law of Evidence, Civil Procedure, Criminal Procedure, Company & Commercial Practice, Law Practice Management & Legal Accountancy and Alternative Dispute Resolution (ADR). The PLC Part II Course includes Interpretation of Deeds & Statutes, Advocacy & Legal Ethics, Conveyancing & Drafting of Deeds & Documents and Family Law & Practice.

The GSL also admits Ghanaians and applicants from other common law jurisdictions as well as other applicants qualified to practice in a country with a system of law analogous to that of Ghana for the Post-Call Law Course, which is a one-academic-year programme (from October to June).

Subjects taught in the Post-Call Law Course are Constitutional Law of Ghana/Ghana Legal Systems & Methods, Law of Evidence, Criminal Procedure, Civil Procedure, Family Law & Practice, Law of Interpretation of Deeds & Statutes and Conveyancing & Drafting, which is non-examinable.

Talking about the courses of instruction leads me to my first resource —human resource — which I have categorized as academic and non-academic human resources.

Academic Human Resource (The Faculty)

The minimum requirement for a person to be appointed a Lecturer at a Faculty is a research based LLM degree. Once appointed a Lecturer, one is given a number of years within which to obtain a PhD.

For appointment as a Lecturer at the Ghana School of Law, the requirements are different. A minimum of ten years post-call practice with demonstrated skill and experience in that area is

required for a person to be appointed a Lecturer at the Ghana School of Law. To be appointed as a Tutorial Master, one must have a minimum of seven years at the Bar.

In addition, it is not enough to have done the requisite number of years that qualifies a person to be appointed a Lecturer or Tutorial Master. The person must have certain qualities. It is not enough to be a lawyer; one must demonstrate the ability to guide and mentor students. The Tutorial Masters must be able to take charge of their tutorial groups and ensure that each student prepares for the tutorials. The sessions should not be dominated by a few outspoken students. The Lecturer/Tutorial Master must have outstanding character.

Requirements & Qualities of a Good Lecturer/Tutorial Master

i. Requisite qualifications, experience and background.
ii. Good moral character.
iii. Firm and principled.
iv. Passionate about legal education and imparting knowledge.
v. Approachable.

Non-Academic Human Resource (The Administrative/Non-Teaching Staff)

The administrative staff provide support to Faculty and Management of the Ghana School of Law. The staff must be well trained and knowledgeable in order to provide relevant information to interested students and the public. Realizing the importance of this resource, Management of the School engaged the Quality Assurance Unit of the University of Ghana to conduct an evaluation exercise to ensure that the necessary support is provided to guarantee good learning experience for students. These staff are in the various units and departments of the GSL, which include the registry, accounts, internal audit, library, stores and procurement. They are highly skilled professionals in their respective fields. Additionally, they help to guide management in its decision-making process and are instrumental in achieving the goals of the institution.

2. INFRASTRUCTURAL RESOURCES

To ensure quality education, provision of adequate infrastructure is a prerequisite. Adequate infrastructure improves learning and teaching in a safe, secure and conducive environment. Lecture rooms, libraries and other infrastructural tools must be provided to enhance the academic performance of students.

In a bid to cater for the increasing numbers of applicants, the Ghana School of Law currently runs four campuses. These are the Accra Main, GIMPA, Kumasi and UPSA campuses. The School also had to adopt the triple track and double track systems to contain the increasing numbers.

The provision of infrastructural resources is key to the future of legal education. If adequate infrastructure is put in place, access to legal education will improve without compromising quality. In the case of the GSL, it is believed that the completion of the first phase of the Law Village project will go a long way to address the issue of expanding access to legal education.

Quality of Library Facilities

A legal training institution would be incomplete without a good library. Academic law libraries are central to law school life, providing print and digital collections, study spaces and library services. With the growth of digital resources, more legal research can be done at home, at a café or at the law library, making study spaces less important. At the same time, law students need physical space to study and collaborate and as such, study spaces are still very important.

A law library must be well-stocked with up-to-date Law Reports, standard textbooks and online resources. Creating and maintaining highly developed and innovative libraries in African law schools could make those schools models for the training of law students. In Ghana, there is only one law librarian who is also a lawyer and is currently employed by the University of Ghana School of Law.

Others

Teaching aids, course manuals (outline of subjects to assist/guide lecturers/students), instructional tools, writing materials and textbooks are resources worth funding.

3. TECHNICAL/TECHNOLOGICAL RESOURCES

Resources thus categorized include efficient information technology (IT) infrastructure and equipment such as state-of-the-art projectors for PowerPoint presentations and teaching, P.A. systems, etc. These resources have become necessary and must be among the foremost resources to consider for the future of legal education. With the onset of COVID-19, technology was used to successfully facilitate online learning and teaching.

4. FINANCIAL RESOURCES

The Ghana School of Law relies heavily on the school fees paid by students as a major source of income. The Government of Ghana pays the salaries of the full-time staff, permanent lecturers and administrative staff. The part-time lecturers are paid from the internally generated funds. Capping of Internally Generated Fund (IGF) (66% retained by GSL and 34% to Government), which is not the case in most public institutions of higher learning, impacts negatively on GSL's infrastructural development. More money must be provided for capital expenditure. For public institutions, an increase in Government funding would be invaluable. For instance, 100% retention of funds by GSL would help in the expansion of infrastructure.

CONCLUSION

Providing the relevant resources to support legal education in Ghana has been challenging because there is pressure on the few that are available. Looking to the future of legal education, I would recommend that courses be tailor-made for professionals who wish to acquire some level of legal literacy, that is, industry-specific courses. This will reduce pressure on the facilities and resources.

GSL is currently running a criminal prosecution and litigation course for the public which is oversubscribed.

There have been calls for the Professional Law Course to be transferred to the Faculties of Law of the various universities. The fact remains that whether the Professional Law Course is run at the Faculties of Law or by the GSL with improved resources (lecture halls, tutorial rooms, moot court rooms, purpose-built libraries, qualified full-time lecturers, a well-structured examination board, etc.), there is the need for adequate provision of all the resources (human, institutional, infrastructural, finance).

To address the current lack of qualified lecturers and adequate facilities, a holistic assessment of the resources of the Faculties must be considered to make an informed decision on who runs the Professional Law Course as part of the plans for the future of legal education.

It is vital that standards are maintained and not lowered due to the pressure of the sheer numbers. In Nigeria, the Law School has a student population of 6,000, with six campuses and sixty-five accredited Law Faculties. Maintaining the standards is a difficult task but this is done by a system of accreditation and re-accreditation of the Faculties of Law, in addition to a system of quota allocation depending on the standard of each Faculty. Ghana can take a cue from this system to kickstart the conversation on who should provide professional legal education. The

Government must be willing to resource the various institutions which have a role to play in this regard to ensure that they are able to deliver on their core mandate.

RESOURCES FOR LEGAL EDUCATION IN GHANA/AFRICA

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Mr. Chairman, Colleagues, Students, Distinguished Ladies and Gentlemen, though I have been invited here, I believe in my own right, permit me to extend to the organizers of this conference and participants of same warmest greetings from the Faculty of Law, University of Cape Coast. I am delighted to be given an opportunity on this platform, first to interact with and to engage colleague legal academics in Ghana and on the continent and second to record my modest, if not candid views on such an important topic as the Resources needed for Legal Education in Ghana/Africa.

As the Right Honourable Dr. Justice Binneh-Kamara of Sierra Leone echoed on the 30th of November 2021, the integrity, quality and depth of our appreciation of law and justice as a state and the governance structures of our Republics on the continent is a comprehensive functionality of the kind of legal education we administer. It is so because law provides the mechanics of the state's existence and is the principal source of the fidelity of state institutions. The interaction between right holders and duty bearers in a Republic, properly so-called, is a consequence of law.

Today, in Ghana and Africa at large, we say that legal education is at the crossroads. There is need for a clear vision articulated on a clear policy. Such a vision cannot reasonably emerge from government alone. It must come from the plurality of voices as a reflection of the multiple interactions of law subjects. In fact, necessary stakeholder consultations and inputs taking are apt. Legal education cannot be left in the hands of self-declared hegemons.

As recorded earlier by other eminent speakers, the constitutional foundation of legal education in Ghana is embedded in chapters 5 and 6 of the 1992 Constitution. While chapter 5 deals with fundamental human rights and freedoms, chapter 6 captures the directive principles of state policy. At the continental level, while these directives remained hortatory in some African constitutions including Nigeria's, they have after long, chequered judicial cheers from the 31st December Case, CIBA Case and the unanimous voice in the National Lottery Case been declared justiciable in Ghana. There is therefore no question as to the quintessence of these principles in the construction of our overall fundamental architecture of human rights and of course, justiciable rights in Ghana.

Even in Nigeria, where such principles on the face of bare constitutional provisions are taken as not justiciable, the Supreme Court of Nigeria 19 years ago in the Corruption Act Case

declared them as justiciable if specifically legislated into law by Parliament. This might not be seen as surplusage of constitutional principles or double constitutionalisation of rights, but a ray of hope, aspiration and demonstration of an active legal hand in protecting rights in these countries.

Mr. Chairman, the fundamental question on the kind of resources needed for legal education in Ghana and Africa at large is traceable to three driving forces:

(1) The history and future of legal education

(2) Teaching philosophy

(3) Regulation and governance

These three thematic forces, in their joint relevance to the topic under reference, are motivated by the following questions:

Fundamental Questions

- What are the fundamental legal values of our legal system?
- What calibre of lawyer is expected for our Republic by enforcing those fundamental legal values?
- Should legal education be taken on as a function of the objective needs of society?
- Should legal education be taken on as a reflection of the group needs of society?
- Should legal education be taken on as a response to the wishes of individuals regardless of the general needs of the society in which these individuals are found?
- What sort of law do we want for our Republic?
- What sort of role of law do we want for law and lawyers?
- What sort of education is required for this assigned role for law and lawyers?
- How might this sort of education be delivered for the achievement of this role and purpose?

Mr. Chairman, I believe that an honest answer to this set of questions will determine what kind of resources are needed for legal education in Ghana/Africa. In our priority list of things actuated by reason of the state or public reason, we should recognize where legal education is placed. If it is last on the list, any suggestion in respect of resources without recourse to our positional value on the list of priority is dead. So, the determination of the fundamental question on resources must be preceded with a holistic engagement of the stakeholders on the position of legal education on the state priority list. In addition, if this question is ceded exclusively to politicians, the answer might lack the balance of interests in the consideration. Above all, if the question is reduced to the controlled cycles of law teachers, then the interests of consumers of legal education (students and industry) might be shelved, thereby reducing the objectivity of the answer.

The Impact of Resources on the Quality of Legal Education

Infrastructural Resources: Classrooms, libraries, tutorial systems, legal clinics, moot court rooms, lighting systems, books, internet, furniture, food, accommodation, water, offices, learning commons.

Human Resources: Managers and Teachers. In this case, consider three key principles: quality of training, adequate numbers and accessibility.

Philosophical Justification

- Admission of students produces a contract between the student and the university.
- There is a promise to give a particular value to the students.
- The students have promised to pay for this value.
- Therefore, the delivery and the processes must be consistent with this contract.
- To what extent are the expectations of students met?

Questions for our Context

- What do you teach and how do you teach?
- Do you spend your time talking about your personal experiences?
- How relevant is that?
- Do you teach things that you are comfortable with or things that the contract entails?
- Do you take decisions by reference to students' reviews?

- Does the lecturer understand the classroom psychology and the sociology of the class being taught?
- Are courses assigned on the basis of expertise or mere personal preferences of teachers?
- Are the Faculty recruiting with specific reference to needs or just adding numbers?
- Are lecturers teaching strictly according to course outlines?
- What are the effects of lecturers' evaluations?
- Are findings or feedback on students' evaluations determinant of a lecturer's continuance at post?

Note that the human resource question entailed the judiciary. One of the sources of law engaged by the students and consumed by the people of a state is judge-made law. Is the quality of the Bench apt? Are judgments well written, reasoned through and conclusions reached and supported by thorough analysis? Are we able to communicate frankly to judges about the quality of their work? To what extent is the quality of law graduates a function of the quality of law teachers and the Bench? Are these two well-resourced for their work?

Salary and Conditions: How are lecturers paid? What conditions exist? Why should a person who is one year at the Bar be paid over GH₵9000 when engaged by the Attorney-General and then a lecturer with a Ph.D. and 20 years at the Bar be paid less than GH₵9000 as a lecturer? The rebuttal that such is the choice of the lecturer is reactionary. Who should teach and produce personnel for the Attorney-General?

Legislation: Sufficiency of the science of legislation. The authority of law on legal education is only defensible if it reflects the collective aspirations of the state. It must be guided by history but cannot be prosecuted with a mindset that is locked up in dated propositions and abandoned contexts. In other words, the law on legal education cannot be reasonably anchored on the context and attitude of our ancestors.

Put differently, the law on legal education and its philosophy must not be left behind the present, compelling collective aspirations of our society. Do we have surveys on this, or we are just talking and being inspired by contextless words, ideas and phrases? What is the social data deployed and relied upon by the legislator on legal education? What is the data from industry on our current century that will feed a memorandum for a bill on legal education?

Legal History

- The Supreme Court Ordinance, 1853
- Supreme Court Ordinance, 1876
- The Legal Practitioners Ordinance, 1931 (CAP 9) – Establish a system of legal education.
- The Legal Practitioners Act, 1958 (Act 22) – section 12
- The Legal Profession Act, 1960 (Act 32) – section 13

Funding: Does the state adequately invest in legal education? What was the population of Ghana in 1958 when the Ghana School of Law was set up? Have we looked at the present population and attempted any expansion of the space at the School of Law to match? Why should Government and the stakeholders in legal education think that it is reasonably justified to broaden the space at the faculty level and shrink the corresponding space at the School of Law?

Subjects Collaboration: Is the conversation on legal education one of monologue or one of plurality; that is, with all necessary stakeholders on board? Is legal education of public good as provided for in the Constitution? How are public goods distributed in the country?

Governance and Regulation

Philosophical Justification

- Law is the instrument of critical thinking.
- Law is the vehicle of justice.
- Law is an embodiment of rights and duties.
- Law is an aggregation of society's moral principles.
- Law is a reflection of public interest and public reason.
- Law is the basis for limited authority and distinguishes naked power from the legal authority of the state and the government of the Republic.
- The appropriate laws or pieces of legislation are ineluctably part of the buckeye of the resources needed for a successful legal education in a state.

Questions for our Specific Context

- Is management of legal education in the hands of hegemons or is the relevance of a section of the subjects of legal education statutorily imposed on us?
- How close or open is management of legal education?
- Is there some appreciable level of transparency in management?
- Have we strengthened our ethical standards in the delivery of legal education?
  - How have we dealt with protocol admissions?
  - Is the issue of sex for grades real? Are there any findings from credible research or survey? What were the outcomes?
  - To what extent are lecturers able to alienate ethnic and political origins from their dealings with students?
  - Have we considered the dilemma associated with the entrance exams, where the setting of exam questions, formulation of marking schemes and marking of exam scripts are done by different people?
  - Do parents call lecturers to complain about the poor grades of their wards?

To conclude, the question about resources for legal education in Ghana is also about the environment necessary for said legal education to thrive. This environment is a fusion of multiple things that must healthily interact. I dare say that there is an element of indivisibility or interrelatedness of these things. But I must say that we are at the crossroads with legal education in Ghana due to the absence of a legal academy, resulting in little improvement in teaching and research standards. This has pulverized an honest and comprehensive national discourse on law, rights, justice and above all, legal education.

FINANCIAL RESOURCES FOR LEGAL EDUCATION IN GHANA/AFRICA

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INTRODUCTION

We just heard my fellow Panellists discuss the various resources that are required for a 21st century legal education. On Day 1, we heard about the imperativeness of policy for legal education, which will provide, by and large, the roadmap for bringing to life the sort of legal education we hope for. A comprehensive policy thus sets a stage for its actualization.

Actualization of a viable policy for legal education should ordinarily begin with a proper curriculum and the methodology for its delivery. On that, we all heard the voices of experts on Day 3 of this Conference. With the right policy and curriculum for its implementation comes the resources needed to turn policy and curriculum into developmental tools. My co-panellists have articulated the requisite resources. What is left are the financial resources which are vital to all the efforts put into this conference.

So, I ask the question, what sort of financial resources do we need to achieve a desired legal education, one that can transform and develop the capacities of law students with substantial accretion of value to every stage of the value-chain (or eco-system) of legal education? Why do we need to create awareness about financial resources? Simply, all the resources identified earlier must be funded.

1. GOVERNMENT SUBVENTION

The overall superintendent of education in any country is the Government. It should not matter whether Government owns schools or not, since education and its quality determine the level of development of a country and its capacity to cope with the challenges it faces. If Government owns schools, it must fund them. For schools owned by private persons, Government must provide the level of investment in resources that is acceptable for ensuring qualitative education.

Looking at the expenditure on education as a percentage of Government spending in Africa in 2018, Ghana stood at No. 13 with 18.60%, while Sierra Leone (32.47%), Burkina Faso (22.66%) and Togo (21.77%) occupied the first three positions.

In the same year, spending on education as a percentage of GDP put Ghana at No. 18 in Africa with 3. 99%, while Lesotho (6.99%), Sierra Leone (6.99%) and South Africa (6.1%) occupied the first three positions in that order. In 2020, this increased to 6% of the GDP and GH₵13.3 billion was approved for the education sector.

Under chapter 5, Article 25 of the 1992 Constitution of Ghana (as amended), Educational Rights are fundamental rights.

By clause (1), all persons shall have the right to ***equal educational opportunities and facilities,*** with a view to achieving the full realization of that right.

- Higher education **shall be made equally accessible to all, on the basis of capacity, by every appropriate means,** and in particular, by progressive introduction of free education.

- This provision, therefore, identifies the Government of Ghana as a Constitutional financial resource for higher education.

- This implies that the Government must devote adequate financial resources to the provision of the resources needed for the enjoyment of those rights. Educational rights are what they are. Consequently, these rights are justiciable (or enforceable). This is where some activism by relevant stakeholders may be needed to push for the enforcement of these rights.

- Any Government often devotes a percentage of its annual budget to education. The issue, however, is what amount is a Government ready to invest in education, considering the fact that education competes with other equally important government obligations.

- Ultimately, it will come down to how a Government prioritises education in relation to its social, political and economic developments, given the nexus between quality education and human capacity development.

Article 2 of the 1992 Constitution of Ghana provides an interesting dimension. It focuses on the modality for the enforcement of rights under the Constitution—where an action may be taken, the sort of order the Supreme Court may make and the consequences for disobeying the order(s) and directives given by the Supreme Court. It will take rigorous activism by stakeholders to enable the Supreme Court to skirt the strictures of the education rights established under Article 25 of the Constitution.

2. SPECIAL EDUCATION FUND

Ghana has the Ghana Education Trust Fund (GETFund), which was established by the Ghana Education Trust Fund Act, 2000 and amended in 2018. The Act imposed a levy of $2^1/_2$ % on

- supply of goods or services made in the country (other than exempt goods or services); and
- import of goods or services other than exempt imports.

It is calculated on the value of the taxable supply of goods and services and the value of imports of goods and services.

While this is a great financial resource for education in Ghana, the Fund is utilized for all levels of education. As a result, higher education will compete with other levels of education in fund utilization and allocation. The allocation or sharing policy of the Fund does not seem to be clear.

In contrast, Nigeria now has the Tertiary Education Trust Fund (TETFUND) specifically for tertiary education, established by the Act of the National Assembly in 2000. In its 2019 Report, 87 Universities, 65 Polytechnics and 71 Colleges of Education (all public institutions) benefitted from the Fund.

- The source of funds for the Fund is 2% of the Assessable Profits of all companies registered in Nigeria, who are liable to pay income tax under the Companies Income Tax Act and the Petroleum Profit Tax Act.
- In its 2019 Annual Report, the TETFUND received a total sum of ₦221,304,417,947.59.
- From 2011 to 2019, the Fund had received a total sum of ₦1.702 trillion.
- A Board of Trustees was created to ensure that the management and application of the Fund is consistent with its statutory mandates, which include:
    - Essential physical infrastructure for teaching and learning;
    - Institutional material and equipment;
    - Research and publications;
    - Academic staff training and development; and

    - Any other need which, in the opinion of the Board of Trustees, is critical and essential for the improvement and maintenance of standards in the higher educational institutions.

- All the above intervention areas are regularly funded, especially physical infrastructure, staff training and development, conference attendance, library intervention, information and communication technology, academic research journals, publication of manuscripts as books, etc.

Perhaps, Ghana may consider creating a special trust fund specifically for tertiary education to maximize the impact on the development of legal education.

3. ALUMNI DONATIONS

While diverse donors make contributions to Universities, a core contributor (donor) to Universities are alumni.

Records show that, in 2018, alumni contributed US$ 12.15 billion or 26% of the US$ 46.73 billion raised by U.S. Colleges and Universities. This amounted to an 8.6% increase in the figure recorded in 2017.

At the heart of the success recorded in alumni contributions is the innovation in establishing contact with alumni and maintaining those relationships.

It is imperative to invest in ICT and deploy it in keeping in touch with University alumni. The alumni office must be creative and approach this as a project with target achievements.

What is the alumni culture among institutions in Ghana? Are the alumni contributions a factor? Can we make it a factor in our drive to tap into the financial resources available to Universities?

4. TUITION

Tuition represents the bulk of revenue for the University for planning, administration and for the provision of infrastructure needed for qualitative education.

The issue of tuition or the right tuition is a sensitive one, especially in public institutions. It often has political coloration, particularly in the formulation of policies and the determination of the amount of tuition to be paid.

However, to serve its purposes, tuition must be properly priced. Pricing must be based on a needs assessment of what is required to operate a 21st century University. In essence, the needs must include the resources my co-panellists discussed in their presentations; tuition must cover costs.

If the tuition fails to reflect needs and is not cost-reflective, education, particularly legal education cannot be qualitative. If it is, it is either that Government adequately funds it or the subsidy is from another source. I have always seen academics as those who subsidise education in Africa. Despite their capabilities, they are poorly paid. Yet, they remain to develop human capacity because of their passion for academics.

However, this sort of subsidy may be unnecessary if the education policy has adequately articulated a funding policy, especially one that is linked with students' loans.

- A robust students' loan regime will allow the Universities to receive the right amounts of funds required for infrastructural projects, operations, facilities and maintenance.

- An allied issue is the concern of loan recovery. Here, sensitization of the student population is pertinent. Government's investment in a recovery methodology is desirable.

- I do not know what pertains in Ghana. In Nigeria, however, there is a system of accounts verification with banks under which all bank account holders are required to have a Bank Verification Number (BVN). Each account holder has the same BVN for all his or her accounts. This allows Government to trace or track the earnings of all account holders, in the event that such information becomes necessary or desirable.

- When loans are disbursed, a BVN system will enable the Government to monitor income-earning graduates who choose to default after school. Unfortunately, this is not deployed for tuition-loan recovery purposes in Nigeria as federal tertiary institutions are largely free, with a small sum paid for registration.

5. RESEARCH GRANTS

Research Grants are financial resources available to tertiary institutions. Universities should therefore transition from being strictly academic to research institutions. Writing research proposals that can attract grants requires special capacity for grant writing. It requires a new

awareness that research is meant to add value to society and to place the institution on a pedestal of global recognition. Above all, it helps Government to formulate viable policies for development. The art of writing winning research proposals can be learned.

It is worthy of note that research grants:

- provide a source of earnings for the grant awardees;
- motivate academic excellence;
- add value to society, since they are often focused on solving problems or calling attention to problem areas that need intervention but are often overlooked.

To be successful at winning research grants, Universities must set up the right institutions to promote research grant writing to secure grants from donors around the world who are willing to aid research within their areas of focus.

Doing so may require the setting up of a Research and Innovation Office under a director with administrative support, who may create a research writing culture and nurture it to enviable heights.

Grant writing, for the avoidance of doubt, is not limited to the sciences. It extends to the humanities, where law belongs.

The University of Lagos is neck-deep in research grant writing, with the requisite administrative structure and personnel in place. In the last three years, the University has attracted over ₦15 billion in research grants.

6. INTERNALLY GENERATED REVENUES

Universities are institutions of learning. They develop human capacity. In doing so, they must be attentive to the relevant needs of society, business and industry. Building human capacity is multi-facetted. Universities must be creative in order to generate money for the services it may provide.

It is therefore left to individual universities to look inward and create value for society through training programmes such as certificate or diploma programmes that target markets will pay for.

The police, customs, immigrations and other law enforcement bodies need re-orientation on the work they do in the context of the Constitution and extant laws. Who better to train them

in all relevant aspects of their work than the universities? Civil Society Organizations also need training.

Moreover, Universities, especially the University of Ghana, may create a Human Resource Development Centre (HRDC) as a body to anchor programmes being contemplated here for a fee. There are many private organizations that may want to partner with such a body for training. A percentage of the funds generated will come to the University as income.

7. ENDOWMENTS

Endowment is a veritable financial resource for universities. Endowment of Chairs, which may be for a tenure or in perpetuity, helps to promote focused research in the subject area of the Chair endowed. It also helps to build capacity of the occupier of the Chair.

Endowment may take the form of prize endowment. Usually, the lower limit of the amount to endow is fixed and invested so it can cover the award of prizes to winners. This often promotes healthy competition among students and is equally good for capacity development.

8. DONOR AGENCIES

Donor agencies make tangible contributions to education. It was reported that of the GH₵13.3 billion (US$2.4billion) education sector budget for 2020, donor support constituted GH₵911 million (US$163 million).

Of course, donors' contributions are tied to results, transparency in application of funds in the achievement of stated objectives and the provision of reports on application of funds.

THANK YOU.

Policy Briefs

SUMMARY OF KEY ISSUES AND RECOMMENDATIONS

OF THE CONFERENCE FOR THE ATTENTION OF

HIS EXCELLENCY, THE PRESIDENT,

THE RIGHT HONOURABLE SPEAKER OF PARLIAMENT,

HIS LORDSHIP THE CHIEF JUSTICE AND

THE HONOURABLE MINISTER FOR JUSTICE AND ATTORNEY-GENERAL

Revamp of the Policy Framework of Legal Education and the Legal Profession Act, 1960 (Act 32).

Running through the Conference was the recurring doubt that the current policy framework of legal education could endure and deliver on the requirements of contemporary legal training. As His Excellency the President put it, and to paraphrase, Ghana's legal education setup is at the point where supporting systems ought to be modified and shaped in a way that responds to 21st century Ghanaian needs. Quite simply, the lively debates that ensued at the Conference could be re-framed in terms of the following five sets of inter-related and overlapping questions:

1) What is required of the discipline of law in Contemporary Africa?

   a) What sort of law do we want for our Republic?

   b) What are and should be the fundamental legal values of a modern Ghanaian legal system?

   c) What is the expected role of lawyers in bringing those values to fruition?

   d) Should legal education be taken on as a reflection of the group needs of society?

   e) Should legal education be taken on as a response to the wishes of individuals regardless of the general needs of the society in which these individuals are found?

2) What do graduates of the institutions of legal education and legal training do and what should be their role in modern Ghanaian society?

   a) What sort of role of law and graduates of law faculties and law schools do we want in Ghana's development agenda?

   b) What sort of education is required for this assigned role for law and graduates of law faculties and law schools?

c) How might this sort of education be delivered for the achievement of this role?

3) What should be taught at the institutions of legal education and legal training to equip the products of the institutions of legal education and legal training for their role in society?

a) What should be the curricula of such institutions?

i) What subjects and fields of law should be taught?

ii) Should the scope of courses taught at the law schools be limited to black lettered law and traditional doctrines of law that prepare law school graduates for litigation and traditional solicitor's work?

iii) What other non-law disciplines should be taught?

iv) What should be the place of clinical legal education?

v) What should be the place of pro bono work in the practical aspects of legal education?

vi) What is the capacity of African law faculties and law schools to provide clinical facilities for practical and professional training?

vii) Are African systems of legal education instilling a sense of personal integrity in their students, and if so, how does this manifest itself in society and public life among their alumni?

viii) What should be the attributes and values of the law student in the 21st century and should these attributes be incorporated into law teaching and curricula?

b) Who should determine the curricula of the institutions of legal education and legal training?

c) In what manner should the curricula of such institutions be determined and regulated?

i) Should the course content and curricula of law faculties be standardized?

ii) If so, how should the course content and curricula of law faculties be standardized and regulated?

4) What re-design of the structures and institutions of legal education and legal training is fit-for-purpose in modern Ghanaian Society and for Africa's development?

a) What should be the role of legal education and African law schools and law faculties?

b) Are African law schools and law faculties capable of handling the challenges of the 21st century?

c) Is the current bifurcated system of legal education in Ghana fit-for-purpose in light of the above issues?

i) Should the law school continue to have monopoly over vocational/professional training?

ii) Are Ghanaian law faculties well equipped with the human, soft and hard infrastructural resources to take up the vocational training of law students?

d) What appropriate regulatory structures should be put in place?

i) How should the regulatory dualism between the Ghana Tertiary Education Commission and the General Legal Council (GLC) be streamlined?

ii) Should the regulators of legal education be educators as well?

iii) What should be the role of the Bar in legal education in Ghana, both in terms of regulation and other aspects such as professional training and clinical legal education?

iv) What is a fit-for-purpose modern accreditation system for institutions of legal education and legal training?

v) How should the accreditation system be operated?

vi) What quality control measures should be put in place for same?

vii) How should such measures be monitored and evaluated?

viii) What sanctions should accompany the accreditation system and quality control?

5) What resources are required to create a conducive environment for quality legal education in Ghana, including good teaching and good learning experiences?

a) How should the state incentivize the Ghanaian law teacher?

b) What should be the sources of funding for legal education?

c) What are the infrastructural requirements for legal education in Ghana, both physical and soft infrastructure?

Put differently, the speakers, panellists, and participants at the Conference were all agreed that these issues cannot be addressed comprehensively without radical reform to the 60-year-plus Legal Profession Act that regulates legal education in Ghana. The Conference participants were not shy about the daunting challenges of institutional reform that the path of radical change appeared to them to entail. In particular, what the "radical reform" path seemed to them to demand, as a matter of institutional reform, is a devilishly tricky combination of making institutions of legal education and legal training more open and accessible, and at the same time more well-regulated with appropriate quality controls.

While there was some cleavage among participants about the continuing relevance of the bifurcated system of legal education, generally, the Conference idea here was to overcome the current artificial barrier to the Law School through a gradual and incremental process of equipping law faculties with the needed resources to run the Law School programme, while re-constituting the Law School into some kind of certifying and examination body — tricky but hardly unprecedented. This approach is similar to that which pertains in many jurisdictions, including all States in the US. It is not an entirely new approach opened up to Ghanaian policymakers. It has been a viable option right from the conception of legal education in 1958; a point well echoed in the historical reflections on legal education in Ghana by Nana Dr. S.K.B. Asante at the Conference.

Citing John Harrington and Ambreena Manji, the renowned scholar, who was himself involved in the administration of UGSoL in its formative years as the Acting Head of the then Department of Law in 1962, recalled the competing philosophies of education that informed Ghana's bifurcated system and underpinned the establishment of two institutions of legal education in 1958. On the one hand, the Law School was motivated by Nkrumah's Attorney-General Geoffrey Bing's instrumentalist idea of quickly training as many Ghanaians as possible to provide the needed legal services that could advance the cause of development of the new independent Ghana. That instrumentalist idea was to be achieved through a compressed three-year diploma programme that would eliminate the cost and need for Ghanaian students to travel to London to study at the Inns of Court and to prepare them for Parts I and II of the English Bar examination.

The then Law Department at Legon (UGSoL), on the other hand, was informed by a different conception of lawyering that rejected Bing's idea of rapid supply of lawyers for the post-colonial Ghanaian state and its purely instrumentalist underlying assumption that law was merely a tool of national development subject to government direction. Quite contrary, the early deans of UGSoL, particularly Dean William Burnett Harvey, emphasized the critical importance of a liberal and humanistic educational background for lawyers. With his view of lawyers as not merely skilled craftsmen manipulating a technique for social ordering, Dean Harvey robustly advocated for a broad and liberal education of the Ghanaian law student, which form of education could be undervalued by the abbreviated training offered at the Law School and was possible only through a rigorous university degree.

Harvey found support in the work of the tripartite committee of Arthur Sutherland from the US, Zelman Cowen from Australia, and the venerable LCB Gower from the UK, which committee was convened by Bing as an International Advisory Board to advise on the course of legal education in Ghana. Harvey accordingly proposed the abolishment of the Law School, and with it the provision of separate vocational training in legal practice. Under that proposal, both vocational training and academic offerings would be delivered by UGSoL, as was and is

still the case in the US. Harvey's proposal was accepted by the GLC, but it did not survive his deportation in 1964 and its implementation ultimately did not see the light of day.

Today, both instrumentalist and humanistic conceptions of legal education can find expression in the revised and popular thinking to allow law faculties to run the vocational training programme; particularly so, considering that in their post-first degree LL.B. offerings, law is now offered to Ghanaians from various disciplines who routinely employ their legal education in diverse ways, beyond traditional litigation and traditional solicitor's work, similar to Bing's conception of the role of lawyers in Ghanaian society. However, as was generally asserted throughout the Conference, revisiting this early blueprint by Harvey will involve compromises among proponents of this view, the law faculties, the Law School, the GLC and other stakeholders.

In practical terms:

1) It would for instance involve putting in place a robust accreditation system that would imply that not all law faculties may be licensed to run the vocational training programme, at least in the short to medium term.

2) It would require some concessions by the GLC; at the very minimum, concessions in its current composition to reflect a greater representation of legal academy.

3) It would demand the willingness of the GLC and the Law School to transform the Board of Legal Education into a sharply different body from its current constitution, with a mandate along the lines of the very powerful New York Board of Legal Examiners, for instance.

4) It calls for the recognition and organization of law faculties into a body similar to the Association of American Law Schools for self-introspection and self-regulation, not to replace but to complement the work of the GLC.

5) All of the above would depend on heavy financial investments from government and the private sector in legal education.

KEY POINTS OF ACTION FOR CONSIDERATION

Engaging the Conference of Law Deans (COLD) on the New Legal Profession Bill and the Organisation of Legal Education

Despite the possible difficulties that lie ahead, this path of reform of legal education is indeed a big potential, if not a certainty. As His Excellency rightly pointed out at the Conference, our legal education is not totally in tatters in spite of the challenges enumerated above. The country continues to be gifted with responsible law deans, state officials, policy makers, Bar and Bench who remain committed to seizing the moment and comprehensively addressing the issues.

In light of all the above, prior to the Conference, in October 2021, the Deans of Law Faculties in Ghana and the Director of Legal Education convened in Aburi in the Eastern Region to formally establish the Conference of Law Deans (COLD) as the permanent platform of engagement for all Law Deans from Ghana's universities and the Director of Legal Education from the Ghana School of Law. Following the Conference, COLD met for a second time in mid-February 2022 to deliberate and commence actions on the key takeaways from the Conference debates.

In particular, eight different Committees of COLD are working to synthesize views and develop proposals to engage the Honourable Attorney-General and the General Legal Council on:

1) A comprehensive Legal Profession Bill, 2021.

2) Rules for the Recognition of Law Faculties.

3) Standardizing Law School Curriculum, Teaching Methodologies and Modes of Assessment.

4) Improving and updating Teaching Monographs and Course Compilations.

5) Academic Quality Assurance.

6) The problems relating to the Law School Entrance Examinations and the continuing relevance or otherwise of the complete bifurcation between theoretical and substantive legal education (LL.B. at the Law Faculties) and professional training (QCL at the Ghana School of Law).

7) The Conditions of Service for Law Teachers.

8) The institutional structures of the newly proposed Ghana Congress of Legal Academy to bring together law faculties, law deans, law teachers, law school administrators and librarians and law students to routinely deliberate on issues concerning legal education in Ghana.

Initiating the Processes for the Amendment of the Legal Services Act to Peg the Conditions of Service of All Law Teachers in Public Universities and the Ghana School of Law to those of the Legal Service

The processes for the reform of legal education will deeply benefit from a direction from His Excellency to the Minister for Justice and Attorney-General to engage COLD on the different sets of draft proposals and to facilitate engagements between COLD and the GLC.

Respectfully, in the tripartite relationship of the Bench, Bar and Legal Academy in Ghana's legal system, it appears that members of the Legal Academy have been left behind in terms of appropriate conditions of service for the legal fraternity in the Public Service. While section 5 of the Legal Services Act pegs the salaries and benefits attached to posts in the Legal Service to corresponding posts in the Judiciary and the Judicial Service requiring equivalent professional experience, to their disadvantage, no such equivalencies have been drawn between the handful of lawyers who opt for academic careers in the public universities and the Law School and their mates in the Legal Service and the Judicial Service.

To address the situation, COLD strongly recommends the amendment of the Legal Services Act to peg the conditions of service of all law teachers in public universities and the Law School to those of the Bench using the following equivalencies:

1) Assistant Lecturer, Magistrate.
2) Lecturer, Circuit Court.
3) Senior Lecturer, High Court.
4) Associate Professor, Court of Appeal.
5) Professor, Supreme Court.

His Excellency's direction to the Minister for Justice and Attorney-General to initiate the legislative processes for the amendment of the Legal Services Act in terms of the above proposal would be very helpful in addressing the poor conditions of service for members of the Legal Academy.

Possible Roadmap for Transferring Vocational Training to the Law Faculties

The processes for the reform of legal education in Ghana will deeply benefit from a formal recognition of the Conference of Law Deans (COLD) by Parliament.

COLD is currently finalizing the following three-step roadmap for transferring the vocational training component of legal education to the law faculties.

1) **In the short-term (3 years)**, use the roadmap and the proposal to engage and collaborate with the General Legal Council and the Independent Examinations Committee (IEC) to:

   a) standardize curricula and law teaching for Faculties,

   b) sanitize the entrance examinations system, and

   c) introduce the completion of one-year compulsory National Service by all LL.B. graduates from the law faculties to serve as a buffer to manage the numbers.

2) **In the medium-term (3-5 years)**, move all theoretical and substantive courses from the Ghana School of Law to the Faculties, extend the LL.B. degree by one year, and institute a one-year programme at the Ghana School of Law for only the remaining six core practice courses:

   a) Civil Procedure,

   b) Criminal Procedure,

   c) Conveyancing and Drafting,

   d) Advocacy and Legal Ethics,

   e) Law Practice Management and Legal Accounting, and

   f) Evidence.

3) **In the long-term (5-7 years)**, amalgamate the LL.B. and the QCL under a new programme:

   a) Move all the six practice courses to select law faculties.

   b) The Faculties will assume full instruction for theoretical, substantive and practice courses under the new merged LL.B. and QCL programme.

   c) Introduce a common Exit/Bar Examination for all LL.B. graduates at the Faculties.

   d) The GLC will manage and administer the common Exit/Bar Examinations.

Development of New Legal Curricula

The need to re-imagine and expand the traditional offerings of law faculties and the Law School was one more theme that resonated among almost all presentations by the Conference speakers and panellists. For instance, Nana Dr. S.K.B. Asante drew attention to Prof. Justice Date-Bah's call for law faculties to include comparative law in their curricula. Nana Asante himself opined that with Africa's economies largely based on natural resources, every system of legal education on the continent, including Ghana's, should incorporate the study of at least the structure of mining and petroleum agreements.

On her part, Ms. Isabel Boaten, the Managing Partner at A.B. & David and a lecturer at the Law School, pointed to trends in globalization, competition, technology and the African Continental Free Trade Agreement as factors that should trigger the development of new courses, especially law and technology-based courses such as Artificial Intelligence. She further emphasized that for the Ghanaian lawyer to be internationally competitive, the law student must acquire not only legal skills but also a remarkable complement of commercial and managerial acumen, an entrepreneurial mindset, and an understanding of diverse sectors of the Ghanaian political economy. The faculty needed to produce this calibre of lawyer will be one with continuous professional development for faculty members, which will include training in teaching methodologies.

Ms. Boaten's views were congruent with the presentation by Prof. Cynthia Forson, the Deputy Provost of Lancaster University. The Deputy Provost reiterated that with the advent of information technology and rapid globalization, the term 'legal education' is more complex than the mere teaching and learning of law. It connects to history, the economy, politics, society, culture and jurisprudence, making it a multidisciplinary ecosystem that should be designed and structured to contribute to national development while remaining adaptable to the evolving needs of society. She accordingly bemoaned the absence of courses and seminars in the fields of law and development, law and poverty, and law and society from the extant curricula of the law faculties.

On a related note, Ms. Victoria Barth, the Managing Partner at Okudzeto and Associates and a lecturer at the Law School, underscored that the learning of legal ethics is a lifelong process, but bemoaned the fact that the treatment of the field in Ghana has been reduced to rote learning of professional codes and rules. She called for a clinical approach to teaching ethics that could bring students into contact with real clients and real-life situations to give them the experience of the tension of having to make ethical decisions in difficult circumstances. Rather than the current approach to treating ethics as part of a twin course in the final year of the Law School, and with only two (2) out of twenty-four (24) weeks dedicated to the course, Ms. Barth advocated for the early introduction of students to the subject at lower levels of the LL.B. programme, both as a standalone course and as part of all other legal practice courses.

Ms. Barth's emphasis on the importance of clinical and other practical aspects of legal education aligned very much with the presentations by Prof. Kwadwo Appiagyei-Atua and Dr. Benjamin Kunbuor. The speeches of other Conference panellists including Mr. Ace Ankomah and the international experiences shared by Hon. Justice Dr. Abou B.M. Binneh-Kamara (Justice of Sierra Leones's Superior Court of Judicature and Dean of the Faculty of Law, Fourah Bay College, University of Sierra Leone), Professor Anthony Diala (Director, Centre for Legal Integration in Africa, South Africa), Professor Olaolu Opadere (Dean of the Faculty of Law, University of Gambia) and Professor Ige Bolodeoku (Dean of the Faculty of Law,

University of Lagos, Nigeria) all highlighted the general theme of the need to re-imagine what is taught in law faculties and the Law School. Altogether, the Conference presentations pronounced the exigency of a new legacy for the 1958 bifurcated system of legal education.

Legal education is in crisis partly because in spite of the rise of the administrative-regulatory Ghanaian state, its new modes of governance, its conception of law to de-emphasize judge-made law and its impact of re-defining the Ghana legal system, legal education in the country is still very much deeply steeped in the 1958 bifurcated system. Even with all the modifications over time, the original 1958 design essentially conceived law as common law or judge-made law. At least two problems emerge from this conception. The first is one of a curriculum problem. Because law is equated to common law, influenced heavily by the Anglo-American tradition, the curriculum for law teaching in Ghana is primarily designed around a set of mandatory courses devoted to different bodies of common law doctrine.

However, as hinted above, Ghana's 1992 Constitution has a number of unique and novel provisions unprecedented in Ghanaian constitutional history; one could make mention of the new dimensions on human rights, the policy objectives in the Directive Principles of State Policy and the underlying developmental thrust of the constitution. As the Constitution Review Commission described it, Ghana's constitutional architecture reflects a movement from a 'Political Constitution' to a 'Development Constitution'. The import of the new constitutional shift and the huge governmental apparatus it has spawned to concretize that developmental focus requires the training of new lawpersons and legal resources. Indeed, lawyers constitute a critical component of such legal personnel, but to concretize the development thrust of the Constitution, it is equally important to broaden the availability of legal training and legal resources beyond lawyers to the following:

1) The relevant core of non-lawyers in the public service to capacitate the administrative-regulatory state. This would ensure the kind of legal training and facilitation that would enable public officers to engage with the intricacies of their respective fields and conduct the kind of policy analysis that would address the challenges in those fields and guarantee better service delivery to the citizenry. It is in a similar sense that Nana Dr. S.K.B. Asante called for the training of the law student in at least the structure of mining and petroleum agreements because of Ghana's extractive-based economy.

2) The critical mass of Ghanaians in broader segments of society. This would capacitate civil society and ordinary Ghanaians to actively engage in democratic governance. Such engagement should be both in terms of activism against the state when it infringes the rights and entitlements of the citizenry, and also in activities that are collaborative with the administrative state. This is necessary to improve state capacity to deliver services to the citizenry, and to generally develop preferential and intelligent policies and developmental and livelihood options for Ghanaians in the twenty-first century.

To illustrate this with one example, under the decentralization framework of the Constitution, large amounts of financial resources are transferred to the local level for the provision of goods and services. Contracts involving large sums of money are awarded at that level. Most of the district assemblies do not have lawyers to ensure that these contracts meet the minimum legal requirements and accountability. As the evidence in many reports of the Auditor-General reveal, most of these financial resources are either misappropriated, misapplied or do not return

value for money. Local level development dynamics require legal resources and lawpersons (lawyers and non-lawyers such as development officers) to be trained in community-lawyering, grassroots and social mobilization strategies, law and development and compliance management, to list a few. This form of training, though highly developed in some jurisdictions, has not been part of mainstream legal education in Ghana.

The example outlined above is not peculiar to the imperatives of the decentralized development paradigm envisaged by the Constitution. It is representative of broad trends under the current constitutional dispensation, including the multiple fields and subfields of legal studies (such as health law and cyber law) that the huge Ghanaian governmental apparatus has generated. It is in this sense that in her presentation at the Conference, Ms. Forson advocated for the reform of legal education to expose students to the social and professional realities of their environment. As Nana Dr. S.K.B. Asante put it, the concept of legal practice in the modern era is wider than is usually imagined, and such broad scope of legal practice must inform the curricula of law faculties. As he argued, it is not sufficient to justify the status quo on the basis that the graduates are expected to practise law. The practise of law itself should be examined as to its scope. Equally important, however, is the role of lawyers in society which cannot be characterised as legal practice *stricto sensu*.

As was the case for all issues debated at the Conference, there was a cautionary tale. In her closing remarks, Her Ladyship Justice Prof. H.J.A.N. Mensa-Bonsu cautioned that the competence in the functioning of existing law and doctrines of law should not be overlooked or underplayed as we soar into speculative realms and deal with possibilities that fertile minds can conjure, but which may have no immediate practical application. Her Ladyship, a former Dean of UGSoL, noted that the average person looks to the law for the here-and-now solutions to issues confronting them, but unless the boundaries of law are continuously examined, explored and tested, new and emerging situations would overwhelm the system.

New Law Teaching Methodologies

Inseparable from the foregoing curriculum problem is the issue relating to teaching methodologies, which is the second problem emerging from how the 1958 bifurcated system conceived law as common law or judge-made law. The rise of the administrative-regulatory Ghanaian state has not simply changed the content and conception of law; it has significantly redefined the identity of the lawmaker from the judge to the parliamentarian. Even more significant are the multiple governing boards and officials of state agencies who interact with ordinary people and implement and interpret enactments by Parliament and their subsidiary legislation on a daily basis to affect lives and livelihoods. Such public officers do not just interpret laws. By their delegated authority, they churn out even greater volumes of rules, standards, instructions, directives, and guidelines that affect the rights of ordinary Ghanaians. Yet, law teaching methodologies in Ghana today primarily privilege the case method approach pioneered by Christopher Columbus Langdell, Dean of Harvard Law School from 1870 to 1895, and introduced in Ghana by Dean Harvey of the UGSoL when he took over the deanship of Legon in 1962.

In their very first week of law school, the first-year law students are taught to think like lawyers. Thinking like lawyers means common law reasoning which essentially uses judicial decisions to exemplify principles of law to be applied to resolve any legal issue. In line with the experience shared by Prof. Ernest Kofi Abotsi (Dean of the School of Law, University of Professional Studies, Accra), this approach hierarchically places the law teacher as the central authority in the classroom, arousing fear and intimidation and demanding that students come to class having read the cases and ready to be called upon without notice to answer probing questions about the case. The role of the teacher is to prepare a body of working materials, possibly organized into a casebook containing excerpts of court decisions, to guide students to sharpen their skills. Prominently, first-year students are immediately inducted into the routine of:

1) consulting cases as the primary source of legal authority;

2) deciphering and retaining large volumes of legal principles and rules of law organized into specific areas of law;

3) issue spotting — identifying the different ways in which the principles and rules are ambiguous, in conflict, or have gaps when applied to particular fact situations;

4) looking out for and comparing issues and fact situations with similar legal problems that have arisen in the past;

5) generating holdings from cases; and

6) applying principles, rules and holdings to different situations and the art of differentiating cases.

A key problem identified with this approach is that it has as its intellectual core the distinction between law and policy. Students are taught that legal reasoning as a method of deducing the content of law is distinct from ethical and political discourse — i.e. common law reasoning is distinct from policy analysis; common law reasoning has little room for policy analysis. Yet, in drafting and enacting statutes and regulations, which now form a significant component of

Ghanaian law as highlighted above, members of Parliament and board members and chief executive officers of public institutions do not engage themselves in the kind of reasoning that the common law decision maker adopts. Political considerations are the mainstay of the legislator and rule-maker. The elements of such policy analysis are to define the problem, specify a series of potential solutions, test each solution to determine the one that solves the problem best, and implement that 'best solution', documenting and publicising how it will operate for the information and understanding of the general public.

This kind of analysis has a student-centered approach to teaching rather than a teacher- centered model. It enables students to identify the policy problems they are most passionate about, engage with lawyers and policy practitioners in those fields, generate options to resolve those problems, and share their findings with the public. Again, this is a kind of law teaching methodology that is yet to be mainstreamed in legal education in Ghana, providing another reason for the radical reform the Conference proposed. Its absence from the arsenal of teaching methodologies has multiple effects, including the following:

1) Legal education continues to train students to think of themselves primarily as officers of the court and less for service in the broader segments of society.

2) As a result, the Ghanaian state bureaucracy remains largely unintelligent about its role as lawmakers because it does not possess the information and knowledge to operate intelligently.

3) Relatedly, the administrative-regulatory state has not yet internalized its role as lawmakers.

4) Consequently, the exercise of discretionary power is still typically marked by arbitrariness and non-compliance with the stipulations of fairness and reasonableness.

5) We have failed to hold the administrative state to a higher burden of compliance with constitutional stipulations of rulemaking and administrative processes as non-compliance has been normalized.

The International Conference on the Future of Legal Education in Africa/ Ghana took place at the University of Ghana School of Law (UGSoL) from November 29, 2021 to December 2, 2021. Initiated by the University of Ghana School of Law, the forum was the culmination of efforts of a consortium of partner individuals and institutions, particularly the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ).

The event convened policy makers, legal academics, lawyers and development partners from across Ghana and Africa to explore legal education and provide solutions to the ailing legal sector, with a major focus on Ghana. The conference was aimed at broadening the range of people who are interested in deciding what the next steps to improve upon legal education on the continent should be.

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