

*Fostering Social Justice Orientation through Clinical Legal Education in the Caribbean –Stakeholder Considerations*

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**Abstract**

Caribbean law schools governed by the Council of Legal Education, aim to "facilitate the development of competent legal practitioners for the region", who, among other things, "are inspired in the promotion of social justice". Towards this end, students are required to attend a legal aid clinic in their final year of law school, where they are exposed to unequalled experiences in working with low income members of the community to address a variety of concerns.

This paper explores through tutor and student experience, whether the social justice component of the Council's mission is being realized in the current structure of its curriculum. Students and staff from legal aid clinics at three (3) law schools in the Caribbean were interviewed.

Findings revealed that many final year law students were unaware of the Council's mission and many failed to discover the link that exists between the roles that the law and the legal profession play (or not) in addressing the social justice issues faced by members of the community.

This paper highlights the fact that greater effort must be taken to ensure that the mission of the Council is shared by all stakeholders as a fundamental doctrine; that there is need for the enhancement of the curriculum that would foster a greater appreciation for, consideration of and dedication to, social justice and that there is need for greater institutional support for clinical legal education programs.

Key words: social justice, clinical legal education, curriculum

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## **Introduction**

The establishment of the Faculty of Law at the University of the West Indies in 1970 marked the introduction of a system of legal education and training specifically designed to suit the needs of the Caribbean. Prior thereto, legal training was primarily undertaken in England. The manner in which law was being practiced in the Caribbean region at this time necessitated a change in the focus of legal education and training for those attorneys who wished to practice there.

By agreement (referred to as “the Treaty”) amongst the governments of certain Caribbean territories and organizations in 1970, the Council of Legal Education (“the Council”) was established as the regional body vested with responsibility for ensuring that a new structure of legal education and training would be implemented. This new structure required a candidate to obtain dual qualifications for the practice of law, achieved firstly through a course of academic legal training at a university, followed by a programme of training with practical content and emphasis, at a one of the Council’s Law Schools. Upon successful completion of both programmes, a single final qualification in the form of a Legal Education Certificate (L.E.C.) would be awarded to students and this qualification is recognised as the professional qualification for admission to practice law in common law Commonwealth Caribbean territories.

The first student intake at the Faculty of Law at the University of the West Indies under the new structure was in the year 1970 and the first students began their studies at the Hugh Wooding and Norman Manley Law Schools respectively in the year 1973. The Eugene Dupuch Law School was established by the Council in 1998 and the first student intake at this Law School was in the year 1998.

Legal education for the region has traditionally been grounded in the belief that there are ethical and moral obligations by which those who desire to practice law must be guided. Accordingly, one of the objectives for legal education and training as set out in the Treaty, was to “provide teaching in legal skills and techniques as well as to pay due regard to the impact of law as an instrument of orderly social and economic change”.

At the Faculty of Law, students are provided with a solid foundation in the principles of law. The curriculum at the Law Schools exposes students to the knowledge, skills and professional attitudes (Barnett 1996) that competent legal practitioners with a sense of public service responsibility and a desire to advance social justice are expected to possess via a clinical legal education programme which advances social justice through a collaborative and interdisciplinary approach.

This paper reviews the clinical education programme at the Law Schools with the aim of understanding whether the Mission of the Council is being achieved as it relates to social justice and the role it plays in the professional lives and professional identities of its students. The experience of students and Tutors has been examined in this exercise.

## **The Mission**

It is the Mission of the Council to “facilitate the development of competent legal practitioners for the Region who, appreciate their responsibility as members of an honourable profession and recognizing the needs of their socio-economic environment, are inspired in the pursuit of excellence, the maintenance of high ethical standards, the promotion of social justice and the strengthening of the rule of Law”.

## **Clinical Legal Education Programme**

Clinical legal education is fundamental to the training of students at the Law Schools. The Council has always been concerned about the roles that the law and the legal profession play in addressing social justice issues. As such, students are taught multi-dimensional lawyering skills which instil a commitment to social justice and involve multifaceted strategies that are geared to accomplishing change for underserved individuals who may become clients of new attorneys, once they obtain their professional qualification.

Students study law and obtain knowledge and lawyering skills contextually. As part of the programme, students get an opportunity to work collaboratively with clients to investigate facts that help to reveal injustice. Students also help to educate clients about their rights and they collect evidence that will assist in advocating on the client’s behalf.

The curriculum at all three of Council’s Law Schools is the same, subject only to variations in the laws of the territories that each law school serves. The Law Schools engage in “skills-oriented programmes of training and competence-based training” (Barnett Report 1996). By virtue of the Treaty, the programme at the Law Schools aims to:

1. Prepare students for the practice of law in their respective territories by the provision of a regulated period of institutional training.
2. Provide a scheme for legal education suited to the needs of the Caribbean.
3. Provide teaching in legal skills and techniques as well as to pay due regard to the impact of law as an instrument of orderly social and economic change.
4. Provide training for the analytical skills and implementation techniques required to manage a legal practice in a competent manner.
5. Provide training to students with the skills, knowledge and professional attitudes that they must have to become competent legal practitioners.
6. Ensure that students become aware of the socio-economic needs of the region.
7. Sensitise students to the need for high ethical standards, to promote social justice and to strengthening of the rule of law.

The Council has always placed emphasis on the mandate expressed in the Treaty that students are to be trained in a system which “recognises the importance of law as an instrument for social change and development”. Toward that end, the programme of legal training offered by the Law Schools has been under continuous review and efforts have been made through the years to incorporate the recommendations made in the Barnett Report (1996) as well as those of the Academic Review Committees of

Council and the Curriculum Review Sub-Committees of the various Law Schools (reviews Curriculum and new programmes, methods of assessment, teaching and learning strategies), with a view to enhancing the training afforded to students who will be performing in the professional role of attorney while possessing a commitment to social justice.

Students are afforded the opportunity at the Law Schools to achieve an awareness of their roles and responsibility in and to the community with emphasis placed on their ethical and moral obligations in the practice of law.

The most important values which inform this programme are respect for the rule of law, maintenance of public trust and confidence in the professionalism and integrity of the institution, professional competence and the maintenance of high ethical standards. Upon completion of the programme, it is anticipated that the Mission of the Council would be realised in its graduates.

Distinctive features of the clinical legal education programme at the Law Schools include:

- Work attachments during a ten week period at the end of Year I - All Year I students are required to undergo an in-service training programme for a minimum of ten weeks during the summer vacation of each year. They are placed in public and private law offices in a Commonwealth Caribbean territory of their choice.
- Court attendance in Year I - There is a compulsory court attendance programme for students of the Law School. Students are required to attend a number of criminal and civil trials in both the Supreme Court and the Magistrates Courts.
- Attendance at Legal Aid Clinics at the Law Schools in Year II – Exposure to an interdisciplinary approach to clinical legal education. At the Hugh Wooding Law School this involves the combination of law and social work services.
- Attendance at Alternative Dispute Resolution training and Mediation Advocacy in Years I and II.
- Attendance at elective Specialist external clinics – These include but are not limited to, the Corporate Law, Criminal Law, Family Law, Child Advocacy, Conveyancing, Intellectual Property, Oil and Gas and Human Rights clinics for one Term in Year II.
- Participation in the American Caribbean Law Initiative's Caribbean Law Clinics – This clinic is held twice a year over a four day period. The Fall Clinic is held at a Law School in the United States and the Spring Clinic is held at a Caribbean Law School during Year II.
- Participation in internal, regional and international competitions – International mootings, client interviewing, international mediation and negotiation competitions.

Students are afforded, through a multi-dimensional approach at the Law Schools, opportunities unique to programmes which place emphasis on clinical legal education as a fundamental educational pedagogy.

Students are exposed to the impact that the practice of law has on people- Barry (2007). They are able to develop an awareness of the role socio-economic factors play in the practice of law and client representation and how they can become an empowering force in the lives of poor clients- Eagly (1998).

The association of Legal Aid Clinics with Law Schools in the Caribbean has provided an unequalled opportunity for the clinical training of students who are equipped with the recognition of their role and responsibilities in the community and have served as an invaluable medium through which these values are imparted. All clinics assume a “social justice” agenda, in the representation of indigent persons and in the development of a pedagogy that allow students to learn from the clinical experience. This provides an avenue for discussion about varied political, economic and social issues as well as moral lessons about economic disparity, unequal access to justice and disproportionate application of the law.

The clinical programme at the Law Schools continue to expand with a view to creating diverse clinical experiences for students, thereby accommodating different models of clinics in the form of specialist clinics. The portfolio of clinical offerings has been broadened to include clinics in areas that may appear to be ideologically neutral on their faces or which may appear to exclude traditional notions of social justice, for example the intellectual property or corporate law clinics. These clinics however, similarly afford representation and legal assistance to those members of society who would not otherwise be in a position to pay for the services they require. Every opportunity is utilised at the clinics to develop in students an awareness of the fact that the legal profession is not merely a personal vocation but rather, a public office- Barnett Report, 1996.

The programme also allows students to reach persons who may not necessarily be touched by traditional legal services. It provides support for individuals who may not be involved in litigation and students are also able to respond to non-legal concerns or concerns unable to be redressed by law (for example, through access to final year social work students from the University of the West Indies who are assigned to the Legal Aid Clinic at the Hugh Wooding Law School).

The programme offered at the Legal Aid Clinics of the Law Schools, like similar programmes offered at law schools worldwide, develops in students, leadership skills, facilitates the transfer of knowledge, introduces critical and creative thinking, professional judgment, problem-solving skills, ethical conduct, a passion for social justice, a sense of public obligation and encourages collaboration- Srikkantiah & Koh (2010). These outcomes have the benefit of transforming the final year law student and allowing them to be instruments of change as they enter the world of work.

There are other aspects of the clinical legal education programme offered at the Law Schools which foster social justice orientation and serve to reinforce in students, their obligations as legal practitioners. These include:

*Ethics, Rights and Obligations of the Legal Profession Course*

This course addresses inter alia, the status of members of the legal profession as officers of the Courts, the independence of members of the legal profession, the duties of the legal practitioner to the Court, to his clients, to members of the public and to

the profession. The ethics of the legal profession is also covered as well as the legal practitioner's obligations to the public to promote the rule of law, to support the creation and maintenance of an independent judiciary and the role of the legal profession in assisting members of the public to secure adequate representation in legal proceedings.

#### Alternative Dispute Resolution and Mediation Advocacy Training

Students are introduced to the essential skills needed for effective client representation in mediation.

#### Remedies Course

This course addresses general and special damages in contract and tort as well as pleadings and proof. Students are provided instruction on the calculation and assessment of damages in cases of personal injury and death. Apportionment of damages and remoteness is also covered. Judicial trends in the West Indies are highlighted.

#### Trial Advocacy Training

Students are expected to acquire competence during the two-year course in:

- (a) general advocacy (including court room etiquette);
- (b) negotiation and alternative dispute resolution;
- (c) interviewing clients; and
- (d) preparation of cases for litigation and settlement.

### **Research Methodology**

The clinical legal education programme offered by the Law Schools was examined and the exercise adopted a Tylerian evaluation approach (an objectives-oriented evaluation approach) which sought to determine whether the existing programme allows for the Mission of the Council to be realised insofar as it relates to social justice.

Students were asked to express their opinions regarding the curriculum design, content and characteristics of the clinical legal education programme and to indicate whether their experience fostered in them an awareness of social justice as a professional responsibility and a commitment to providing legal services to meet the needs of the poor or other disadvantaged members of society.

Qualitative research methods were employed in this investigation as this approach provides rich insight and detailed context as well as depth, and creates openness on the part of participants (Worthen et al 1997; Heppner & Heppner 2004). This approach best enables the investigator to arrive at conclusions and to make recommendations regarding the matter being considered.

For the collection of data, a socio-demographic academic survey questionnaire was employed. Information was gathered through the medium of an online survey of students at the Norman Manley and Eugene Dupuch Law Schools, paper survey of students at the Hugh Wooding Law School as well as face-to-face interviews and focus group discussions of students and tutors at the Hugh Wooding Law School. After data collection, analysis was conducted. In addition, there was a content

analysis of curriculum documents including course manuals and the Legal Education Certificate programme outline.

The data was analysed using thematic analysis whereby relevant themes emerging from noteworthy comments were categorised in order to arrive at an understanding of the arguments of students and tutors regarding the curriculum as it relates to social justice orientation and to make recommendations for improvement.

## **Findings**

Some students were provided with the survey questionnaire online and others were provided a paper questionnaire in various groups. This was an anonymous, voluntary survey. These surveys were conducted three weeks prior to the focus group discussions. The questionnaire was divided into three main areas: *Biodata* (which sought to determine the age and sex of the respondent as well as the Law School attended and country of domicile); *Social Justice Orientation*; and *Clinical Legal Education*. 84 students responded to the survey from the three Law Schools, of approximately 600 final year students.

### Social Justice Orientation

This section sought to gauge the level of student orientation in the concept of social justice as well as to determine the extent of engagement with social justice issues and initiatives within the context of the curriculum at the Law Schools. The accumulated responses revealed that social justice is important to most of the respondents. More than half were aware of the Mission of the Council, though many felt that the curriculum, in its current form, did not sufficiently expose them to the concept of social justice. By way of example, one student stated that she had not been exposed to the concept of social justice while at Law School. Another student stated, “I was aware of the concept prior to the Law School”.

Students were asked to define social justice. The following responses were obtained among others:

*“Not sure what social justice entails”.*

*“I am the beneficiary of social justice”.*

*“It confirms my rights and responsibilities to others as a law student and encourages me as a trained minister of justice to represent and see that justice is served and delivered to the ordinary members of the public who are helpless and voiceless”.*

*“I define social justice in accordance with my beliefs as a Christian, not because of the law school. I seek justice for serious causes such as neglect of seniors and poverty and education”.*

Of those students who indicated that they had been exposed to social justice at Law School, all credited the general Legal Aid Clinics (and particularly the Human Rights and the Child Advocacy specialist clinics) as the primary source of their social justice orientation. One student commented that:

*“My experience at the clinic has shown that there are many individuals who are in need of legal assistance and have been at a disadvantage due to their financial and intellectual restrictions. These individuals are very much entitled to legal assistance as anyone else and should not have to suffer because of any shortcomings they may face.”*

When asked about the level of exposure to social justice issues and initiatives at Law School one student stated, “Not significantly, only through the legal aid clinic and helping needy clients”.

Other students have indicated that their social justice orientation came via exposure to certain extra-curricular activities afforded students through the undertakings of the Student Representative Council which has been established at each Law School pursuant to Regulations of Council. The Inter-Varsity Christian Fellowship was also credited as being an avenue through which students had been exposed to social justice.

The majority view was that students were not significantly exposed to the concept of social justice outside of their activities at the Legal Aid Clinics. Students did however acknowledged having some level of exposure in the following courses:

- Remedies
- Landlord and Tenant
- Criminal Practice and Procedure
- Mediation Advocacy
- Trial Advocacy
- Ethics, Rights and Obligations of the Legal Profession

An interesting observation that came out of an analysis of the data obtained from the survey questionnaire and corroborated during focus group discussions with students and face-to-face interviews with tutors, was that students have been exposed to the concept of social justice at various points throughout their clinical legal education experience and tutors at the Legal Aid Clinics agree that exposure to social justice issues and initiatives is most prevalent at the Clinics. Student made the following statements regarding their social justice exposure:

*“Only certain course such as [the]General Legal Aid Clinic and Ethics, Professional Rights and Obligations course”.*

*“Orientation programme in Year I”*

*“We were introduced to social justice in the Law of Remedies course”*

*“Via the Criminal Practice and Procedure course; this was mainly covered during discussions on sentencing of convicted persons”.*

*“Trial advocacy, particularly pleas in mitigation; also legal aid clinic made me aware of legal needs for representation among the poor”.*

The majority of respondents were of the view that the clinical legal education programme offered by the Law Schools was too academic and not dissimilar to the three year programme offered by the Faculty of Law. Many felt that greater emphasis should be placed on opportunities for practical work experience which actively promote social justice, like that afforded them through attachments to clinics.

Students also acknowledged during focus group discussions, what had been stated by tutors in interviews - that there was in fact a multi-faceted approach at the Law Schools, which is geared towards the realisation of the Mission of the Council of Legal Education and that each student would have been exposed to the concept of social justice to some degree at varying points in time, throughout the continuum of their Law School training.

The majority of students, recognised social justice as a professional responsibility and would provide legal services to indigent and disadvantaged members of society should the opportunity present itself. A smaller number of students expressed a specific professional interest in social justice advocacy as a law practice specialisation. These students articulated a commitment to providing legal services to the underprivileged and underserved in their communities

A few students had no professional interest in social justice advocacy, preferring instead to concentrate their knowledge in areas other than those which have a bearing on social justice and to which they have been exposed during Specialist Clinics at Law School.

### Clinical Legal Education

This part sought to determine the level of student exposure to social justice issues and initiative via the legal aid clinics specifically, which is a mandatory programme offered during their final year at the Law Schools. The data obtained was examined with a view to ascertaining student perspectives on the clinical experience in a social justice context.

Generally, students endorsed the importance of legal aid clinics as a critical component of their final year learning experience and for their social justice orientation.

*“[my] experience at the clinic has shown that there are many individuals who are in need of legal assistance and have been at a disadvantage due to their financial and intellectual restrictions. These individuals are very much entitled to legal assistance as anyone else and should not have to suffer because of any shortcomings they may face.”*

96.10% of the students surveyed indicated that their training at the Legal Aid Clinics was beneficial to their transition into the world of work and 90.91% of students considered their training at the Legal Aid Clinic to be useful insofar as their career goals are concerned- 24.68% of whom strongly agreed. For most students, their experience at the Legal Aid Clinic served to give them a sense of closure and afforded them the opportunity to reflect on what they had learnt during their previous years of training (Bailey, Oliver & Townsend, 2007; Cuseo, 1998)

## **Summary**

There is an overall awareness amongst final year law students of social justice as a professional responsibility. Many students were of the view however, that the curriculum in its current form did not sufficiently expose them to the concept of social justice prior to their final year attachment to the Legal Aid Clinics. As such, prior to focus group discussions, many students failed to make important linkages in some cases, between the roles that the law and the legal profession play in addressing social justice issues faced by members of the community.

However, the opportunity to work in Legal Aid Clinics has been lauded by students as one that afforded them exposure to social justice issues and initiatives and provided them the best opportunity to prepare for the world of work.

The majority of students indicated that they would provide legal services to indigent and disadvantaged members of society should the opportunity present itself. A smaller number of students expressed a specific professional interest in social justice advocacy as a law practice specialisation. These students articulated a commitment to providing legal services to the underprivileged and underserved in their communities. A fewer number of students possessed no professional interest in social justice advocacy, preferring instead to concentrate their knowledge in areas other than those which have a bearing on social justice.

## **Conclusion**

The data suggests that the Mission of the Council as it relates to social justice is not being adequately realised in the student population. The findings have revealed that the concept of social justice means different things to different respondents in different circumstances as advocated by Törnblom 1992. Respondents provided varying definitions for the concept of social justice and there were those who could not provide any definition. The inevitable corollary was that student opinion varied as to whether or not they had been exposed to social justice at the Law Schools.

Focus group discussions however revealed that the concept of social justice and the term social justice advocacy had not previously been contemplated by many students. Others were aware of the concept but differing views as to its definition were provided. Some students admitted that they could not define social justice at all.

Following focus group discussions, all participants admitted that they had in fact been exposed to social justice issues and initiatives during their tenure at Law School, though in an abstract and indirect manner and that this had made it challenging for them to identify exact points of exposure. Students readily agreed however that their clinical experience at the Legal Aid Clinics in their final year at Law School had provided them with a focused social justice orientation.

The results of this study reflect an awareness of social justice as a professional responsibility. However there was little evidence of a commitment on the part of students to providing legal services to meet the needs of the poor or disadvantaged,

upon receipt of the necessary professional qualifications. A small number of students have signalled a commitment to social justice in their professional career choice.

## **Recommendations**

Several pieces of literature promulgating clinical methodologies in legal education, stand on common ground in the understanding that exposure to a social justice mission within a formal clinical education programme, provides students not only with a key linkage between their legal education and their practice proficiency, but also with the intellectual grounding for a long-term commitment with the fostering of social justice as the main focus.

The data highlights multiple opportunities for growth in so far as the Council's social justice agenda is concerned. It is recommended that a social justice campaign be launched in each of the Law Schools in a manner that would allow for the Council's Mission to be more explicit and for there to be common understanding amongst stakeholders regarding Council's educational philosophy in the promotion of its social justice mandate.

One of the key strategies most likely to result in increasing the number of students who may choose to pursue social justice advocacy upon graduation, is planning, building and ensuring institutional support for social justice amongst all of the Council's stakeholders. Ensuring strong and effective infrastructure for social justice programs is also critical. Educating the profession about the challenges faced by those living in poverty and the legal needs that arise as a result, through continuing legal education programmes hosted by the Council or bar association initiatives, will also help to encourage more attorneys to include a social justice agenda in their practice.

It is also recommended that social justice should be creatively packaged for newly qualified attorneys with a view to increasing lifelong commitment. For example, offering participation in a mentorship programme may assist many in overcoming any reticence they may have regarding representation of the under-represented.

Much can be learned about how to increase student interest in social justice advocacy by focusing on what motivates those survey respondents, currently in the minority, who have indicated a commitment to serving those members of society who can ill-afford legal representation. These will become the attorneys who are more likely to provide such representation. These students will become the attorneys who will work for an employer that supports indigent clients and who will be more likely to seek out such clients rather than waiting to be called upon.

Reflecting on the work of experienced attorneys who currently function in this regard and understanding their motivations, will also offer important insight into the most effective means of fostering social justice orientation at the Law Schools and could enhance the quality of mentorship programmes.

Further, the expansion of out-reach programmes as well as the development of a social justice resource centre, are initiatives that should form part of an overall, comprehensive legal programme at the Law Schools. Lastly, a review of the existing curriculum at the Law Schools is a major strategy that would ensure that the Council's

Mission, in so far as it relates to social justice, is fulfilled. This reconceptualisation exercise should include an orientation programme or specific course of training in social justice, which would extend beyond an introduction to substantive and procedural laws.

All of the initiatives outlined above, will go a long way towards a more purposeful execution of the Council's mandate as it relates to social justice.

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