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Educating Lawyers for What? Reshaping the Idea of Law School

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Educating Lawyers for What? Reshaping the Idea of Law School¹

Michael Coper²

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1. This article is based on a paper written for the International Association of Law Schools (IALS) Conference, *The Role of Law Schools and Law School Leadership in a Changing World*, ANU College of Law, Australian National University, Canberra, Australia, May 25-27, 2009, <http://www.ialsnet.org/meetings/role/index.html> (last visited May 19, 2010), and reprised at the Association of American Law Schools (AALS) Annual Meeting, Section on Comparative Law, New Orleans, January 10, 2010, <http://www.aalsweb.org/2010podcasts/sunday/comparative.mp3> (last visited May 19, 2010).

2. Dean of Law and Robert Garran Professor of Law, ANU College of Law, Australian National University, Canberra, Australia; Member, Governing Board, IALS; Chair, Planning Committee for the IALS Conference, *The Role of Law Schools and Law School Leadership in a Changing World*, ANU College of Law, Australian National University, Canberra, Australia, May 25-27, 2009, <http://www.ialsnet.org/meetings/role/index.html> (last visited May 19, 2010).

INTRODUCTION

The role of a law school in modern times—and I speak of modernity with the arrogance of the present, that is to say, the early twenty-first century—has evolved over time,³ and has evolved differently from country to country; differently also, perhaps, even within countries, such as those with federal systems and their consequent jurisdictional divisions. And yet I am drawn irresistibly to ask whether there is not something universal about our task in the academy as legal scholars and legal educators; whether, in other words, we can avoid being totally captive to the imperatives of time, place and cultural relativism.

Interestingly, I pose this question in a context in which the dominant frame of reference has been, and has rightly been, not similarity but difference. The initial, and I expect enduring, focus of the International Association of Law Schools (IALS) has been on the idea of learning from each other,⁴ and in particular on learning from each other's differences. And how appropriate that has been: what could be more stimulating and productive of self-reflection than to learn, by way of comparative example, that one's own way is not necessarily the only way, or even the best way? Yet, as Chair of the Planning Committee for the IALS Canberra Conference in May 2009, and with the assistance of that committee's wonderfully diverse international members,⁵ I was determined to shift the ground a little to explore not only the differences that illuminate but also the commonalities that unite.

Consequently, this paper takes some initial tentative steps towards identifying common principles, especially in the area of legal education—not the only, but perhaps the most prominent, role of the law school today. I speak, inevitably, from a Western, common-law perspective, with a distinctly Australian twist (conditioned, even more narrowly, by the particular experiences of the law schools with which I have been associated), but, in the context of the rich array of short papers written for the IALS Canberra Conference,⁶ I hope progressively to

3. For a history of law schools in the United States, see ROBERT BOCKING STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983).

4. See Charter for the International Association of Law Schools, <http://www.ialsnet.org/charter/index.html> (last visited May 19, 2010).

5. The Planning Committee consisted of members from Australia, Canada, Chile, the Czech Republic, Israel, Nigeria, Singapore, the United Arab Emirates, and the United States. Additional input from the IALS Governing Board brought in further perspectives from Argentina, Bahrain, Belgium, Brazil, China, Germany, India, Italy, Kuwait, Malaysia, Mexico, Senegal, South Africa, and the United Kingdom.

6. See Working Papers, *IALS General Assembly Meeting and Educational Program: The Role of Law Schools and Law School Leadership in a Changing World*, ANU College of Law, Australian National University, Canberra, Australia, May 25-27, <http://www.ialsnet.org/meetings/role/papers/index.html> (last visited May 19, 2010).

liberate myself from these chains and to begin the search for universals in our great collective endeavour as law schools and legal educators around the world.

THE THREE ROLES OF LAW SCHOOLS TODAY

Law schools today, I believe, have three major roles: inducting students into the discipline of law (the educational role); pushing back the frontiers of legal knowledge (the research role); and sharing that knowledge with our relevant communities (the outreach role). The first two roles tend to predominate, especially, as I have said, the educational role; the third role, community outreach, is largely seen, I think, as subsidiary, though I would like to see it enjoy a parity of esteem with—indeed, a seamless integration into—the other two.

Historically, law schools have shared all three roles with the legal profession. In education, university training gradually took over from apprenticeship, but the idea of learning by exposure to real clients and real practitioners refuses to die, as we see, for example, in the ongoing debate about clinical legal education. In research, major contributions to legal scholarship are made by practitioners and judges, whose intellectual acuity is complemented by their professional experience, if not by access to working conditions enjoyed by academic researchers embedded in (and perhaps sometimes burdened by) the scholarly output expectations of a university research culture. In outreach, universities are increasingly cognisant of a need, even an obligation, to contribute their skills and knowledge to the wider community. Yet here again this role is very much shared with the legal profession, whether in relation to *pro bono* practice, membership of outside bodies, involvement in public inquiries, media commentary, or a myriad of community activities external to the university.⁷

These three roles, however, while not exclusive to law schools in the modern era, and whatever the balance between them from time to time and from place to place, combine to give us a distinctive mission and a starting point for thinking about universals in an increasingly globalised world.

THE EDUCATIONAL ROLE

The traditional role of law schools on the educational front is to prepare lawyers for legal practice. But behind this simple statement lies a plethora of contested issues and fast-flowing crosscurrents. In

7. Clinical programs might be seen as serving both educational and outreach purposes.

Australia, there is a palpable tension between preparing students for legal practice and educating students in the intellectual discipline of law. This tension manifests itself in many ways, from the diverse aspirations of the students⁸ to the question of who controls the curriculum.⁹

False Dichotomy

In my view, however, this tension between preparing students for legal practice and educating students in the intellectual discipline of law can be much overplayed. A deep understanding of the law—its historical evolution, its philosophical and theoretical foundations, its role in society, and its interaction with the other disciplines of the humanities and the social sciences—is as valuable in producing an informed, aware, creative, successful and satisfied practitioner as it is in producing in the abstract a graduate who is truly educated in the law. The best practitioners, arguably, including the best judges, are the most intellectually curious and the most sensitive to the role they play in society.

Educating Lawyers for What?

In my view, it is not so much the tension between educating lawyers for practice and educating lawyers in the intellectual discipline of law that requires attention, as it is the nature of the role of lawyers and lawyering that requires clarification. This brings me directly to one of the key IALS Canberra Conference questions: educating lawyers for what?

In Australia, and, I suspect, in many other countries, the traditional answer has been that we are educating lawyers for a relatively passive kind of legal practice, based on the traditional lawyerly competencies and skills and focused on the local jurisdiction. Yet the whole notion of lawyering has changed dramatically over the past hundred years or so, especially in the last fifteen to twenty years. Three things in particular have challenged or are challenging the traditional conception of lawyering.

8. See Council of Australian Law Deans, *Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment* (Final Project Report, 2009), http://www.cald.asn.au/docs/altc_LawReport.pdf (last visited May 19, 2010).

9. In Australia, a large role is played in relation to curriculum content by the legal profession and judiciary through the Law Admissions Consultative Committee. See Law Admissions Consultative Committee, <http://www.lawcouncil.asn.au/lacc.cfm> (last visited May 19, 2010).

Problem Solving

First, lawyers these days are much more involved in proactive problem solving, and legal education is correspondingly more focused—whether by way of cause or effect—on imparting the skills that assist this problem solving, rather than merely transmitting a body of knowledge that is frozen in time.

In highlighting this shift from passive lawyering (sometimes even obstructive lawyering) to active and creative problem solving, I hope I am not doing a disservice to or stereotyping our predecessors. But legal education, at least in the Western countries with which I am familiar, has shifted discernibly from the passive transmission of static knowledge to a much more active engagement with ideas. No doubt this started in the United States well over a century ago with the introduction of the casebook and the Socratic method by Dean Langdell. That method, as we know, is capable of being as authoritarian and hierarchical as the straight lecture,¹⁰ but at least it is predicated on a mindset of questioning rather than of unthinking acceptance. Like all things, that mindset was capable of excess, as has been said to have been illustrated by the critical legal-studies movement,¹¹ but it undoubtedly made lawyers and lawyering more effective.

*Globalisation*¹²

Secondly, the growth of commerce and communications, fueled by the march of new technologies, has broken down the boundaries of local jurisdictions, and, correspondingly, lawyers must be trained, as is a

10. See Michael Coper, *Law Reform and Legal Education: Uniting Separate Worlds*, in *THE PROMISE OF LAW REFORM* 388 (Brian Opeskin and David Weisbrot eds, 2005) 388, republished in Michael Coper, *Law Reform and Legal Education: Uniting Separate Worlds*, 39 *U. TOL. L. REV.* (2008) 233, 234-235 (2008), available at <http://law.utoledo.edu/students/lawreview/volumes/V39n2/index.htm>. I was struck in the discussion following the presentation of this paper at the AALS Annual Meeting in January 2010 (see n1 above) by the strong connections drawn between, on the one hand, the substance, and, on the other, the methods, of legal education, especially by the observations of some foreign graduate students about the liberating effect of a shift for them from the hierarchical culture and politics of being passive recipients of received wisdom to a more democratic and egalitarian tradition of encouragement to be active participants in criticism and questioning.

11. Cf. ANTHONY KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993).

12. See Louis F. Del Duca, *Educating Our Students For What? The Goals and Objectives of Law Schools in Their Primary Role of Educating Students (Comments on Plenary I)—How Do We Actually Achieve Our Goals and Objectives? (Comments on Plenary III)* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/DelDucaLouis\(USA\).pdf](http://www.ialsnet.org/meetings/role/papers/DelDucaLouis(USA).pdf) (last visited May 19, 2010).

recurrent theme at IALS conferences, for transnational and international practice—and trained by reference to a curriculum that must acknowledge and embrace the pervasiveness of international and comparative perspectives.¹³

Another paper would be required to explore the phenomenon of globalization,¹⁴ but what a change this has been. Only yesterday (or it seems like yesterday),¹⁵ I was being trained to be a lawyer in and for my local jurisdiction,¹⁶ not even for practice across the border in another state in our Australian federal system, let alone internationally or transnationally. We are still coming to terms with the pace of this change and trying to adapt a discipline for which national borders are always more of a challenge than they are for our counterparts in, say, medicine or engineering.

Service to the Community

Thirdly, and in my view most importantly, we should be educating lawyers today not merely for a life of material personal success but for a life of service to the community in the best, but sometimes forgotten, traditions of what it means to be a member of an honorable profession.¹⁷ This third shift is my main focus. It involves a shift, I think, from educating lawyers merely to be competent technicians to educating them to be something more.¹⁸

It should be acknowledged immediately that lawyers perform an essential service to their communities merely by the competent discharge of their core functions of advising clients, assisting people to vindicate their legal rights, and facilitating the orderly conduct of business and

13. See International Legal Education and Training Committee, *Internationalisation of the Australian Law Degree*, http://www.ilsac.gov.au/www/ilsac/ilsac.nsf/Page/International_Legal_Education_and_Training (last visited May 19, 2010). The report was promulgated in 2004 by the International Legal Services Advisory Council, an advisory body to the Australian Government.

14. See WILLIAM TWINING, *GLOBALISATION AND LEGAL THEORY* (Butterworths 2000).

15. In truth, I have to concede that it was in the 1960s.

16. New South Wales, Australia.

17. See Michael Coper, 'In the Service of Society . . .': Lawyers and the Idea of a Profession, Address Before the Australian Academy of Law Launch Symposium, Government House (July 17, 2007), <http://www.academyoflaw.org.au/events/mcoper.pdf> (last visited May 19, 2010).

18. As with the other two shifts I have identified—from passive to active lawyering, and from local to global lawyering—I am open to the charge that I am conflating changes that are happening and changes that, in my view, should happen. So be it—let this be regarded as a little push.

personal affairs.¹⁹ This work requires the highest standard of technical legal skills and the lawyer's craft. This high standard of technical competence also underpins any broader contribution that lawyers may make; nothing undermines a case for reforming the law more than a shoddy or unconvincing analysis of the status quo. But the core business of lawyering, and the lawyer's craft that underpins it, are, in my view, necessary, but not sufficient, to the identity and role of lawyers today. The notion of professional responsibility should be understood, in my view, to go far beyond the ethical obligations that govern interpersonal relations, the conduct of business, and the management of litigation, to the broader, active use of legal knowledge and legal skills in the service of society.

This wider notion of professional responsibility might play out in a number of ways. I have written elsewhere about how it plays out at the ANU College of Law, with its distinct ethos of law reform and social justice, that is, of harnessing legal skills and legal knowledge to work for the improvement of the law and the operation of the legal system.²⁰ It might play out in the promotion of *pro bono* practice and opportunities for students.²¹ It might play out in the form of a responsibility to explain and defend the rule of law and the protection of human rights, nationally and internationally.

A number of issues arise from my proposition that being a good technical lawyer is not enough. Why is that so? We should not assume my proposition simply to be self-evident. Next, is my robust proposition culture bound, or could it be a universal truth about lawyering today? And, finally, if my proposition is congenial, what are some practical steps we could take towards realizing it?

Beyond Technical Lawyering

So, first of all, why is being a good technical lawyer necessary but not sufficient? Let me make three brief points.

First, the paradigm of just being a good technical lawyer, without more, fosters the idea of relegating lawyers to a purely utilitarian and amoral role. Even if one added an ethical component, in the narrow sense

19. See, e.g., Michael Coper, Dean's Welcome, ANU College of Law, <http://law.anu.edu.au/deansMessage.asp> (last visited May 19, 2010).

20. See Michael Coper, *Law Reform and Legal Education: Uniting Separate Worlds*, in *The Promise of Law Reform* (Brian Opeskin & David Weisbrot eds. The Federation Press 2005), republished in Michael Coper, *Law Reform and Legal Education: Uniting Separate Worlds*, 39 U. TOL. L. REV. 233 (2008); available at <http://law.utoledo.edu/students/lawreview/volumes/V39n2/Coper%20I%20Corrected%20Final.pdf>.

21. See, e.g., National Pro Bono Resource Centre, <http://www.nationalprobono.org.au/home.asp> (last visited May 19, 2010).

of duties to court and client, the paradigm could still be seen as making the “lawyer class” function more efficiently in propping up the system, whatever values that system embodies.²² This fosters all the familiar stereotypes about lawyers as hired guns—an image with a kernel of truth, but an image that is distorted, incomplete and best avoided.

Secondly, I truly believe that lawyers will get deeper personal satisfaction from using their knowledge and skills to improve the legal system, or, even more ambitiously, if you will forgive the cliché, to make the world a better place, or at least fairer and more just. True, one can get satisfaction from performing a technical function well (making a cake, flying a plane), and to perform it well may be of critical importance (as air travellers will readily agree). But I suspect that such satisfaction is less likely to be as deep as the satisfaction derived from utilising one’s skills to their maximum potential and for the public good. It is interesting that studies both in the United States and in Australia indicate that there are higher levels of depression amongst lawyers and law students than amongst other comparable professionals,²³ and frankly I think this point about deep personal satisfaction is the key to both the explanation and the remedy.

Thirdly, would it not, in any event, be a wicked waste for lawyers not to employ their skills to the full? Those who understand the legal system are surely best placed to advise on its flaws and faults—not because of any monopoly of wisdom, but because of the knowledge and insight of the insider. This is not to diminish the necessary insight and experience of those affected by, even the “victims” of, the legal system, but is merely to harness the knowledge and skills where they exist—a process that will be facilitated by a mindset of criticism and reform nurtured by the educational experience at law school.

A subset of this point is that we need those who understand it to explain and defend the rule of law. Perhaps this is implicit in the lawyer’s function, but it becomes critically important in situations in which the rule of law has broken down. This is one of the fundamental

22. Compare the interesting panel discussion at the 2010 AALS Annual Meeting of the AALS Section on Jurisprudence on the pros and cons of legal positivism, <http://www.aalsweb.org/2010podcasts/saturday/jurisprudence.mp3> (last visited May 19, 2010).

23. As to the Australian literature, see Massimiliano Tani and Prue Vines, *Law Students’ Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?* 19 *LEGAL EDUC. REV.* 3 (2009); Kath Hall, *Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools*, 9 *QUEENSLAND U. TECH. L. & JUST. J.* 1 (2009). For a United States study, see K.M. Sheldon and L.S. Krieger, *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being*, 22 *BEHAV. SCI. & L.* 261 (2004).

values of the idea of law, and fidelity to it needs something more than technical lawyering.

Beyond Cultural Relativism

Is there anything universal about the notion of going beyond technical lawyering? If so, how might we begin to articulate what that “something more” is?

This is a big question, but is precisely the question posed at the IALS Canberra Conference in May 2009. In seeking an answer, it was encouraging to find an extraordinary level of consensus, across so many countries and so many cultures. The Dean of Cairo University said he was educating lawyers to be “peacemakers.”²⁴ The Dean of the Philadelphia Law School in Jordan said he was educating lawyers to strengthen civil society.²⁵ A Dean from Spain said he was educating lawyers not just in positive law but for the just and proper regulation of society.²⁶ Lawyers from India spoke of the long tradition there of lawyers as community leaders.²⁷ I could go on. And at the end of the conference, the delegates strongly endorsed the idea of educating lawyers for a broad notion of “public service.”

It is easy to see the search for universals as naïve or simplistic. As noted earlier, we learn from each other’s differences as much as from what we have in common, and that is part of the great IALS experience. Moreover, as Chuma Himonga points out in her thoughtful paper,²⁸

24. See Ahmed Belal, *What Are the Goals and Objectives of Law Schools in Their Primary Role of Educating Students? What Are We Educating Our Students For?* (Working Paper For IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/BelalAhmed\(Egypt\).pdf](http://www.ialsnet.org/meetings/role/papers/BelalAhmed(Egypt).pdf) (last visited May 19, 2010).

25. See Osama Al Neimat, *The Style of Legal Education as Applied to the Role of the Faculties of Law in a Changing World* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/AlNeimatOsama\(Jordan\).pdf](http://www.ialsnet.org/meetings/role/papers/AlNeimatOsama(Jordan).pdf) (last visited May 19, 2010).

26. See Salomé Adroher Biosca, *Goals and Objectives of Law Schools Under Bologna Process* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/BioscaSalome\(Spain\).pdf](http://www.ialsnet.org/meetings/role/papers/BioscaSalome(Spain).pdf) (last visited May 19, 2010).

27. See V.S. Elizabeth, *What Are the Goals and Objectives of the Law Schools in Their Primary Role of Educating Students? What Are We Educating Our Students For?* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/SamarajElizabeth\(India\).pdf](http://www.ialsnet.org/meetings/role/papers/SamarajElizabeth(India).pdf) (last visited May 19, 2010); see also Gurjeet Singh, *Goals and Objectives of Law Schools in Their Primary Role of Educating Students* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/SinghGurjeet\(India\).pdf](http://www.ialsnet.org/meetings/role/papers/SinghGurjeet(India).pdf) (last visited May 19, 2010), see also Ranbir Singh, *The Role of Law Schools in a Changing World* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/SinghRanbir\(India\).pdf](http://www.ialsnet.org/meetings/role/papers/SinghRanbir(India).pdf) (last visited May 19, 2010).

28. See Chuma C. Himonga, *The Goals and Objectives of Law Schools in Their Primary Role of Educating Students* (Working Paper of IALS Canberra Conference),

context is everything. South Africa, for example, is in a state of development. IALS President Monica Pinto refers in her paper to endemic inequality and social justice concerns in South America.²⁹ Dean Tan Cheng Han in his paper on Singapore is rightly cautious about institutional activism.³⁰

But at the end of the day, none of this is inconsistent with the broad notion of public service, which is mentioned in the paper of everyone on the panel assembled at the 2010 AALS Annual Meeting to reprise the 2009 IALS Canberra Conference³¹—besides being referred to in those noted above, it is referred to in the papers of Dean Elizabeth Parker³² and Dean Claudio Grossman.³³ No doubt the idea plays out in different ways when we are talking at this level of abstraction, but there is a core of meaning and common purpose which supplies a solid foundation for the articulation of a universal in the notion of lawyering, and therefore of the education of lawyers.

Beyond Aspiration

The challenge, I think, is this. It is easy to support noble ideals like law reform, social justice, *pro bono* practice, the rule of law, and the protection of human rights. But how do we move our support from the level of rhetoric and pious hope to embedding these concepts in the way

[http://www.ialsnet.org/meetings/role/papers/HimongaChuma\(South%20Africa\).pdf](http://www.ialsnet.org/meetings/role/papers/HimongaChuma(South%20Africa).pdf) (last visited May 19, 2010).

29. See Alejandro Gomez and Monica Pinto, *A Comment on Argentina's University of Buenos Aires (Facultad de Derecho de la Universidad de Buenos Aires)* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/GomezPinto\(Argentina\).pdf](http://www.ialsnet.org/meetings/role/papers/GomezPinto(Argentina).pdf) (last visited May 19, 2010).

30. See Tan Cheng Han, *The Goals and Objectives of Law Schools Beyond Educating Students: Research, Capacity Building, Community Service* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/TanChengHan\(Singapore\).pdf](http://www.ialsnet.org/meetings/role/papers/TanChengHan(Singapore).pdf) (last visited May 19, 2010).

31. See International Association of Law Schools (IALS) Conference, *The Role of Law Schools and Law School Leadership in a Changing World*, ANU College of Law, Australian National University, Canberra, Australia, May 25-27, 2009, <http://www.ialsnet.org/meetings/role/index.html> (last visited May 19, 2010), reprised at the Association of American Law Schools (AALS) Annual Meeting, Section on Comparative Law, New Orleans, January 10, 2010, <http://www.aalsweb.org/2010podcasts/sunday/comparative.mp3> (last visited May 19, 2010).

32. See Elizabeth Rindskopf Parker, *The Role of Law Schools and Law School Leadership in a Changing World on Being an 'Outside Dean'* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/ParkerElizabeth\(USA\).pdf](http://www.ialsnet.org/meetings/role/papers/ParkerElizabeth(USA).pdf) (last visited May 19, 2010).

33. See Claudio Grossman, *Building a Stronger Future, in INSIDE THE MINDS' LAW SCHOOL LEADERSHIP STRATEGIES: TOP DEANS ON BENCHMARKING SUCCESS, INCORPORATING FEEDBACK FROM FACULTY AND STUDENTS, AND BUILDING THE ENDOWMENT 9* (Aspatore Books, 2007).

we educate our students? How do we ensure that these concepts enjoy a parity of esteem and importance with acquiring the technical skills that underpin the lawyer's craft? How do we transform concepts that may have been seen traditionally as the icing on the cake to being an essential ingredient? How do we ensure that we produce lawyers who are pivotal to social progress because of—not in spite of—their legal education? What practical steps can we take to achieve the vision of educating law students for a life of public service?

This is the real challenge for legal education. Can we achieve more than lip service to an ideal? Can we do so without getting in the way of the acquisition of technical skills? What are the outlets for practicing lawyers to use their skills to serve the public in a way that goes beyond giving sound and competent advice?

I would like to see a range of projects to pursue these questions, involving as they do matters of curriculum, matters of pedagogy, matters of student well-being, understanding student aspirations and student psychology, defining and developing and sharing ownership of an appropriate ethos in the law school, identifying and nurturing shared values, taking opportunities to play out the ideal in concrete contexts including clinical programs and other forms of experiential learning, embracing learning outside the classroom and understanding that teachers can be powerful role models, and a myriad of other issues. The IALS can play an important role here: understanding how the common thread of public service plays out in different countries and in different legal systems both reinforces the ideal—or, to put it another way, validates the universal—and gives it a practical application that is rich in diversity and in potential for cross-fertilisation.

Because it was put on the table at the 2009 Canberra Conference, I might mention one particular idea, and that is the idea of getting all law graduates, at graduation, to swear a lawyer's oath, analogous to the way in which medical graduates take a modern version of the Hippocratic Oath. Kim Economides, now at the University of Otago,³⁴ advocated the idea in Canberra,³⁵ and my ANU colleague Tom Faunce,³⁶ who is both a

34. See University of Otago Faculty of Law, Profile of Professor Kim Economides, http://www.otago.ac.nz/law/staff/kim_economides.html (last visited May 19, 2010).

35. See Kim Economides, *The Role of Law Schools in Founding and Reviving Legal Professionalism: The Need For Ethical Leadership* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/Economides Kim\(UK\).pdf](http://www.ialsnet.org/meetings/role/papers/Economides%20Kim(UK).pdf), citing Kim Economides and J. Rogers, *PREPARATORY ETHICS TRAINING FOR FUTURE SOLICITORS* 34-35 (London, Law Society, 2009), available at <http://hdl.handle.net/10036/64973>; Exeter Symposium, *Symposium: A Hippocratic Oath for Lawyers?* 11 *LEGAL ETHICS* 41-66 (2008). See also Adrian Evans, *Admission via Hippocratic Oath?* <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=127B51AE-36FE-44B6-9CF6-E9E4F4044E2B> (last visited May 19, 2010).

lawyer and a doctor, has been advocating it for years. It is essentially a symbolic gesture, but symbolism has a role to play, and there is here, I think, a project well worth pursuing.³⁷

THE RESEARCH ROLE

I mentioned at the outset that, although this paper would be predominantly about education, education is but one of the three great roles that a law school might play, together with research and outreach. A similar analysis might be applied to the research role as I applied to education. In particular, if I am right about elevating the importance in legal education of producing graduates with a critical mindset and a sense of professional responsibility—indeed, a determination—to leave the legal system better than they found it, then one might apply the same standard to our own research and scholarship.

One need not be too prescriptively instrumentalist here—there will always be a place for “pure” research, and who in any event can foretell its possible applications?—but to urge scholarship directed to law reform, social justice, defense of the rule of law, and protection of human rights, is no more than to harness some of the shared deep values that drive us and underpin our legal systems, and to be consistent with our teachings. In neither our teaching nor our scholarship does this overarching framework dictate particular answers to contested questions.

I should add that, by noting the research function of law schools separately from their educational function, I would not want to suggest that these functions operate in totally different spheres. Legal practice cannot proceed without research and finely honed research skills. Our research informs our teaching, and may provide opportunities for direct involvement by our students. Again, in an ideal world, a law school might achieve a seamless integration between its educational and research functions.

THE OUTREACH ROLE

It is but a small step from acknowledging the educational and research roles of a modern law school to accepting the importance of the dissemination and application of the special skills and knowledge embodied in the law school’s staff and students. In a sense, the outreach

36. See Faculty Information of Thomas Alured Faunce, <http://law.anu.edu.au/scripts/StaffDetails.asp?StaffID=236> (last visited May 19, 2010).

37. For a skeptical view, see Jon Robins, *An Oath Can’t Make Lawyers More Honest: A Call For Solicitors to Promise That They Will Act Honestly Is Just Laughable*, <http://www.cityam.com/city-focus/oath-can%E2%80%99t-make-lawyers-more-honest> (last visited May 19, 2010).

function is no more than this, whether it be lending one's expertise to a tribunal or investigation, making a submission to an enquiry, writing an opinion piece for the media, sharing one's knowledge with lay audiences such as high-school students, and so on. Different law schools will encourage and reward these activities in different ways, but, to my mind, they sit very comfortably as a logical extension of the educational and research roles of the modern law school, at least as I have conceptualised and described those roles. I would urge that they be seen not as peripheral to education and research, but as equally central to a law school's mission. If we endeavour to empower our students to go beyond technical lawyering and use their skills and knowledge more broadly in the service of society, then it is congruent with that to ourselves share our skills and knowledge directly with our wider communities.

CONCLUSION

I was very much struck by an off-the-cuff remark in 2006 by then Yale Law School Dean Harold Koh in answer to a question following his luncheon address to the American Law Institute on the topic of law and globalisation. Dean Koh said:

I do not believe it is our job to simply bless the status quo. We stand for principles about what the rule of law ought to be. As a law dean, I think that law schools are not just professional schools. They are institutions of moral purpose.³⁸

That is one way to characterise and support the argument I have made in this paper, namely, that our educational, research and outreach roles coalesce to present a unified model of a law school today that sees its mission as promotion not merely of technical competence but also of the values of leadership, citizenship, and service, so far as those values can be given expression through the discipline of law.

That model may be supported in other ways as well. It assists in seeing the lawyer as a highly ethical professional who has overarching social and community responsibilities, rather than merely as a hired gun, and may help to combat familiar negative (and disturbingly age-old) stereotypes about lawyers. It also potentially brings a greater sense of purpose and satisfaction to the work of lawyering—especially in point in Australia, where, as noted earlier, recent studies reveal

38. Quoted in Michael Coper, *Legal Knowledge, the Responsibilities of Lawyers, and the Task of Law Schools* 39 U. TOL. L. REV. 251, 260 (2008), available at <http://law.utoledo.edu/students/lawreview/volumes/V39n2/index.htm>.

disproportionately high levels of depression amongst lawyers and law students.³⁹

One of the joys of my participation to date in the educational programs of the IALS has been the theme of learning from each other, whether in relation to the essential characteristics of other legal systems (Suzhou 2007)⁴⁰ or effective techniques for teaching about them (Montreal 2008).⁴¹ Without diminishing the importance of this theme, which of necessity remains a critical starting point, and without denying the richness of diversity, I judged that in Canberra in 2009 it was time to push a little beyond merely learning from each other and to embark on the search for universals.⁴² I was not unaware of the challenge that a universal concept of lawyers and lawyering, and of the role of law schools in promoting such a concept, faced from, for example, the character that the function of lawyers may take on in legal systems with underpinnings that are authoritarian rather than democratic. Yet with the collapse of democracy in countries like Fiji,⁴³ we do not abandon our commitment to the rule of law and the independence of the judiciary—we call for it all the more strongly. If we can find universals in these abstract values, as in human rights and human dignity, then it should not be beyond our capacity to translate that into how we characterise ourselves, our role and our mission, as law schools around the world: what is it that, as a global community of legal educators and legal scholars, we have in common?

39. See Massimiliano Tani and Prue Vines, *Law Students' Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession?* 19 *LEGAL EDUC. REV.* 3 (2009); Kath Hall, *Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools*, 9 *QUEENSLAND U. TECH. L. & JUST. J.* 1 (2009). For a United States study, see K.M. Sheldon and L.S. Krieger, *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being*, 22 *BEHAV. SCI. & L.* 261 (2004).

40. See IALS Symposium, *Learning From Each Other: Enriching the Law School Curriculum in an Interrelated World*, Suzhou, China, October 17-19, 2007, <http://www.ialsnet.org/meetings/enriching/index.html> (last visited May 19, 2010).

41. See IALS Meeting, *Effective Teaching Techniques About Other Cultures and Legal Systems*, Montreal Canada, May 30, 2008, <http://www.ialsnet.org/meetings/assembly/index.html> (last visited May 19, 2010).

42. See especially the papers of Jay Conison, *Universals in Law School Education* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/ConisonJay\(USA\).pdf](http://www.ialsnet.org/meetings/role/papers/ConisonJay(USA).pdf) (last visited May 19, 2010). See also Molly O'Brien, *Universals in Law School Education* (Working Paper of IALS Canberra Conference), [http://www.ialsnet.org/meetings/role/papers/O'Brien,Molly\(Australia\).pdf](http://www.ialsnet.org/meetings/role/papers/O'Brien,Molly(Australia).pdf) (last visited May 19, 2010).

43. See *Fiji President Annuls Constitution, Sacks All Judges*, ABC Local, <http://www.abc.net.au/news/stories/2009/04/10/2540548.htm?site=local> (last visited May 19, 2010).

At its most basic, I have suggested that we have in common the proposition that our shared task as law schools around the world somehow goes beyond the mere production of lawyers with technical legal competence, and that the key to identifying and articulating just what is that “something more” lies in the notion of public service.⁴⁴ That is not to say either that all lawyers will be great citizens or that all great citizens will be lawyers. In a talk I gave in India in 2004, I posed a teasing question: were Gandhi and Nehru great citizens—indeed, great leaders—because of or in spite of their legal education?⁴⁵ Whatever the answer, we can enhance the prospect of producing lawyers who are great citizens, and who can add value to society well beyond their everyday lawyering, by educating our lawyers with more sensitivity to the broader aspirations of public service.

44. This notion is well recognized in the Carnegie Foundation’s important and impressive work WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007), yet, somewhat disappointingly, is not unpacked or elaborated.

45. See Michael Coper, *Legal Education and Training: Meeting the Challenges of the 21st Century*, in *AUSTRALIA-INDIA LEGAL DIALOGUES*, DELHI AND MUMBAI, March 2004 (available on request).

