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The Forgotten Victims: Law Schools Under Attack in Developing Countries – a Need for International Intervention

Mark S. Ellis*

I landed in Sarajevo during the war in Bosnia in the midst of a winter storm and was overwhelmed by the surreal scene of hundreds of UN troops scurrying around, oblivious to the new arrival. The purpose of my trip was to meet representatives of the Sarajevo Law School. When I arrived at the School, I saw a building with scarred, burned out rooms – a cold testimony to the ravages of war. The number of students and faculty members had diminished – another stark consequence of conflict. But, surprisingly, there was still a desire for some degree of normality.

At the meeting was a group of the School's law professors and students. The professors were experienced and well-known in the pre-war Yugoslavia; the students were bright and eager, and I soon learned the most remarkable characteristic of this group – their nationalities. The group was composed of Serbs, Croats, and Muslims. In a country plagued by instability and bloodshed, amidst a war marked by a policy of ethnic cleansing, I was mesmerized by the fact that the members of these three dominant ethnic groups were sitting across from me, seeking, in unison, help from the international community both to speak on their behalf and to help them bring civility back to their country. When they spoke to me, I knew their insights were born of a legacy of horrors. They were living in a 'hell on earth.' Listening to their stories, I searched for a common thread that might be woven through their lives. By all accounts, they should have been enemies; instead, they were bound by a shared belief in the principle of justice – a belief that law has the power to summon righteousness away from wrongdoing and that their Law School was instrumental in achieving this goal. I saw in their eyes a desperate plea for help. They wanted to show that they had not

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been defeated – that their Law School must be reopened. Yet, their wishes were not being heard and they felt that the international community had forsaken them. They needed an advocate; they needed a voice in the international community.

Four hours north of Sarajevo, in Belgrade, I later sat with another group of law professors. In the pre-Milosevic era, they were among the brightest professors in the former Yugoslavia. But with the emergence of Milosevic, a dark and evil period—marked by destruction, war and genocide—descended on Yugoslavia. But there was another hidden victim in Milosevic's war on civility. The Milosevic regime directed its sights on the University of Belgrade Law School. Some of the professors at the Law School became outspoken against the Milosevic regime. The response was quick and devastating. Professors were dismissed, students were harassed, and financial support was suspended. A new Law On University was introduced restricting the policies of the law professors; 25 of them resigned and were replaced by Milosevic cronies. Distinguished jurists, many of whom I had known during my years living and working in Yugoslavia, were subjected to abuse and humiliation – they lost everything. Again, they needed an advocate – an international voice.

This past year, on a separate continent, I witnessed the plight of yet another law school forced to ruins by a despot by the name of Mugabe of Zimbabwe. During his regime, Mugabe has brought the country into an unimaginable state of darkness. He introduced a sustained campaign to force the resignation of a number of jurists, including law professors. Characterized by constant physical assaults, threats, and intimidation, this unhindered attack on the legal service providers and educators has grossly affected the administration of justice. And yet, throughout this crisis, the Law Society of Zimbabwe and the Law School have been courageous and vociferous in supporting the rule of law. They have spoken out against lawlessness and the attack on the rule of law. They have done so at personal and professional peril. Yet, they are alone, without a strong advocate from the world's legal education fraternity.

There is a common thread running through the stories of these law schools. During the most desperate times of conflict there is a truism: law schools are among those institutions that suffer the most. They have been the silent victims in numerous attempts to undermine the rule of law. The collapse of institutions like the judiciary and law schools is a fundamental cause of the subsequent failure of legal systems and the general breakdown of the rule of law. Surprisingly, law schools tend not to have an international voice protecting their rights and acting as an advocate for them. And yet, it is exactly this voice that is needed.

In the area of human rights, the world is indeed fortunate. Why?

Not because there are less abuses—for clearly there are not—but because the international community is speaking out with powerful counter-measures. Victim's rights, long lost to disinterest and neglect through the principle of state sovereignty, have found a new voice through numerous international human rights treaties and conventions, ad hoc war crimes tribunals, the principle of universal jurisdictions, and the International Criminal Court.

I believe the 21st century will be known as the time when international humanitarian law became a permanent fixture in our legal system. And in support of the concept of humanitarian law there has emerged a wave of 'international advocates.' Political prisoners have Amnesty International; journalists have Freedom Writers; judges have the International Commission of Jurists (ICJ); and lawyers have the Lawyers Committee. In a very real way these groups are protected through a system of constant vigilance by sectors of the international community. Even within my organization, the International Bar Association, bar associations that find themselves victims of government attacks and intimidation can be assured that we will speak out in their defense and maintain a constant watch over their well-being. And yet the legal profession, as represented by law schools, has no voice. It has no international advocate or protector.

In my 20 years' involvement in international law, I have witnessed numerous attempts by governments to tear down the legal educational structure in order to destroy a fundamental pillar of the rule of law. When this occurs, particularly in a conflict situation, the international community must find a way to show its support of the law schools and law professors who dare to speak out against injustice. By simply bringing the plight of law schools to the attention of the world community, through an effective letter and media awareness campaign, there can be an extraordinary positive impact in countering the attacks against law schools and law professors. In the same way that Amnesty International speaks for those whose voices have been silenced, a group like the Association of American Law Schools could co-ordinate a similar campaign in support of law schools and law professors who are under attack.

Members of this Association could create an e-mail based monitoring group bringing together other law schools from around the world. This would permit an effective mechanism to trigger a response when a law school is under attack.

Creating a simple mechanism whereby law schools under attack, anywhere in the world, could count on a powerful response of support by a leading association of law schools, would not only provide immediate assistance but would also send a robust message to the world that legal

education is not an afterthought in a conflict situation but, rather, a fundamental pillar in the maintenance of the rule of law – a foundation that the international community will jealously protect.