



Training lawyers for the sub-Saharan African market: what role for academics? Perspectives from Kenya

Robert Machatha Kibugi

To cite this article: Robert Machatha Kibugi (2009) Training lawyers for the sub-Saharan African market: what role for academics? Perspectives from Kenya, *The Law Teacher*, 43:1, 37-48, DOI: [10.1080/03069400802703136](https://doi.org/10.1080/03069400802703136)

To link to this article: <http://dx.doi.org/10.1080/03069400802703136>



Published online: 20 Mar 2009.



Submit your article to this journal [↗](#)



Article views: 46



View related articles [↗](#)

Training lawyers for the sub-Saharan African market: what role for academics? Perspectives from Kenya

Robert Machatha Kibugi*

Tutorial Fellow at the School of Law, University of Nairobi, Kenya

Skilled professionals such as lawyers are imperative for any society. Their training is even more critical, as it shapes their eventual role in transforming society. They play an important role since the law influences literally all aspects of our lives. My thesis here is that the “market” for lawyers in sub-Saharan Africa is dictated by the stage of societal development. Thus their training must be focused on the present and projected needs of the particular society. So, what role do academics play in realising this long-term goal? Academics must wear many hats as thinkers and scholars, teachers and mentors. They must influence philosophical paradigms of teaching for local relevance. They must deconstruct the “market” to decipher its meaning – are they training professionals for local service or for emigration? Thus, examining the place of the university academic in the training process, this paper investigates the situation, and makes policy-level remedial proposals.

Introduction

This paper focuses on examining the role of the academic African in legal education. There is an appreciation that many countries have been training lawyers based on the model set up by the colonial governments. Decades later, while society has changed – taking with it the role of law and lawyers – a significant focus is still on training lawyers for private practice. While we do not wish to demean the practice of law, we suggest that the needs of society transcend these current strictures. Legal expertise is urgently needed in areas of public policy and service, and even university teaching. How do we train lawyers to appreciate these evolving paradigms? What role does the university academic play in this context? This paper attempts to find answers for the questions.

*Email: rkibu083@uottawa.ca

Contemporary role of law and lawyers

A brief background

In much of sub-Saharan Africa, lawyers appeared with colonialism. The need for their services, and a delineation of their role, were defined by the form of colonialism that emerged in those countries.¹ At this time, courtesy of their performance of official-linked services such as judiciary, lawyers were firmly tied to the machinery of the state, required and applied for annexation and domination of these countries. But those are lawyers in the “modern” sense; and an attempt to suggest that traditionally there were no people knowledgeable in the practice of law would border on the absurd. African communities always had a system of customary law in place, and a localised system of governance within which this law would be practiced. Anthropological scholars have found evidence of “law school” training existing in many traditional communities in East Africa – with evidence that aboriginal legal education had been conducted for many centuries prior to colonial rule.²

Traditional function of lawyers

There is a growing corpus of literature about lawyers and their profession. Much of this work suggests a need to consider what is being studied, and why?³ In East Africa for instance, legal education has typically been biased in favour of modern law.⁴ The latter puts emphasis on rule, on defining the “rights” and “duties” of individuals, and on the state.⁵ Possibly this can be attributed to traditional practice where legal educators have focused on students learning the theory and doctrine of law – such that professional training then focuses on the students’ cognitive powers to the exclusion of their values and emotional systems.⁶ In a sense, this approach is blamed for a narrowed students’ perception of themselves as professionals – which can make it difficult for them to collaborate with persons from other disciplines.⁷

¹Ghai, Y.P., “Law and Lawyers in Kenya and Tanzania: Some Political Economy Considerations”, in Dias, C.J., Luckham, R., Lynch, D.O. and Paul, J.C.N. (eds), *Lawyers in the Third World: Comparative and Developmental Perspectives* (Uppsala, Scandinavian Institute of African Studies, 1981) 144.

²See for instance, Phogmore, P., “Aboriginal Legal Education in East Africa” (1961–1962) 14 *Journal of Legal Education*, 353–360.

³Dias, C.J. and James Paul, C.N., “Lawyers, Legal Professions, Modernization and Development”, in Dias, C.J., Luckham, R., Lynch, D.O. and Paul, J.C.N. (eds), *Lawyers in the Third World: Comparative and Developmental Perspectives* (Uppsala, Scandinavian Institute of African Studies, 1981) 11.

⁴This is a misnomer largely blameable on the structure of a legal system inherited from the British. In the case of Kenya, for instance, African customary law which still has widespread application by people is pushed to edge of the legal system. Section 3(2) of the Judicature Act provides that the Courts may be guided by customary law in civil matters where one or more parties are affected by such customary law. In addition, such law should not be repugnant to justice and morality or inconsistent with any written law. The interpretation of repugnancy has proved very controversial in the past.

⁵*Supra* n. 3, 13.

⁶Lerner, A.M. and Talati, E., “Teaching Law and Educating Lawyers: Closing the Gap through Multi-disciplinary Experiential Learning” (2006) 9 *International Journal of Clinical Legal Education* 97.

⁷*Ibid.*

A conflict has emerged conceptually between the practice of what is really “private rights” based law, and an existing belief that lawyers being in the category of professionals should find a strong belief in service to the public, and an equally strong sense of calling to the field.⁸ In Kenya, as in Tanzania, evidence emerged as early as the 1970s that the legal profession did not show much sense of calling or commitment to public service.⁹ The legal profession has been accused, for many years, of tending to be of a highly formal nature, with little to relate it to the distinctive needs of a developing society.¹⁰ It is difficult to understand why this is so, considering for instance, that in former British territories lawyers typically played an important role in independence movements and went ahead to hold positions of prestige and power in immediate post-independence governments and civil service.¹¹

A changing playing field for legal practitioners?

In the last two decades or so, sub-Saharan Africa has undergone significant transformation. A wind of change pushed through the region, and saw the ushering in of multi-party democracy and opening up of democratic space. In East Africa, Rwanda for instance is now steadily pushing toward national reconciliation, after the civil war and 1994 genocide. Uganda has been on course, albeit facing challenges in leadership, as well as contemporary problems associated with HIV/AIDS, the rebellion to the north, etc. Tanzania has been transforming from a socialist into a capitalist state. Kenya has opened up democratic space, and until the disputed presidential elections in 2007, was praised as the golden boy of Africa.

Many of the changes on course in these countries will require legal and policy reform for successful launch and implementation. While, as seen above, the legal professions have been cast as skewed away from public service, lawyers remain central to the process. Rwanda and Uganda in the last decade have written new constitutions, a process requiring significant participation by lawyers. Kenya underwent an unsuccessful constitutional review process from 2002 to 2005, in which lawyers played a critical role.¹² As the country endeavours to find a lasting political settlement to the current turmoil, lawyers will no

⁸Odenyo, A.O., “Professionalism and Change: The Emergent Kenyan Lawyer”, in Dias, C.J., Luckham, R., Lynch, D.O. and Paul, J.C.N. (eds), *Lawyers in the Third World: Comparative and Developmental Perspectives* (Uppsala, Scandinavian Institute of African Studies, 1981) 197.

⁹*Ibid.* 198; see also Medard, R.K. and Rwelamira, M.R.K., “The Tanzanian Legal Profession”, in Dias, C.J., Luckham, R., Lynch, D.O. and Paul, J.C.N. (eds), *Lawyers in the Third World: Comparative and Developmental Perspectives* (Uppsala, Scandinavian Institute of African Studies, 1981) 218.

¹⁰Merillat, H.C.L., “Law and Developing Countries: Notes and Comments” (1966) 60(90) *American Journal of International Law* 73.

¹¹*Ibid.* 72.

¹²The statutory organ facilitating the process, the Constitution of Kenya Review Commission was required by law to be headed by a lawyer. In addition the Commission Secretary and a significant number of Commissioners and Commission staff were lawyers who provided technical support to the process. See generally, Constitution of Kenya Review Act, Cap 3A Laws of Kenya.

doubt play a key role in putting up legal measures; drafting agreements; and possibly implementation.

In addition, the areas of environment and natural resources are very critical to national development. Legal expertise has been in great demand to deal with water, agriculture, forestry, minerals, fisheries.¹³ These are significant matters of survival for communities. Human rights remain central to a coherent and progressive society, and lawyers are involved, whether as activists, prosecutors, defenders or scholars.

The high cost of living has pushed up the cost of lawyers, beyond the reach of many citizens, hence the need for an organised system of public interest litigation and legal aid. In Kenya, for instance, in the absence of a state-sponsored legal aid scheme, non-governmental organisations (NGOs) have taken a lead in offering legal aid work depending on their areas of specialisation.¹⁴ The failed constitutional review process in Kenya had proposed to set up the office of a public defender to deal with public interest defence for the indigent.¹⁵

A significant portion of the key players in all the above emerging areas are indeed lawyers. It has however been observed that, in actual practice of law, lawyers do not view themselves as indispensable to society, meaning that their belief in service to the public is tempered with the realisation that while their services are essential, they are not as critical as those of a doctor.¹⁶ However, as society evolves, the roles and functions of lawyers have extended beyond representation of clients interests in dispute resolution, extending to the realms of politics and public policy, in addition to international law.

The changes are because the law changes too, to meet new developments in our social and economic life. There is nothing new in this.¹⁷ Yet today, the tempo of change in society is faster than ever, hence if the law is to be an implement rather than an impediment to progress, it must respond rapidly and sensitively to the needs upon which it touches. And as shown above, the field of law is ever widening. The lawyer is the handyman here: in court, legislature, public service, civil society and university – where many of the battles of peaceful societal reconstruction are finally resolved.

As the ramifications of the lawyers' functions become increasingly manifest, the demand becomes more insistent that he/she be equipped to deal

¹³Kenya for instance just enacted a new framework environmental law in 1999, Water law in 2002, Forestry law in 2005, and is reviewing the Fisheries law and policy, as well as the mining law and policy frameworks. There is also underway a process to develop a new land policy for the country. For the latter, see generally: <http://www.ardhi.go.ke/landpolicy.htm>.

¹⁴Civil society organisations such as Kituo Cha Sheria (www.kituoachasheria.org); Legal Resources Foundation (www.lrf.or.ke); and the Federation of Women Lawyers (FIDA) – Kenya Chapter have vibrant legal aid schemes.

¹⁵See generally, Article 204 of the Draft Constitution of Kenya, 2004 that was adopted by the National Constitutional Conference on 15 March 2004. It however never became law, having been altered by Parliament, and subsequently rejected by voters in a referendum held in November 2005.

¹⁶*Supra* n. 8, 202.

¹⁷Keyserling, L.H., "Social Objectives in Legal Education" (1933) 33 *Columbia Law Review* 437.

with the socio-economic perplexities that are at the centre of the congeries of problems known as “legal”.¹⁸

Legal education is thus the mechanism available to ensure that our lawyers are sufficiently equipped with skills to deal with specific challenges facing developing countries. For a definition, we adopt the position that “Legal education refers to experiences and training which help different kinds of people to understand and use law in society”.¹⁹ The university academic is at the centre of this process, taking four years to train lawyers at university level.

Whereas legal education and the role of academics remain critical, so does the need for us to clearly identify the circumstances facing developing countries such as Kenya. By so doing, we shall be on course to begin to know the kind of market out there, and hence the kind of training that is relevant.

Deciphering the “market” for lawyers

Talking about “a market” may invoke a myriad of thoughts, typically ranging from the farmers market, to the stock market or the job market. The latter is our focus. In current legal education discourse, many reject the belief that law is benign, neutral, objective and autonomous as presented by liberal legal ideologues.²⁰ Essentially, we no longer agree on the meaning of law and therefore we cannot agree on how “it” should be taught and learnt.²¹ For that reason, modern legal education is different from education in the arts or sciences – since law, unlike the sciences for instance, reflects human choices to govern our behaviour based upon our values, and thus can validly differ significantly from jurisdiction to jurisdiction.²²

The training of lawyers for a particular job market will, in our view, then largely depend on the needs of the particular society at hand. In developing countries, including Kenya, there are vast economic and social differences between the rich and poor; the majority of the population remain ignorant of and unrepresented in their legal rights with little or no access to legal services.²³ Moreover a new dichotomy of needs faces such countries – including many legal and policy measures needed to implement government measures taken in pursuit of equity, justice and development.

Thus while these developments herald a paradigm shift in sub-Saharan Africa, they also introduce new demands for well-trained lawyers, including

¹⁸ibid.

¹⁹Ojwang, J.B. and Slater, D.R., “Legal Education in Kenya” (1989) 33(1) *Journal of African Law* 78.

²⁰Thomas, P., “Legal Education: Then and Now” (2006) 40(3) *Law Teacher* 245.

²¹ibid.

²²*Supra* n. 6, 101.

²³Iya, P.F., “Enhancing the Teaching of Human Rights in African Universities: What Role for Law School Clinics?” (2005) 7 *International Journal of Clinical Legal Education* 26.

judges, to address their emerging socio-economic challenges of development.²⁴ Targeted issues include but are not limited to taking legal and policy measures to tackle:

- (1) poverty;
- (2) ignorance;
- (3) HIV/AIDS;
- (4) good governance;
- (5) conflict resolution; and post-conflict reconstruction;
- (6) land access, redistribution and use;
- (7) environmental challenges;
- (8) access to legal services/representation;
- (9) public interest law;
- (10) emigration of professionals/brain drain.

The list could be endless, but this illustration is indicative of the professional qualifications needed of lawyers in this context. Legal education is thus expected to make provision for and address its portion of these concerns.²⁵

What role then should university academics play?

In the previous section, we made reference to the pre-eminent difficulty of trying to homogeneously define the law, or how to teach it. Particular to this concern too is the fact that even among sub-Saharan African countries, while the common denominator is their “developing country” status, elements of significant diversity do exist. Owing to the division of Africa between Anglophone, Francophone and Lusophone²⁶ the legal and education systems could be different. However, the common denominator is the similar issues that require legal intervention. Loosely thus, Kenya may serve as an example.

This paper takes a rather broad approach, thus does not dwell so much on actual pedagogical issues/approaches by academics – instead being more policy oriented. It addresses development of a philosophy of legal education, as well as pedagogical objectives of training lawyers at university level. These are aspects that academics have capacity to address in view of evolving legal education, especially when the policy direction is altered accordingly.

²⁴ibid.

²⁵ibid.

²⁶Anglophone connotes former British colonies, now English-speaking countries; Francophone, former French colonies, now French-speaking countries; while Lusophone indicates former Portuguese colonies.

A refined philosophy of teaching?

Academics are generally involved in two key aspects in their trade: teaching and research. In this paper, focus is principally on teaching as part of legal education. How someone teaches, relates with students and conducts themselves as a professional university teacher would be defined by what guides their work as a teacher. It is commonly called the “teaching philosophy”.

In North America, teaching philosophy generally constitutes part of the dossier for any person applying for a teaching position. And while in the North American context, many academics may disagree on the importance of teaching statements, they agree on one thing: even if you’re not asked for such a statement in the hiring process, you should write one.²⁷ Ideally however, a teaching philosophy captures an academic’s conception of teaching. It also demonstrates that the academic has been reflective and purposeful about their teaching, and communicates their goals as an instructor.²⁸

In the context of Kenya, the culture of a teaching philosophy as part of the job application process could be rare, if not non-existent. However, it is desirable to extrapolate the general concept of the teaching philosophy to operate as a guiding principle(s) for those involved in legal education at university level.

What role then, does a teaching philosophy play? It has been recognised by many teachers that the process of identifying a personal philosophy of teaching and continuously examining, testifying and verifying this philosophy through teaching can lead to change of teaching behaviours and ultimately foster professional and personal growth.²⁹

Stephen Brookfield calls it “developing a personal vision of teaching”. He suggests that clarity of aims and purposes provides an academic with an organising vision of where they are headed, and why – and enables them to present these to students and themselves.³⁰ Thus a teaching philosophy he suggests, serves several purposes.

The first he calls the personal – where one gets an organisational vision, with a clear sense of purpose and picture of what you are doing, which is critical to personal sanity and morale.³¹ The second purpose is the political – which integrates the greater institutional, or policy-related challenges. An academic can articulate a position with a well-developed philosophy/ideal.³² The third is professional – a shared rationale for university teaching leading to collective identity and strength. It fosters inter-disciplinary collaboration boosting

²⁷Montelli, G., “What’s your philosophy on teaching, and does it matter?” *The Chronicle of Higher Education*, Thursday, 27 March 2003, <http://chronicle.com/jobs/2003/03/2003032701c.htm>.

²⁸See *Developing a Teaching Philosophy: Writing a Philosophy of Teaching Statement*, <http://ftad.osu.edu/portfolio/philosophy/Philosophy.html>.

²⁹Ibid.

³⁰Brookfield, S.D., *The Skillful Teacher: On Technique, Trust, Responsiveness in the Classroom* (Oxford, Jossey-Bass, 1991), 16.

³¹Ibid. 16.

³²Ibid. 17.

academics' role as agents of change.³³ The last one is pedagogical – it guides the academic to assess whether or not they are achieving the intended impact. By knowing their intended impact, an academic can continuously pose a fundamental question to themselves: what effect am I having on students and on their learning?³⁴

In a sense thus, for university educators, having a guiding ideology is imperative not only for their own professional good, but also for their performance as agents of societal change. University level legal education is really no different.

The lawyer is one of the main agents of the law and the legal process. The making of the lawyer, his orientation, his style of work, are the concrete manifestations of the response of the law to the inexorable transitional trends in African society.³⁵ Since a key function of the law is its deployment as a conscious instrument of social engineering, it is ultimately to the law that governments and society should turn to create institutions and processes of development.³⁶ Hence the need to have an overarching philosophy to guide the purpose and function of legal education in contemporary Africa.

As Prof Yash Ghai puts it, the role of law in the African context is to sanction changes and to provide the basis for institutions to implement them. He suggests that the future course of legal education should be related more closely to the legal ideologies of the countries.³⁷ It is these ideals that a teaching philosophy in legal education should adopt.

The principles set out in the Brookfield concept of a philosophy of teaching are key, and would work well when properly adjusted into areas such as curriculum development, selection of legal theories, specialisation, etc. Further research is therefore needed to develop an essentially African jurisprudence suitable for two purposes. First, there is a need to train lawyers with skills to fit into the duality of most African legal systems. Duality in this context involves a dichotomy between customary and formal legal systems.³⁸ It remains imperative to philosophically train lawyers who appreciate the delicate balance in managing the formal and customary legal systems.

Secondly, legal education should aim at addressing the contemporary needs of a society. These include maintenance of the rule of law, human rights, labour laws, public safety and security, environmental governance, etc. Addressing these issues transcends formal practice of law, and requires focused/specialised legal expertise and appreciation for public service.

³³*Ibid.*

³⁴*Ibid.* 18–19.

³⁵*Supra* n. 19, 78.

³⁶Mwalimu, M., "The Need for a Functionalist Jurisprudence for Developing Countries in Africa" (1986) *Third World Legal Studies* 39–40.

³⁷International Association of Legal Science, *Legal Education in Africa South of the Sahara* (Brussels, Bruylant, 1979) cited in Date-Bah, S.K., "Book Review" (1981) 29(4) *American Journal of Comparative Law* 744.

³⁸*Supra* n. 36.

The situation is not at all hopeless. Though not in a concerted sense, progress has been made in some aspects of the law, with environmental law as a case in point. African university academics teaching environmental law have been working together, courtesy of the United Nations Environment Programme (UNEP) and the International Union for the Conservation of Nature (IUCN) Academy of Environmental Law. Two years ago, they launched the Association of Environmental Law Lecturers of African Universities (ASELLAU) under which they lamented the narrow scope of environmental law courses taught in African law schools. Unanimously, they have been pursuing, albeit slowly, increased collaboration and comparative work to boost the technical capacity in training of lawyers and a common philosophical approach.³⁹

Pedagogical objectives of legal education – an additional perspective

Traditionally, the objectives of legal education aimed really at imparting knowledge of legal rules, and preparing lawyers for the practice of law. As consistently pointed out throughout this discourse, circumstances in sub-Saharan African countries like Kenya, require a re-thinking of the objectives. In this section, we explore two possibilities to be engendered into teaching of law:

- (1) public service component; and
- (2) mentorship of students.

We argue that when properly defined and applied, these two approaches which will gear lawyers to serve needs of the nation effectively, after leaving the university law school. It is therefore important to explore them in greater detail and context.

(1) Public service component

On the assumption that the fundamental purpose of the legal profession is to bring about a just society, it is possible to pose the question: what does the public have a right to expect of legal education?⁴⁰ Possible answers are numerous – depending mostly on the jurisdiction, but also on the issues facing such a society. But again, if legal education is aimed at serving the needs of a free and productive society, it must be conscious, efficient and systematic training for policy-making.⁴¹ In addition, the lawyer is expected to demonstrate professionalism – which the traditional training process is expected to impart.

³⁹See generally, Okidi, C.O., "Progress in Capacity Building in Environmental Law in African Universities", Paper presented at the Fifth Annual Colloquium of the IUCN Academy of Environmental Law, Rio de Janeiro and Parati, Brazil, 31 May – 5 June 2007.

⁴⁰M.R. MacGuigan, P.C., "The Public Dimension in Legal Education" (1989) 12 *Dalhousie Law Journal* 85–86.

⁴¹*Ibid.* 88.

Ordinarily trained in the British tradition, graduates of Kenyan law schools today and in the future lack the luxury of a narrow and structured role in society. In fact, a recent report set out evidence of throngs of lawyers abandoning private practice for less lucrative but income-secure government jobs ranging from judiciary, tribunals, civil service and state corporations.⁴²

Society has changed, bringing with it newer tasks for lawyers, but even while they have been slow to change, cut throat competition and dwindling fortunes in private practice are coercing attitude change. The context of change is thus finding calls for a more involved lawyer, a lawyer who instead actively participates in change, regulating the change, and soothing its impact by conceiving of and bringing about modified, equilibrated institutions.⁴³ University legal education would benefit from an adjustment in staff and student attitudes, to the position that the law does not represent one inveterate position, but remains flexible and set to be re-fashioned in the context of desirable change, in the society as a whole.⁴⁴

In actual context, achieving a public service objective in legal education will require certain skills in students. This would extend to renewed theoretical training on the role of lawyers in society. In addition, practical activities designed to emphasise the opportunities for lawyers to affect public policy, such as clinical legal education, provide an early avenue for law students to appreciate their public service role as professionals. Another important aspect is to ensure the menu of courses taught in law schools covers these cutting edge areas of public policy, such as environmental law, human rights, economic law, trade law, intellectual property law, public interest law, criminal law, constitutional law, natural resources law, tax law, among many others.

Others avenues would include supervised student participation professional associations; participation in civic and other public activities relevant to their studies; as well as research and writing into legal and social science issues of law and society.⁴⁵

(2) *Mentorship*

Defining mentoring is a rather tantalising task, for mentoring can be defined in terms of the function of the mentor or the nature of the mentoring relationship.⁴⁶ It could be that some people have had relative difficulties with mentoring, while others have had a relative measure of success. In the former case, it

⁴²Why Lawyers are Shirking Private Practice for Public Appointments" *Saturday Nation*, 4 August 2007, <http://www.nationmedia.com/dailynation/nmgnews.asp?categoryid=1>.

⁴³*Supra* n. 19, 89–90.

⁴⁴*Ibid*.

⁴⁵Laswell, H.D. and McDougal, M.S., "The Legal Profession and Public Policy: Professional Training in the Public Interest" (1943) 52(2) *Yale Law Journal* 209–210.

⁴⁶Finlay-Jones, J. and Ross, N., "Peer Mentoring for Law Students – Improving the First Year Advocacy Experience" (2006) 40(1) *Law Teacher* 23.

could be a vague suggestion the concerned professors have failed as mentors, while in the latter, they have been vindicated as suiting mentors.

Philip Thomas writes of an action profile he compiled of the “world’s worst teacher”. In it he describes a fictional character called Professor Disaster, who is unable to perform any teaching or related tasks competently. But he poses a question too: does Professor Disaster still exist or, like so many species, is he now extinct? His brief answer to the question is “although this species is endangered, he remains active in few remote habitats”.⁴⁷

By contrast, celebrated jurist Roscoe Pound had this to say of a former professor of his, “. . . he was always at the service of students. He was never so busy, and he was a very busy man, that a student could not see him . . . He got more work out of students than they were conscious of”.⁴⁸

In a nutshell thus, mentoring is about one person providing support and assistance to another person with less experience to help that person achieve certain goals.⁴⁹ Mentors thus have two central roles, to be a support but also to challenge the mentoree – and avoid carrying the burden, fighting the battles and generally carrying the mentoree.⁵⁰ The person being mentored must assume responsibility for their own development, be ready to take up new challenges, and be receptive to feedback.⁵¹ The mentoree is easily prepped to explore new avenues for professional development, set and achieve targets.

In many instances where mentoring does occur, it is usually in an informal sense. It will involve usually proactive students, eager to learn, hence easily taken under the wing. The big question is how about the rest, who constitute the bulk of law school students? There is a need for sufficient research on how to develop structured mentoring programmes in law schools, obviously taking into consideration financial and other resource constraints.

An important aspect that mentoring should instil is the public service component of legal education, to counter the increasing rate of emigration of African lawyers to greener pastures to Europe and North America. Obviously, resolving what is commonly called the “brain drain” will take more than mentorship, but as mentioned earlier, a change of attitudes is a good starting point.

As many who grew up in an African village can recall, the village teacher got the most respect after the chief. For the teacher had affected and continued to positively affect the lives of many children – and even in their adulthood, they revered him/her.

⁴⁷*Supra* n. 20, 241.

⁴⁸Pound, R. “Some Comments on Law Teachers and Law Teaching” (1951) 3 *Journal of Legal Education* 522.

⁴⁹*Supra* n. 46, 24.

⁵⁰*Ibid.*

⁵¹*Ibid.* 25.

Conclusion

Modern legal education has been underway in sub-Saharan Africa since colonial times. A lot of adjustments have been made; and as a young lawyer, I recognise the successes made up to now. However, it is important to realise that the role of the lawyer has evolved from the narrow structure, for instance set by the British, to a more robust involvement in governance, public policy and related issues of relevance to African societies. Even when the legal education system is slow to adapt, there is evidence of circumstances coercing change, such as the case in Kenya where lawyers are trooping into public service, NGOs and the private sector.

The African academic has a tough task ahead, as far as legal education is concerned. They have to train lawyers who can practise law in the strict sense. But then, with too many in private practice, opportunities are scarce, forcing many to emigrate to the West in search of better opportunities. To nip this in the bud, the academic has to rethink their philosophy of legal education, so that the components of training prepare lawyers for their evolving roles in society. African societies need brilliant minds, not only in private practice, but also on the judicial bench, in the civil service, in civil society, etc. Public policy, as a key part of the development strategy, should benefit from the knowledge of lawyers trained to appreciate its importance.

A fundamental ingredient in changing the current situation is implementing changes in legal education. As discussed in earlier in this article, reviewing the philosophy of legal education must incorporate a personal, professional, political and pedagogical vision for university academics. This would have to be in sync with the evolving role of law as an instrument of engineering, managing and implementing change in society through legal process and institutions. In addition, the pedagogical objectives in university legal education need review to shift from a strict focus on practice of law, expanding to include a much needed public service component. Mentorship of students would bridge the gap between philosophy of teaching and the public service component by making available a practical means for professors to tutor and influence the students' mindset.

The step taken by African university academics teaching environmental law to work together under the Association of Environmental Law Lecturers of African Universities (ASELLAU) is laudable. This represents a good beginning and with more similar action, more should follow.

Acknowledgements

An earlier version of this article was presented at the 11th Interdisciplinary Conference of the University of Ottawa Graduate Students Association (GSAED) Conference, 5–7 February 2008, at the University of Ottawa, Canada.