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Quality and Accessibility: Legal Education In an Age of Austerity

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PILGRIM FATHERS LECTURE 2012¹
QUALITY AND ACCESSIBILITY:
LEGAL EDUCATION IN AN AGE OF AUSTERITY
The Right Honourable Sir John Thomas
President of the Queens Bench Division



Introduction

It is a great honour to have been invited by the City of Plymouth, the Plymouth Law Society and the University of Plymouth to give this lecture. It is a privilege to be with you this evening, following in the footsteps of so many distinguished lecturers, particularly in the year that the University celebrates its 150th anniversary.

You may question how my chosen subject fits with the traditional themes of this lecture of liberty and human rights. But access to the law and to effective legal remedies is of

¹ The Annual Pilgrim Fathers Lecture is organised by Plymouth Law Society and was held at Plymouth University Wednesday 7 November 2012

fundamental importance to the maintenance of liberty and the enforcement of human rights. Legal education plays a crucial role in maintaining a profession of the highest quality capable of ensuring that the law remains accessible. The difficult economic climate is, however, creating real challenges both for the future of the profession and for access to justice. This is a matter of interest and concern to the legal professions, to university law schools, the judiciary and the wider public.

The future of legal education has been debated and discussed extensively in recent years. The Legal Education and Training Review by Dame Janet Gaymer and Sir Mark Potter established by the Bar Standards Board, the Solicitors Regulation Authority and ILEX Professional Services is due to publish a report on its research findings next month, before it considers its recommendations. It is therefore also a timely subject.

Much of the recent debate has centred on the future of the profession from the perspective of the profession - how to preserve its reputation, standing and values in a rapidly changing and more globalised market and whether our legal training is highly enough regarded and sufficiently transferable to other legal jurisdictions. I intend to focus on the link between legal education and access to justice. I will ask if legal education needs to change better to serve today's society so that the law remains accessible to all in a time of greater austerity and curtailment of the public purse. This curtailment is having and will continue to have a significant effect on legal education, legal representation and hence access to justice. Will viewing the issues from this perspective lead to a different way forward? Before examining that question, it is necessary to put the issues in their context

1 The Debate over Legal Education and Paths to Qualification

It is perhaps surprising for such an ancient and learned profession that universities played no real part in legal education until the second half of the nineteenth century and that a university degree is only a relatively recent requirement for those seeking to become solicitors or barristers.

Lord Mansfield

Indeed about 300 years ago, at the time one of our greatest Chief Justices, Lord Mansfield, was a student, there was very little teaching of law at all. How did he therefore acquire that vast learning that enabled him to give judgments which form the basis for much of our commercial law and to declare in *Somerset's case* that slavery was so odious that it could not be part of the law of England? At university he attended a few lectures on the Pandects of Justinian. He devoted himself to oratory and cultivated his forensic style by translating

Cicero's Orations into English and then re-translating them to Latin. He entered his Inn of Court whilst still at university and obtained chambers at Lincoln's Inn. To qualify as a barrister all he was required to do was to dine in Hall five days each term and once a term to read the first sentence of a paper, called an Exercise, prepared for him by the steward.

The answer to the question I posed is that he studied on his own. In addition to the works of Cicero and Justinian, he studied on his own feudal law, English law through what he described as, 'the drudgery of toiling through tiresome text books and rubbishy reports.' As he was a Scot and hoped for work from Scotland, he studied Scottish law, but the depth of his learning was obtained from his study of continental jurists. Writing of Lord Mansfield's education 150 years later, another Chief Justice, Lord Campbell, said:

Where there is a combination of enthusiasm, and steady perseverance, the want of means of instruction provided by the state is little felt, and tests of proficiency by public examination may be dispensed with; but I conceive in regard to the great mass of students entering a learned profession, it is necessary, by institution and discipline, to guide inexperience, to stimulate indolence, to correct the propensity to dissipation, and to have some assurance that those instructed with defending life and property are decently well qualified for the duties which they may be called upon to discharge.

Mid-nineteenth century reform

In the middle of the nineteenth century at the time Lord Campbell made his observations, the generally accepted view was that legal education in England was inferior to that of legal education in any other civilised country of Europe (for there was none in Wales) and was far inferior to that in the United States. There was little by way of teaching, either by the Law Society, the Inns or at any university. The legal professions learnt the law by apprenticeship or being in chambers.

In 1846 a Committee of the House of Commons conducted an enquiry into legal education. Their report commented on the deficiencies and recommended the establishment of a legal university for the purpose of a well organised system of legal education open to all parts of the profession. In 1854, a Royal Commission was appointed to look into legal education; that affirmed the views of the Select Committee of 1846, both as to the deficiencies in legal education and the need for a legal university.

In May 1875 Lord Selborne (who had been Lord Chancellor from 1872 to 1874 during Gladstone's administration and who was again Lord Chancellor between 1880 and 1885) introduced a Bill into the House of Lords to establish a General School of Law for both branches of the profession. As he explained in introducing the bill, his principle was that legal education should not run narrowly into two grooves of mere preparation for the Bar and

mere preparation for attorneys and solicitors. It should be more broadly based and required of all.

This was a radical proposal and if adopted would have changed the course of legal education and probably have made a significant difference to the way in which the professions developed. Although Lord Selborne had obtained the agreement of the Law Society and other solicitors' organisations, the Inns were opposed as was the Conservative Lord Chancellor, Lord Cairns. The proposal failed. When the Law Society obtained the right in 1877 to conduct its own professional examinations, it joined the Inns in becoming unenthusiastic about a General School of Law. Although this more radical scheme was lost there was, however, a considerable improvement in legal education. Proper teaching started at a few universities.

The twentieth century

I do not intend even to outline the debates on legal education over the next 100 years. I will simply take two snapshots

The cost barrier to entry in the 1920s

In 1922 when it was proposed that a year's attendance at law lectures would be made compulsory for all entrants to the solicitors' profession, it was opposed on the grounds that compulsory education would still further limit the profession to those who were relatively wealthy. At that time, it was estimated that the parents of anyone entering the profession had to pay out nearly £1,000 by way of expenses and maintenance before the final qualification was obtained – a very considerable amount. Although a year of legal education was made compulsory for everyone except those with an approved degree or who were managing clerks (as legal executives were then known), the cost was alleviated through steps taken by the Law Society to strengthen the provision of legal education outside London, Oxford and Cambridge in the few universities that then taught it and to develop legal education in other universities.

Lord Atkin and the perception of the law as medieval magic

In a lecture in 1923 at the London School of Economics on the Place of Law in University Education, Lord Atkin deeply regretted that the ordinary man was inclined to look upon the law as either 'a dishonest game or a piece of medieval magic'; he wanted to encourage the inclusion of learning law in the general curriculum. He also sought to encourage the teaching of law at universities as part of a general liberal education and to bring about contact between teachers of law and the profession. In 1932 he was appointed as Chairman of the

Committee on Legal Education, but little was achieved. As his biographer, Geoffrey Lewis, puts it, nothing was done because of the complacency of the professions.

That complacency continued until shortly after I took my bar exams in 1969. Little had changed. It was not necessary to be a graduate to enter either part of the profession. Many distinguished solicitors who are now approaching retirement had no law degree. The Bar exams could be passed by anyone who had a law degree and a reasonably retentive memory by a course of some four to six weeks study. It that changed in the early 1970s with the restriction by the Law Society and the Bar to graduate entry and the compulsory year long courses that every prospective barrister or solicitor had to attend, though non graduate entry remained a route open to legal executives.

2 Factors Which Should Shape Change

As this briefest of outlines shows, many of the issues relating to legal education are not new. But in any new review of legal education, there should surely be three steps? The first is an enquiry into what at the present time and in the foreseeable future society needs from lawyers to maintain and improve access to justice and a proper functioning system which upholds the rule of law and sustains economic development. The second step is a review to ascertain if there are deficiencies in the current system of education seen in that context. The third is any necessary proposal for change.

I will therefore first try to identify what is needed from lawyers by their customers, the courts and by society at large. Although I will concentrate on what is required to provide access to the courts and tribunals, it is necessary to have in mind the need for lawyers in day-to-day life, whether it be the need of a corporation for an international loan transaction or the person next door wanting to make a will.

(a) *The complexity of the law*

We have a good, mature and independent legal system, which is rightly held internationally in very high regard. But it is too complex and obscure for the non-legally trained – Lord Atkin’s phrase of “medieval magic” is still apt.

There plainly continues to be the need to explore all options for demystifying and simplifying the law. Alongside efforts to increase access to justice by pro bono advice and representation, there is a need to find ways to increase public understanding of the law and legal rights. Simpler legislation or codification should in theory make a difference, but even if that were to happen, the increasingly complex interaction between legislation and case law

is difficult enough for lawyers, let alone the average person on the street. While the profession is trained to do this and learns by experience, is it really practicable to expect an untrained self-represented litigant to do this?

Although much can and should be done to reduce the “medieval magic” of law and to simplify the procedures of the courts and of legal documentation, experience requires a very great deal of caution as to what can be done. For example the experience derived from the County Courts in the 60 years after their creation and from the Employment Tribunals in a much shorter period are stark pointers to the difficulties of providing simple processes for the resolution of disputes without the intervention of lawyers. There can be little doubt therefore that society will continue to need an increasing number of lawyers or other providers of legal services. Simplification will not solve the problem. But it is little use having legal services available if they are not available at an affordable cost.

(b) *The cost of legal services*

The general cost of legal services is very high. The considerations in the commercial world are different. Where the UK is chosen by overseas companies and individuals for the resolution of disputes by arbitration or in the courts or they chose UK lawyers to prepare transactional documentation, high fees can be seen as beneficial as significant contributors to the economy, provided they do not price the UK out of the international market.

However that is the only beneficial aspect of high fees. For the most part, the very high cost of legal services makes litigation impossible to contemplate for all but the most wealthy or for those to whom legal aid is available or who have access to some other form of funding. At the moment the options open to prospective litigants without some form of funding are (i) to pay themselves and risk prohibitively high costs (ii) to represent themselves as ‘self-represented litigants’, or (iii) not to pursue legal remedies at all. The reforms proposed by Jackson LJ that will come into effect next year should help very considerably to contain cost, but they will not radically alter the position in litigation. On the other hand, in transactional work, costs have been reduced by the suppliers of single services such as licensed conveyancers to whom I will return.

(c) *The reduction in legal aid*

The very significant changes to the scope of the legal aid regime and cuts to the sums paid to lawyers working under legal aid mean that far fewer people will have access to public funds in civil and family cases in the future. Although policy can change and such change is for government, it would I think be unwise to assume that there will be any reversal of the

very substantial reductions in the scope of legal aid and the amounts paid to lawyers where it is available.

The legal profession will therefore need to adapt to this new reality. There will be fewer cases funded by public money and the fees will be lower for those who continue to practice in publicly funded work. The legal profession will therefore need to decide whether to find ways to adapt its current practices to provide an affordable service to the increasing numbers not eligible for legal aid, or whether it accepts that there will be an increasingly large number of self-represented litigants and a proportionately smaller amount of business for the lawyers.

(d) *The provision of legal assistance in other ways*

The high cost of legal services and the reduction in the availability of legal aid has provided opportunities for others such as the single service providers to whom I have referred. The liberalisation of the market under the Legal Services Act will inevitably bring about further alternatives.

There is nothing new in persons other than barristers and solicitors seeking to provide legal services when a new opportunity presents itself. The establishment of the County Courts in 1846 is an interesting illustration. The policy underlying the creation of these courts was the provision of access to justice which the Superior Courts of Common Law no longer provided for the vast mass of people. Although there was a debate as to whether legal representation should be barred, it was thought the same result could be achieved by making the recoverable costs so low that lawyers would not normally be prepared to appear.

However this did not happen. Conditions were tough in the 1840s – there had been a falling off of business in the higher courts; there had been an increase in numbers in the professions; the Bar saw their position threatened. When the new courts attracted a huge volume of business, lawyers who could find a number of cases to do on the same day, saw they could obtain a living that made appearing in the County Courts very worthwhile. This had two consequences. First it led to acrimonious disputes between the professions about rights of audience, direct access and the ability of attorneys to act both as litigators and advocates. Second unqualified “agents” and “accountants” saw representation in these courts as a business opportunity. There followed a prolonged campaign to persuade each County Court judge to stop such persons appearing. The business was plainly worth fighting for even amongst the agents and accountants, for their fights over clients in the Whitechapel County Court on occasion could end up in the Whitechapel Magistrates Courts.

But what of today? There can be little doubt that, although there will always be a substantial demand for highly trained lawyers, it is necessary to consider and take into account the alternative ways of providing legal services. This is already happening as a few examples will illustrate

First, in the Tribunals, which form so important a part of access to justice, the restrictions on rights of audience are few. In some, commercial providers can appear and represent litigants if registered, but education, training and the quality of those appearing are not regulated.

Second there are the single service providers to whom I have already referred, such as the members of the Society of Licensed Conveyancers.

Third there are the Alternative Business Structures permitted under the Legal Services Act which are already emerging. It is too early to tell what the effect will be. Will it produce *Tesco* type operations? Will it produce, as the last Lord Chancellor suggested, a *Specsaver* type service? Will there be chains of lawyer owned centres? Or will much go on as before – I doubt this last.

Fourth, work that would have been done in house in a solicitors firm by qualified lawyers is now being outsourced or done by those who have obtained law degrees and passed their professional exams, but who cannot get a pupillage or training contract. They are part of the ever growing numbers of paralegals.

It is important to keep in mind that if legal services cannot be provided at an affordable cost, then an industry will find an alternative model. A clear example of the effect of the courts and the profession pricing themselves out of the market was the creation of the Financial Services Ombudsman Service. It examines complaints, decides what is fair and can order the business to put it right and make orders of compensation of up to £100,000. Although a legal remedy remains in court, the efficacy of the service and the costs of litigation mean that the courts are rarely used for such disputes.

(e) *The need for quality*

However legal services are provided, there is one overriding requirement that must be maintained – quality both in education and thereafter. Saying this may seem otiose, but some do believe that reducing quality can increase the availability of legal services by making entry, education and ongoing quality monitoring cheaper. Whatever the way in which

services are provided, whether to a large corporation on a bond issue by a magic circle firm or by a single service provider to a person writing a will, the quality of the work done must be assured to the users of legal services; that quality can only be grounded in sound education.

(f) *The effect on the courts of self represented litigants*

Despite the prospect of the market offering alternative legal services or the costs of lawyers possibly falling, there is a growing number of self-represented litigants. With the curtailment of the scope of legal aid in family law, undoubtedly there will be many more. This has a significant effect on the courts as it reduces the chances that agreement will be reached before a hearing, issues are rarely narrowed, preparation takes longer as the papers are more voluminous and hearings take longer.

Some courts are fortunate in having representatives of the Personal Support Unit to help and the Court of Appeal has lawyers and judicial assistants who can distil much of the material provided. Despite this, there is a significant and growing problem which is likely to put increasing pressure on judges. It seems inevitable that unless some alternatives can be found, it will have serious effects on the courts and delay justice to an extent few would find acceptable at a time that is soon to be the nine hundredth anniversary of *Magna Carta*.

(g) *Access to the profession: Diversity*

From my brief outline of the history, it is clear that safeguarding access to the professions is not a new issue. All professions should be reflective of society, an issue which has been preoccupying the judiciary for some time. There is no quick fix. A more diverse judiciary depends on greater diversity all the way through the profession. There are many other things we can do, but without that diversity from entry level, we will always be restricted as to who can be appointed to more senior positions.

The cost of becoming a lawyer is of concern not just for the individual deciding whether law is the right career path for them, but also for the public who require their services. The more it costs to educate the lawyers of the future, the more they will need to earn in order to make it an attractive career option and to repay their debts. It would seem clear that outside the very narrow commercial sector serving large corporations and the very rich, the pressure on fees is likely to be downwards. The serious problems encountered in obtaining training contracts and pupillages are unlikely to ease. The opportunities for sufficient earnings to repay them are likely to diminish. The medium term effect on access to the profession is an acute issue.

(h) Cost to the student

Let me therefore turn to examine that cost. For the past few decades, while it has not been cheap to study for a law degree, it has been possible to obtain one without paying tuition fees at all, or since 1998, by paying relatively low fees. Times have changed. Students starting their degrees this year will generally face fees of £27,000 for their three year undergraduate course, in addition to the usual costs of living and of subsequently completing either a Legal Practice Course or Bar Vocational Course. Before they complete a training contract or pupillage, they are likely to have spent well over £60,000 on tuition fees and living expenses, even living an exceptionally quiet student life: I have no doubt that the actual costs are somewhat higher for many students.

While taking a qualifying law degree at university is still the most common route for solicitors, the proportion reading law has fallen from 70% in the early 1980s to just over 50% today. But the costs are even higher for such students as they must complete a law conversion course after their undergraduate degree and qualify by that route.

It is too soon to tell the extent to which higher tuition fees will have a medium and long term impact on the numbers of students studying law and then qualifying as solicitors or barristers, but it will have an effect.

Given that there continue to be far more applicants than pupillages or training contracts available for them, some might argue that a reduction in numbers is not a particular problem. That may be a view, but can society accept a position where high tuition fees and the fear of debt have a negative impact on the diversity of those entering the legal profession? Research indicates that poorer students are more averse to taking on significant levels of debt than wealthier ones. The legal profession must not become the preserve of a privileged elite.

(i) Other factors

There are no doubt other factors, but to my mind these are the key considerations. As I have already indicated, it seems clear that any reform of legal education must not only be focussed on what is needed in the eyes of barristers, solicitors and legal executives, but what is actually needed by society as whole, the current users of legal services (including the courts) and those who need legal services but cannot afford them. In short, the real question is how should any changes to legal education take into account the necessity of providing quality in the traditional professions and single source providers of services so that access to justice in this age of austerity can be maintained and improved?

3 The Options for Legal Education

It is in this broad context that the shape of education, both at entry and thereafter, must be considered. However, it is not my task, even if I could undertake it, to present solutions as that must await a detailed examination of the first and second stages I have mentioned. But I would like to review some possible options and comparisons for the third stage.

It is right to acknowledge at the outset that the market is already beginning to take account of the factors I have outlined. As well as the well-established route of the conversion course, providers of legal education are beginning to offer a wider range of options for students, such as the College of Law's two year undergraduate LLB degree. I have no doubt that there are many other innovative solutions being developed and offered by law faculties around the country. The professions have also made significant changes – the Bar's Legal Practice Course has been significantly improved and there are interesting proposals for guidance on entry to the profession. But what of other options?

(a) A single common education

There is nothing new in the suggestion that there should be a single educational requirement for entry to the bar and becoming a solicitor; this goes beyond the single qualifying degree in that it would include what is covered by the solicitors legal practice course and the Bar course. It was mooted over 150 years ago. No doubt it is a front runner for entry to those two professions, but if required for all entrants to every provider of legal services, it would stifle access to justice and diversity, as its cost would be prohibitive.

(b) Non graduate entry

CILEX already provides a non-graduate route of entry to the legal profession, with students generally studying and gaining practical paid experience through their day job in parallel. Chartered Legal Executives may become advocates; they can qualify as solicitors; they can become District Judges and Tribunal Chairman. There would appear to be considerable scope in exploring how this model might be expanded or adapted. I would very much hope that Universities would engage to the full in this, as many currently do, for when law is taught in the context of a broadly based university, it is much more likely that the student will get a liberal education and therefore very much more than a set of professional competencies. Quality and a broad understanding of context must be provided. This, surely, is a task for the universities?

(c) *The range of academic study*

Whatever requirement there is for entry, it is necessary to consider whether a different balance between types of academic study should be introduced or whether we should look much more closely at how the right balance of practical experience and learning in the class can be provided.

It is often surprising to international colleagues that prospective lawyers can specialise in law at the age of 18 and forgo a broader education. Furthermore the time it takes for a lawyer to qualify here is relatively short, by international standards. If other providers introduce two year law degrees, that time will reduce still further. Should we therefore examine these alternatives, particularly in the increasingly international nature of some legal work and the increasingly competitive global market?

Many other countries have recognised the need for change. France, Germany and Scotland have implemented reforms in the last five years, and Canada has a reform plan which it will implement by 2015. Training in the United States takes much the same length of time as here – six to seven years - but follows an entirely different structure, with three years of postgraduate legal study to obtain a law degree following a general academic degree; passing the bar exam is a tough, but short, additional step. By contrast, training in other European countries is often longer - between six and eight or more years in Germany, and over eight years in Italy, with often unpaid equivalents of the training contract stage. Nonetheless in all international comparisons, it must be borne in mind that our legal profession is one of the most successful in the world and our legal system one to which many overseas clients turn in their transactional work or use to litigate.

Although much might be said for a longer and more liberal education at the tertiary stage, will the cost of this be affordable? I think not. However, we must guard against turning university law schools into technical training institutions and ensure that the curriculum is very broadly based.

(d) *Practical experience: Clinical Programmes*

But that is not to say that practical application of the law should not form part of the curriculum of our law schools. Since England and Wales began the teaching of law as an academic subject, training through experience in practice has by and large been left to post training contracts and pupillage. Although it has worked extremely well, it is now encountering real difficulties. First, the number of training contracts and pupillages are insufficient; as these have to be undertaken to obtain full qualification, there is now an

unacceptable and unsustainable barrier to entry. Second, there is less and less routine or minor work available, unless firms or chambers deliberately seek out such work at a nil cost basis or charge clients for work that is of little value.

The United States provides an interesting contrast. Graduates from the three year course are qualified to practice immediately they have taken their Bar exams. Thus if experience in practice is to be gained other than through internships during the vacation, it has to be provided in the University Law Schools. Hence the clinical programmes that form a part of the curriculum at many of its law schools are a very interesting model from which we might learn. May I take a moment to show how it developed in one law school – Chicago, perhaps not inappropriate on this day of President Obama's second election victory, as the law school where he taught for 12 years?

In the 1950s, Edward Levi, then Dean of the Law School (who later was US Attorney General under President Ford) in campaigning for the start of such a programme in the 1950s argued:

Such a legal clinic would be a major step in American legal education. It would put the law schools in a position where they would be dealing with the facts of actual cases It would be an experiment in the training of lawyers using techniques analogous to those employed in medical schools.

His advocacy led to the founding of a clinic in October 1957. His comparison with medical schools was apt for it was founded with a donation of \$75,000 from Edwin Mandel whose family had founded many student clinics at medical schools. The benefit was identified as two fold:

The concepts of clinical service that have proved so successful in medicine are applicable to the practice of law. As with medical clinics, legal aid clinics can provide a very high quality of free services for low-income families. Such clinics are also important in providing essential facilities for training and research."

The first was much needed as, although the University was founded by Rockefeller in what was a prosperous area at the end of the nineteenth century, the area immediately to the south had by the 1950s declined into one of great poverty.

With the change in attitudes and the civil rights movement, student participation grew and involvement in the work of the clinic is now a significant part of most students' legal education. At another great law school, Yale, 80% of students take advantage of the opportunity to take a clinical course, and to get experience of representing clients, including

appearing in court, under the supervision of senior staff. It is important to note that in universities in continental Europe such programmes are also expanding.

It is heartening that participation in law clinics as part of university education in law is growing in the UK. The analogy with medicine is also apt in the UK. For example, instead of studying books and the dead for three years before a student saw the living, most university schools of medicine have now integrated their academic teaching and practical training. Those who practice medicine also teach.

This University in particular offers opportunities to undertake clinical legal experience through pro bono work and through its association with the Innocence project for miscarriages of justice and the SWERC for employment law. It was a real pleasure to read of the Law Society's *Pro Bono* award given this year for this work.

Although very encouraging, this is on a far smaller scale than in the US. Should we go further? There is the obvious practical attraction of extending the provision of free legal advice by law students to members of the public, in particular given the cuts to legal aid. In the US, the clinical programmes fill a gap that was largely filled by legal aid in the UK. As it becomes harder to secure legal aid, will the demand for this sort of advice become increasingly popular?

However any such major development needs the most careful thought. May I mention some considerations? First, clinical programmes need strong supervision and have to be resourced. The experiences of continental European universities where such clinical programmes are available are that they are very popular and provide excellent training, but are resource intensive. Where will the resources come from?

Second, should they follow the initial Chicago model of providing routine advice on the problems that are encountered on a day to day basis? Or should they provide major litigation projects such as the clinical programme which Denver Law School is conducting in relation to Supermax prisons in the US?

Third, there is the risk of poor advice from unqualified students, and the potential that this could open the provider up to claims for compensation. Fourth, what would be the impact on the qualified profession seeking to stay in business in an increasingly austere climate? Fifth, would the profession embrace this and play a significant role in its provision? I hope so, as

that is essential. Sixth, would it be seen as a justification for further reductions in the scope of legal aid? I think not.

But if clinical education helps to produce better lawyers and better advocates, trained in the course of their education in the practical application of the law, then might this not only directly assist in access to justice for those who are without it but also increase access to the profession for those who currently cannot gain access?

(e) *Length of courses and training?*

I have mentioned the radical option of dispensing with the need for a university degree entirely. If this is too radical, given the scale of change facing the legal profession and the needs of society, less radical changes, such as more 'sandwich' courses incorporating a year of practical training, may be more attractive, with benefits to students, firms and clients.

As I have said, it is unacceptable that many complete law degrees and professional exams and cannot get a training contract or pupillage and so qualify to practice. If clinical and other practical training can be provided at universities, then can training contracts and pupillages be made shorter?

(f) *Attracting more diverse entrants*

Even if the main route of entry to the profession of solicitor and barrister remains a university degree and professional training through pupillage or a training contract, the profession will have to do more to encourage a wider range of applicants for law degrees and, given the financial realities, do more to make it possible. Taking just one example, the Bar Council runs good schools-based careers programmes to encourage A level students who may never have thought about the law to consider the Bar as a career. Is more work needed to expand these sorts of programmes, and to think more creatively about where and when to deliver them in order to really reach a wider audience?

(g) *Continuing development*

Continuing education is now a part of every profession's requirements. But the existence of that development has not really been reflected in what we require on entry to the professions. Could we contemplate a system that provides the option under which, after initial education, a person can undertake a limited class of work and then return for further education and qualification which permits a greater range of work? This could be seen as analogous to the CILEX route, but should it be more generally available?

(h) Paralegals and single service providers

I must finally mention the single service providers who undertake from the outset a limited class of work such as will writers and licensed conveyancers. They provide an essential service, but necessarily fall outside of most debates on legal education. They provide important legal services to a very large number of people. The current debate should not ignore these providers.

Conclusion

The struggle for the improvement of access to justice and to legal advice is a constant one. The questions that arise in relation to the legal education necessary to provide that access have been a feature of debate for over a century and a half. There is, as has always been the case, no room for complacency in the light of the factors I have outlined. There is a need for radical thinking. Even if radical ideas do not carry the day as was the case in 1875, they will contribute to the debate on any changes that are needed to maintain the rule of law and access to justice by ensuring that the quality of the education remains undiminished.



(Sir John Thomas with Dr Dan Gilling, Acting Head, Plymouth Law School and Steven Hudson, President of Plymouth Law Society)