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Legal Education in Africa: What Type of Lawyer Does Africa Need

Samuel O. Manteaw

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Legal Education in Africa: What Type of Lawyer Does Africa Need?*

Samuel O. Manteaw**

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* Dean Elizabeth Rindskopf Parker, University of the Pacific, McGeorge School of Law, commissioned this inquiry into the development, structure, and reform needs of African legal education curricula. Pacific McGeorge generously funded this research for the purpose of assisting the development of international legal education.

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I. INTRODUCTION

A. *African Legal Education*

1. *The Beginning*

In the era immediately following independence,¹ there was significant scholarship on the need, processes, and character of legal education in Africa.²

1. The post-colonial or independence era loosely refers to the period following the late 1950s and early 1960s when the British government withdrew from Africa. G. Pascal Zachary, *Black Star: Ghana, Information Technology and Development in Africa*, FIRST MONDAY, Mar. 2004, at 131, 135-36.

2. A bibliography of the early scholarship on legal education in Africa during the independence era might include: PHILIP G. ALTBACH & GAIL P. KELLY, *EDUCATION AND COLONIALISM* (1978); CENTRE FOR AFRICAN LEGAL DEV., HAILE SELASSIE I UNIV., *PROCEEDINGS OF THE CONFERENCE ON LEGAL EDUCATION IN AFRICA HELD IN ADDIS ABABA, ETHIOPIA OCTOBER 20-24* (Jacques Vanderlinden ed., 1968) [hereinafter

Policymakers, politicians, and academics all saw the need for training legal professionals who could assist in the transformation of African legal systems and aid in the development of Africa.³ They made various inquiries into the state of

ADDIS ABABA CONFERENCE ON LEGAL EDUCATION]; L. C. B. GOWER, *INDEPENDENT AFRICA: THE CHALLENGE TO THE LEGAL PROFESSION* (1967); REPORT ON THE ESTABLISHMENT OF DEPARTMENT OF LAW IN THE UNIVERSITY COLLEGE OF THE GOLD COAST (1951) [hereinafter HUGHES PARRY COMMITTEE REPORT]; INT'L LEGAL CTR., A REPORT OF ACTIVITIES ON LAW AND DEVELOPMENT IN AFRICA: JUNE, 1967 TO JUNE, 1969 (1969); INT'L LEGAL CTR., REPORTS ON VARIOUS LEGAL EDUCATION INSTITUTIONS (1968-70); M. MITCHLEY, *LEGAL EDUCATION IN AFRICA* (1963); REPORT OF THE COMMITTEE ON LEGAL EDUCATION FOR STUDENTS FROM AFRICA, CMND. NO. 1255 (1961) [hereinafter DENNING COMMITTEE REPORT]; REPORT ON THE FUTURE OF THE LEGAL PROFESSION IN NIGERIA (1959) [hereinafter UNSWORTH COMMITTEE REPORT]; Peter Allen, *The Law School at Entebbe, Uganda*, 1 EAST AFR. L.J. 148 (1965); A. N. Allot, *Legal Education in East Africa*, 4 J. AFR. L. 130 (1960); Noel J. Coulson, *Legal Education and Islamic Law*, 1 J. CENTRE ISLAMIC STUD. 3 (1966); John H. Crabb, *Viewing Africa from Teaching Anglo-American Law at a Congolese University*, 18 J. LEGAL EDUC. 437 (1966); Lord Denning, *Legal Education in Africa: Sharing Our Cultural Heritage*, 58 L. SOC'Y GAZ. 147 (1961); L. Michael Hager, *Legal Education in Liberia*, 8 FOREIGN EXCHANGE BULL. 7 (1966); A. St. J. Hannigan, *The Teaching of Law for Non-Lawyers in Africa*, J. SOC'Y PUB. TCHRS. L. 153 (1965); Brian W. Harvey, *Legal Education: The Nigerian Experiment*, 110 SOLICITORS J. 323 (1966) [hereinafter Harvey, *The Nigerian Experiment*]; William B. Harvey, L. C. B. Gower, *Independent Africa: The Challenge to Legal Profession*, 18 U. TORONTO L.J. 209 (1968) (book review); William B. Harvey, *Comments on Legal Education: Developments in Ghana*, 6 FOREIGN EXCHANGE BULL. 7 (1966) [hereinafter Harvey, *Comments on Legal Education*]; William B. Harvey, *Jefferson B. Fordham: Legal Education and Scholarship in Africa*, 118 U. PA. L. REV. 678 (1970); William B. Harvey, *Legal Education in Ghana* (1962) (unpublished article); R. Y. Hedges, *Legal Education in West Africa*, 6 J. SOC'Y PUB. TCHRS. L. 75 (1961); Stephen K. Huber, *Legal Education in Anglo-Phonic Africa: With Particular Attention to a Case Look and the Criminal Law*, 1969 WIS. L. REV. 1188 (1969); Quintin Johnstone, *American Assistance to African Legal Education*, 46 TUL. L. REV. 657 (1972) [hereinafter Johnstone, *American Assistance to African Legal Education*]; Quintin Johnstone, *American Participation in East African Legal Education*, 16 J. LEGAL ED. 312 (1964); Quintin Johnstone, *Legal Education in Ethiopia*, 15 YALE L. REP. 1 (1968); *Legal Education Supplement*, 7 J. AFR. L. 113 (1963); Alan Milner, *Legal Education and Training in Nigeria*, 17 J. LEGAL EDUC. 285 (1965); Alan Milner, *Legal Education*, 3 RHODESIAN & NYASALAND L.J. 74 (1963); James C. N. Paul, *Legal Education in English-Speaking Africa*, 15 J. LEGAL EDUC. 189 (1962); R. Sedler, *Legal Education: Ethiopia*, 7 FOREIGN EXCHANGE BULL. 7 (1965); R. B. Seidman, *On Teaching of Jurisprudence in Africa*, J. SOC'Y PUB. TCHRS. L. 145 (1966) [hereinafter Seidman, *On Teaching Jurisprudence in Africa*]; *Supplement on African Legal Education*, 10 J. AFR. L. 183 (1966); Symposium, *Legal Education in Africa*, 6 J. AFR. L. 1 (1962); Phillip A. Thomas, *Legal Education in Africa: With Special Reference to Zambia*, 22 N. IR. LEGAL Q. 3 (1971); W. L. Twining, *The English Law Teacher in Africa*, 7 J. SOC'Y PUB. TCHRS. L. 80 (1962) [hereinafter Twining, *The English Law Teacher in Africa*]; William Twining, *Legal Education Within East Africa*, in EAST AFRICAN LAW TODAY 115 (1966) [hereinafter Twining, *Legal Education Within East Africa*]; G. Weinstein, *Guinea's School of Public Administration*, 4 J. LOCAL ADMIN. OVERSEAS 239 (1965); A. B. Weston, *Legal Education in East Africa*, 15 U. TORONTO L.J. 187 (1963).

3. See Seidman, *On Teaching of Jurisprudence in Africa*, *supra* note 2, at 146 (identifying three central and novel characteristics of independent African states, including the use of law in new and radical ways to help achieve planned rapid development). See generally KWAMENA BENTSI-ENCHILL, *GHANA LAND LAW* (1960); KWAMENA BENTSI-ENCHILL, *GHANA LAND LAW: AN EXPOSITION, ANALYSIS AND CRITIQUE* (1964); JOHN T. DALEY, *AGENCY LAW IN EAST AFRICA* (1966); W. C. EKOW DANIELS, *THE COMMON LAW IN WEST AFRICA* (1964); *ESSAYS IN AFRICAN LAW* (Antony N. Allot ed., 1960); T. OLAWALE ELIAS, *THE NATURE OF THE AFRICAN CUSTOMARY LAW* (1966); STANLEY Z. FISHER, *ETHIOPIAN CRIMINAL PROCEDURE* (1969); THOMAS M. FRANCK, *COMPARATIVE CONSTITUTIONAL PROCESS* (1968); GOWER, *supra* note 2; HARRELL R. ROGERS, JR. & CHARLES S. BULLOCK, III, *LAW AND SOCIAL CHANGE* (1972); JEREMY T. HARRISON, *CASES AND MATERIALS ON THE LAW OF EVIDENCE* (1966); WILLIAM BURNETT HARVEY, *INTRODUCTION TO THE LEGAL SYSTEM IN EAST AFRICA* (1975); WILLIAM BURNETT HARVEY, *LAW AND SOCIAL CHANGE IN GHANA* (1966) [hereinafter HARVEY, *LAW AND SOCIAL CHANGE IN GHANA*]; WILLIAM BURNETT HARVEY, *A VALUE ANALYSIS OF GHANAIAAN LEGAL DEVELOPMENT SINCE INDEPENDENCE* (1963), *reprinted in* 1 UNIV. GHANA

African legal education.⁴ More importantly, they recognized the pressing need for adequate legal training.⁵ Many viewed law as a critical instrument in Africa's

L.J. 4 (1964); JACK A. HILLER, *CASES AND MATERIALS ON EAST AFRICAN INCOME TAX* (1968); ROBERT SUTHERLAND RATTRAY, *ASHANTI LAW AND CONSTITUTION* (1929); TUDOR JACKSON, *GUIDE TO THE LEGAL PROFESSION IN EAST AFRICA* (1970); TUDOR JACKSON, *THE LAW OF KENYA* (3d ed. 1988); DAVID KIMBLE, *A POLITICAL HISTORY OF GHANA* (1963); ARKU KORSAN, *LAW IN THE REPUBLIC OF GHANA* (1961); S. LOWENSTEIN, *MATERIALS FOR THE STUDY OF ETHIOPIAN CRIMINAL PROCEDURE* (1965); IAN R. MACNEIL, *BANKRUPTCY LAW IN EAST AFRICA* (1966); N. A. OLLENNU, *PRINCIPLES OF CUSTOMARY LAND LAW IN GHANA* (1962); JAMES C.N. PAUL & CHRISTOPHER CLAPHAM, *ETHIOPIAN CONSTITUTIONAL DEVELOPMENT* (1967); LESLIE ROBIN, *AFRICAN LAW: ADAPTATION AND DEVELOPMENT* (Hilda Kuper et al. eds., 1965); O. Akinkugbe, *The Role of Lawyers in Society*, in *LAW AND SOCIAL CHANGE* 89 (T. O. Elias ed., 1972); A. N. Allot, *Legal Development and Economic Growth in Africa*, in *CHANGING LAW IN DEVELOPING COUNTRIES* 194 (James Norman Dalrymple Anderson ed., 1963); Otonba T.O.S. Benson, *Lawyers and Our Society*, 12 *NIG. B.J.* 63 (1974); K. Bentsi-Enchill, *The Lawyers Calling in Africa*, 3 *ZAMBIA L.J.* 5 (1971-1972); Kwamena Bentsi-Enchill, *The Traditional Legal Systems of Africa*, in 6 *INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW* 68 (Frederick H. Lawson ed., 1973); S. G. Davies, *The Growth of Law in the Gold Coast*, 9 *J. AFR. ADMIN.* 88 (1957); Wolfgang G. Friedmann, *The Role of Law and the Function of the Lawyer in the Developing Countries*, 17 *VAND. L. REV.* 181 (1963); L. Michael Hager, *The Role of Lawyers in Developing Countries*, 58 *A.B.A. J.* 33 (1972); William B. Harvey, *African Law and Basic Institutions—A Search for Perspective*, 13 *U. KAN. L. REV.* 247 (1964); Harvey, *Comments on Legal Education*, *supra* note 2; Harvey, *The Nigerian Experiment*, *supra* note 2; K. D. Kaunda, *The Functions of the Lawyer in Zambia Today*, 3 *ZAMBIA L.J.* 1 (1971-1972); A. K. P. Kludze, *The Formalities and Incidents of Conveyances in Ghana*, 4 *U. GHANA L.J.* 1 (1967); Ian R. Macneil, *Research in East African Law*, 3 *E. AFR. L.J.* 47, 50 (1967); H. F. Morris, *English Law in East Africa: A Hardy Plant in an Alien Soil*, in *INDIRECT RULE AND THE SEARCH FOR JUSTICE: ESSAYS IN EAST AFRICAN LEGAL HISTORY* 73 (H. F. Morris & James S. Read eds., 1972); J. O. B. Omotosho, *The Role of a Lawyer in a Developing Society*, 8 *NIG. B.J.* 40 (1967); James S. Read, *Customary Law under Colonial Rule*, in *INDIRECT RULE AND THE SEARCH FOR JUSTICE: ESSAYS IN EAST AFRICAN LEGAL HISTORY* 167 (H. F. Morris & James S. Read eds., 1972); Robert B. Seidman, *Administrative Law and Legitimacy in Anglophonic Africa*, 5 *L. & SOC'Y REV.* 161 (1970) [hereinafter Seidman, *Administrative Law and Legitimacy in Anglophonic Africa*]; Robert B. Seidman, *The Communication of Law and the Process of Development*, 1972 *WIS. L. REV.* 686 (1972); Robert B. Seidman, *The Ghana Prison System: An Historical Perspective*, in *AFRICAN PENAL SYSTEMS* 433 (Alan Milner ed., 1969); Robert B. Seidman, *Judicial Review and Fundamental Freedoms in Anglophonic Africa*, 35 *OHIO ST. L.J.* 820 (1974) [hereinafter Seidman, *Judicial Review and Fundamental Freedoms in Anglophonic Africa*]; Robert B. Seidman, *Law and Economic Development in Independent, English-Speaking, Sub-Saharan Africa*, 1966 *WIS. L. REV.* 999 (1966) [hereinafter Seidman, *Law and Economic Development*]; Robert B. Seidman, *Law and Stagnation in Africa*, 5 *ZAMBIA L.J.* 39 (1973) [hereinafter Seidman, *Law and Stagnation in Africa*]; Robert B. Seidman, *Law and Stratification: The African Case*, 3 *CONTEMPORARY CRISES* 17 (1979); Robert B. Seidman, *The Reception of English Law in Africa Revisited*, 2 *E. AFR. L. REV.* 47 (1969); Robert B. Seidman, *Research in African Law and the Process of Change* (1962) (unpublished article); Peter Severeid, *The Work of Rural Primary Courts in Ghana and Kenya*, 13 *AFR. L. STUD.* 145 (1976); Issa G. Shiviji, *From the Analysis of Forms to the Exposition of Substance: The Tasks of a Lawyer Intellectual*, 5 *E. AFR. L. REV.* 1 (1972); Gordon Woodman, *The Scheme of Subordinate Tenures of Land in Ghana*, 15 *AM. J. COMP. L.* 457 (1967).

4. See generally ADDIS ABABA CONFERENCE ON LEGAL EDUCATION, *supra* note 2; DENNING COMMITTEE REPORT, *supra* note 2; HUGHES PARRY COMMITTEE REPORT, *supra* note 2; UNSWORTH COMMITTEE REPORT, *supra* note 2; Memorandum from the Republic of Uganda, Report of a Committee Appointed to Study and Make Recommendations Concerning Legal Education (Sess. Paper No. 3, 1969); Symposium, *African Legal Education*, 6 *J. AFR. L.* (1962).

5. See Twining, *The English Law Teacher in Africa*, *supra* note 2, at 80 ("One of the common results of Independence is a dramatic increase in the importance attached by governments to education. Since legal education was particularly neglected under colonial rule, it has been legal education that has recently received the greatest push forward." (emphasis added)).

development, and the training of legal professionals formed a cornerstone in the scholarship on Africa.⁶

2. Policy Shift

In the civil unrest and political instability that followed independence, Africa's focus shifted towards, among other issues, personal security, political stability, constitutionalism, and economic development.⁷ As Professor Muna Ndulo stated, "the dreams of prosperity following independence and self rule became a nightmare of insecurity and poverty."⁸ Most African nations have not experienced the social equilibrium, respect for human and civil rights, or economic development that the citizens hoped would flow from independence.⁹ Consequently, little attention has been paid to the idea of using legal education as an instrument for transforming African societies,¹⁰ particularly in African common law jurisdictions.¹¹ It would not be surprising if Africa's civil law jurisdictions and Arabic regions follow a similar pattern, as they experienced similar instability.¹²

6. See GOWER, *supra* note 2, at 102-04; see also Seidman, *Law and Economic Development*, *supra* note 3, at 999 ("[T]he Rule of Law is a dynamic concept . . . which should be employed not only to safeguard and advance the civil and political right of the individual in a free society, but also to establish social, economic, educational and cultural conditions under which his legitimate aspirations and dignity may be realized" (quoting Declaration of Delhi of the International Congress of Jurists (1959))).

7. Okechukwu Oko, *Confronting Transgressions of Prior Military Regimes: Towards A More Pragmatic Approach*, 11 CARDOZO J. INT'L & COMP. L. 89, 89-90 (1999) [hereinafter Oko, *Confronting Transgressions*] ("For the better part of the last century, civil wars, ethnic unrest and political instability raged throughout most of Africa. Conflicts in Africa are traceable to several factors, including ethnic rivalries, religious intolerance, ideological differences, social and economic imbalances and weak and ineffective institutions." (footnotes omitted)).

8. See Muna Ndulo, *The Democratic State in Africa: The Challenges for Institution Building*, 16 NAT'L BLACK L.J. 70, 78 (1998); see also Okechukwu Oko, *Consolidating Democracy on a Troubled Continent: A Challenge for Lawyers in Africa*, 33 VAND. J. TRANSNAT'L L. 573, 577-78 (2000) [hereinafter Oko, *Consolidating Democracy*].

9. See Joshua Hammer, *A Generation of Failure*, NEWSWEEK, Aug. 1, 1994, at 32 ("A generation ago, Africa seemed on the brink of a triumphant new era. As one country after another shook loose from colonial rule, new leaders roused their jubilant countrymen with visions of prosperity and democracy. But while Eastern Europe and Southeast Asia have moved toward those goals, in Africa the hopes of the early 1960s have collapsed into ethnic violence, corruption, poverty and despair."); see also Oko, *Consolidating Democracy*, *supra* note 8, at 576-80.

10. See Muna Ndulo, *Legal Education in Africa in the Era of Globalization and Structural Adjustment*, 20 PENN ST. INT'L L. REV. 487, 503 (2002) [hereinafter Ndulo, *Legal Education in Africa*] ("There must be an opening and a realization on the part of African governments that the role of lawyers and law in decision making is important. Presently, African governmental processes attach very little significance to lawyer participation.").

11. *Id.*

12. See generally GEORGE B. N. AYITTEY, *AFRICA IN CHAOS* (1998) [hereinafter AYITTEY, *AFRICA IN CHAOS*]; Makau wa Mutua, *Conflicting Conceptions of Human Rights: Rethinking the Post-Colonial State*, 89 AM. SOC'Y INT'L L. PROC. 487 (1995); Oko, *Confronting Transgressions*, *supra* note 7. See also Zachary, *supra* note 1, at 161 (noting that most parts of Africa suffer from "the persistence of HIV/AIDS, the lack of foreign investment, the continuing outflow of talent, the frequent civil wars, the poor transportation infrastructures,"

This shift in attention led to the current paucity of scholarly discussion on the role of law and lawyers in African societies. With the notable exception of South Africa, not much inquiry has been made into the adequacy of Africa's current legal framework or the training of its lawyers.¹³ The hope of this article is to initiate a discussion of the complex issues surrounding African legal education reform.

B. Scope and Structure of Discussion

This article makes a general argument for legal education reform in Africa. It provides a broad framework for understanding the development and needs of African legal education and sets a two-pronged reform agenda. First, it suggests reforming African law faculties.¹⁴ Second, it proposes reforming African law schools.¹⁵

Any reform agenda must consider two questions: What type of lawyer does Africa need? And, do these institutions produce the type of lawyer Africa needs? Without answers to these fundamental questions, the reform goals might be cheated of a richer discussion. This article seeks to initiate a discussion of these

poor health care delivery systems, poverty, and the corruption, or ineptness, of political leaders). Moreover, there is religious divide (Traditional, Islamic, and Christian) and the attendant ignorance about the laws of these respective religions—religions that have for over a century shaped the lives, laws, behaviors, and practices of many people in Africa.

13. For over two decades, only a few scholarly inquiries have been made into the adequacy of African legal education in training legal professionals who will advance Africa's development. These include: GHANA LAW REFORM COMM'N, REPORT ON THE LEGAL PROFESSION IN GHANA (1986); McKen Carrington, *Legal Education in Malawi*, 23 T. MARSHALL L. REV. 55 (1997); B. J. da Rocha, *The Future of Professional Legal Education in Ghana*, 1 GHANA SCH. L.J. 1 (2002); Shiv Dayal, *Dynamics of Development: Legal Education and Developing Countries*, in LAW IN ZAMBIA (Muna Ndulo ed., 1984); Joanne Fedler, *Legal Education in South Africa*, 72 OR. L. REV. 999 (1993); Grady Jessup, *Symbiotic Relations: Clinical Methodology—Fostering New Paradigms in African Legal Education*, 8 CLINICAL L. REV. 377, 387 (2002); Akua Kuenyehia, *Improving the Reform Process through Legal Training*, in COMPREHENSIVE LEGAL AND JUDICIAL DEVELOPMENT: TOWARD AN AGENDA FOR A JUST AND EQUITABLE SOCIETY IN THE 21ST CENTURY 299 (Rudolf V. Van Puymbroek ed., 2001); Patrick L. O. Lumumba, *The State of Legal Education in Kenya Today: A Critical Analysis* (2001) (unpublished article); Swithin J. Munyantwali, *Bringing Sub-Saharan African Lawyers into the Legal Reform Process: Experiences and Lessons of the International Law Institute—Uganda Legal Center of Excellence*, in COMPREHENSIVE LEGAL AND JUDICIAL DEVELOPMENT: TOWARD AN AGENDA FOR A JUST AND EQUITABLE SOCIETY IN THE 21ST CENTURY 313 (Rudolf V. Van Puymbroek ed., 2001); Ndulo, *Legal Education in Africa*, *supra* note 10; Muno Ndulo, *Legal Education in Zambia: Pedagogical Issues*, 35 J. LEGAL EDUC. 445 (1985) [hereinafter Ndulo, *Legal Education in Zambia*]; J. B. Ojwang & D. R. Salter, *Legal Education in Kenya*, 33 J. AFRICAN L. 78 (1989); Oko, *Consolidating Democracy*, *supra* note 8; Okechukwu Oko, *Contemporary Law Practice in Nigeria*, 38 J. AFR. L. 104 (1994); Okechukwu Oko, *Legal Education and Training in Nigeria*, 6 AFR. J. INT'L & COMP. L. 271 (1994) [hereinafter Oko, *Legal Education and Training in Nigeria*]; Univ. of Ghana, Faculty of Law, Proposal for the Conversion of the Current Law Programme to a Post-First Degree LL.B. Programme (1999) [hereinafter Proposal for the Conversion of the Current Law Programme].

14. Law faculties are university institutions that provide academic training for a Bachelor of Laws degree (LL.B.). Berthan Macaulay, *Students for Law Schools and Faculties in Africa*, 6 J. AFR. L. 81, 81 (1962).

15. Law schools are professional law training institutions that provide practical legal skills after law faculty education. *Id.*

questions by raising general issues. Other articles that look at specific aspects of legal education reform may offer detailed proposals for what is to be done and how.¹⁶ Hopefully, this article will intensify academic and policy discourse on reforming African legal education.

Given the focus and continental scope of this inquiry, this article uses a comparative study model.¹⁷ Section II traces the historical development of African legal education, and Section III examines the curricula at select African institutions. Section IV seeks to identify the type of lawyer Africa needs. First, it offers a survey of the strengths, weaknesses, and needs of African legal education. Second, it considers the type of lawyer Africa needs and analyzes whether the current legal education process produces such a lawyer. To do this, the article considers the global demands and local realities, challenges, needs, and aspirations. Section V analyzes the need for curricula reform and makes specific suggestions for implementing reform. Section VI summarizes key recommendations, and Section VII offers concluding remarks.

II. OVERVIEW: AFRICA'S LEGAL EDUCATION SYSTEM

A. *Historical Development*

1. *Pre-Colonial Era*

Prior to the Europeans' arrival in Africa, there appeared to be no formal system of legal education that produced "legal professionals"¹⁸ as the term is presently understood.¹⁹ Even with no formal legal education system, traditional African culture attached great importance to the law and legal education.²⁰

16. It is hoped that this and other articles will not be mere contributions to the academic discourse on legal education reform, but that their recommendations will be considered, refined, and zealously implemented. These articles include: Samuel Manteaw, *Clinical Legal Education in Africa: Introduction and Proposals for Reform* (forthcoming 2008) [hereinafter Manteaw, *Clinical Legal Education in Africa*]; Samuel Manteaw, *Indigenous African Jurisprudence: Renaissance and Applicability in the Global Legal Economy* (forthcoming 2008) [hereinafter Manteaw, *Indigenous African Jurisprudence*]; Samuel Manteaw, *Reforming African Legal Education: Lessons from Ghana*, in DEVELOPMENTS IN GHANA LAW SINCE INDEPENDENCE: HISTORY, DEVELOPMENT AND PROSPECTS (Mensa-Bonsu et al, eds., 2007) [hereinafter Manteaw, *Reforming African Legal Education*].

17. This article does not examine the legal education systems of all of Africa's fifty-five countries. Instead, the article focuses on common law Africa and uses a comparative study model to identify general persistent patterns of legal education processes and needs. Essential similarities exist in both the structure and the substance of legal education at most African institutions with merely a few local variations.

African countries are grouped into five regions and may be further divided into North Africa and Sub-Saharan Africa. Such groupings over-simplify issues, as regional and inter-country differences exist in legal education processes, conditions, and needs.

18. This term, as used, refers to lawyers, judges, and paralegals.

19. See generally GEORGE B. N. AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS* (2006) [hereinafter AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*].

20. *Id.*

Learning of customary laws and practices was generally an informal life-long process.²¹ According to one author, “[i]nheritance, ownership of movable or immovable property, status of individuals, rules of behaviour and morality, were matters irrevocably settled by the customary law, *with which every one was familiar from childhood*, and litigation regarding such matters was . . . almost inconceivable.”²² Further, chiefs and elders in some African societies were even formally taught customary laws—customs, norms, and practices—of their communities.²³

Traditional legal systems and customary laws in African polyethnic societies formed “part of a functioning, coherent, and consistent totality” of the African way of life.²⁴ Those who would be regarded as legal professionals in present times traditionally would have been seen as merely performing their social duties. The role of legal professionals was not litigation.²⁵ Rather, legal professionals performed public interest services and used mediation to resolve disputes and maintain balance and harmony between parties and in the community.²⁶ Such legal professionals included chiefs, elders, and people with particular law-related responsibilities or functions, such as the *tendaana* of the Dagaaba in Ghana.²⁷ Many others were instrumental in establishing the rule of law by upholding societal values and helping in dispute resolution. Linguists, for example, performed various functions during disputes.²⁸ They interfaced between the chief, sub-chief, or head of family (or lineage) and the disputants.²⁹ They were—and still are—adroit in the linguistic use of proverbs and apt aphorisms, which are regarded as customary law legal maxims, and used frequently in traditional dispute settlement processes.³⁰

21. *Id.*

22. RATTRAY, *supra* note 3, at 286 (emphasis added); *see also* AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19, at 30-42.

23. For the chiefs, this was usually done when they were being installed (i.e., during the enstoolment process (for the chiefs who sit on stools) or enskinment (for the chiefs who sit on skins)). For instance, among the Akan ethnic group of Ghana, as part of the enstoolment process, a number of weeks are set aside for the chief to be specially taught the norms and customs of the people. *See* AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19.

24. *See* Kojo Yelapaala, *Circular Arguments and Self-Fulfilling Definitions: “Statelessness” and the Dagaaba*, 10 *HIST. AFR.* 349, 349 (1983) [hereinafter Yelapaala, *Circular Arguments and Self-Fulfilling Definitions*].

25. *See* AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19.

26. *Id.*

27. Yelapaala, *Circular Arguments and Self-Fulfilling Definitions*, *supra* note 24, at 368-70 (noting that among the Dagaaba, the *tendaana* or custodian of the land was an instrumental witness to the acquiring of land and that it was his duty to establish boundaries, keep mental records, and recall them in land disputes).

28. ELIAS, *supra* note 3, at 241 & n.3.

29. *See* CASELY HARVEY, *GOLD COAST NATIVE INSTITUTIONS* 68-72 (1903).

30. *See* ELIAS, *supra* note 3, at 272; *see also* AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19, at 30-35, 45.

Legal representation was not necessary in traditional adjudications because the parties to any dispute were required to appear in person to present their case.³¹ In limited instances, there was some form of representation.³² For example, a relative or other “champion-at-law”³³ occasionally represented disputants at a customary adjudication.³⁴ Essentially, however, the traditional legal system trained and expected people to speak for themselves in legal proceedings without any representation.³⁵

2. Colonial Era

Colonization changed this state of affairs significantly. It introduced formal legal education and legal representation, and compounded Africa’s plural legal systems.³⁶ Though it provided useful juridical patterns for contemporary African legal systems, colonization and the legal education it introduced focused on litigation to the detriment of other useful roles that lawyers could perform.³⁷ The colonial legal system offers useful lessons that might be instructive for African law curriculum reform initiatives.

a. Early Developments: Nigeria and Ghana as Examples

Around 1862 in Nigeria (then Lagos Colony), a quasi-legal profession began to develop when the British colonial administration introduced a system of courts, patterned after the British system.³⁸ An organized legal profession able to apply English laws and procedures thus became necessary.³⁹

In 1876, the Supreme Court Ordinance was enacted to regulate the legal profession and to define those who could engage in the practice of law in

31. See AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19.

32. ELIAS, *supra* note 3, at 97-98 (“[There was a] widely-prevalent practice in African societies according to which a member of a family or extended family who shows aptitude in that capacity is deputed to act in law-suits in which other family members may happen to be involved from time to time.”).

33. A “champion at law” was a person well versed in the customary legal issue at stake or the facts of the matter, or one who had the legal right to give evidence in the dispute settlement process. See ELIAS, *supra* note 3, at 274. The *tendaana* was, for example, perfectly cast in the champion-at-law mold for his community. This is particularly poignant in the *tendaana*’s role as the custodian of Dagaaba land and his instrumentality as a witness to the acquisition of land, as well as his duty “to establish boundaries,” “keep mental records,” and “to recall them in land disputes.” See Yelapaala, *Circular Arguments and Self-Fulfilling Definitions*, *supra* note 24, at 370 (discussing the role of the *tendaana* among the Dagaaba of Northern Ghana).

34. See ELIAS, *supra* note 3, at 274 (noting that champions at law include any duly authorized husband or wife, guardian or servant, the master or inmate of the household of a plaintiff or defendant).

35. See KIMBLE, *supra* note 3, at 68.

36. GOWER, *supra* note 2, at 104-05.

37. Ironically, the indigenous system did not focus on litigation; it used mediation systems that are now being advocated for worldwide. See AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19.

38. Jurist, Nigeria: Legal Education in Nigeria, <http://jurist.law.pitt.edu/world/nigeria.htm> (last visited Dec. 23, 2007) [hereinafter Jurist, Legal Education in Nigeria] (on file with the *McGeorge Law Review*).

39. *Id.*

the colony. The Ordinance provided that those who had already been admitted as barristers or advocates in Great Britain or Ireland, or as solicitors or writers to the signet, in any of the courts at London, Dublin, or Edinburgh were to be allowed by the Chief Justice to practice as barristers and solicitors in the [Lagos] colony.⁴⁰

Educated Africans deemed sufficiently knowledgeable in the law by virtue of their close contact with practitioners were also allowed to practice as attorneys.⁴¹ “In 1945, the Supreme Court (Civil Procedure) Rules ended the era of ‘self taught attorneys’ who, although not professionally qualified, were allowed to function as barristers and solicitors.”⁴² From that time, only those “entitled to practice as barristers in England or Ireland or as advocates in Scotland could be admitted to practice in Nigeria.”⁴³ Accordingly, formal legal education became an essential enterprise. Moreover, the lack of qualified persons in the colonies compelled the fusion of barristers—those who appear in court—and solicitors—those who are confined to office work—and “marked the beginning of a fused legal profession in Nigeria.”⁴⁴

Similarly, in 1853, Ghana (then known as the Gold Coast Colony) passed laws to formalize legal proceedings.⁴⁵ Even though there were no barristers or solicitors in the Gold Coast at that time,⁴⁶ “some educated Africans began to specialize in the presentation of cases.”⁴⁷ In 1864, a court order mandated these individuals to obtain licenses.⁴⁸ This semi-professional practice provided the beginnings of “Ghanaian lawyering.”⁴⁹ Of course, these practitioners were not qualified lawyers.⁵⁰ They were, nevertheless, “an important intermediary between the formality of the courts and their illiterate [clients].”⁵¹ In 1874, these intermediaries were required to “pass a simple examination before the Chief Magistrate.”⁵² The examination was designed to test their “knowledge of court

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.* (citing Order 16, Rule 1 of the Supreme Court Ordinance No. 43 of 1943).

44. *Id.*

45. See KIMBLE, *supra* note 3, at 68. Gold Coast was the former name of present day Ghana. The Gold Coast colony, however, “formed only a small fraction of what Ghana is today,” and it included the Lagos settlement, which is no longer part of Ghana. See A. N. E. Amisshah, *The Supreme Court, A Hundred Years Ago*, in *ESSAYS IN GHANAIAN LAW 1* (W. C. Ekow Daniels & G. R. Woodman eds., 1976).

46. See KIMBLE, *supra* note 3, at 68.

47. *Id.* (noting that some chiefs criticized the practice of using attorneys “when the natives had better speak for themselves”) (quoting LONDON SELECT COMM., REPORT FROM THE SELECT COMMITTEE ON AFRICA (WESTERN COAST) ¶ 55 (1865)).

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* (commenting that these semi-professional lawyers “probably attempted to make English legal procedure acceptable to Africans”).

52. *Id.* at 70 (referring to Dispatch No. 124 from Lord Carnarvon, Sec’y of State, British Colonies, to

procedure, and of the broad general principles of civil and criminal law.”⁵³ However, heightened prejudices between the colonial administration and the African educated elites brought an end to testing.⁵⁴

Eventually, the legal system in Ghana became more formal and advocate qualification became a prerequisite to legal representation.⁵⁵ Formal legal education thereafter became necessary.

b. Lack of Local Legal Training Facilities

Despite the need for legal education institutions, virtually no steps were taken to establish local training facilities for legal education in Africa during the colonial period.⁵⁶ According to Professor Muna Ndulo, “[a]s a matter of policy, legal education was discouraged.”⁵⁷ W. L. Twining suggests this was not an accident; colonial policy deemed it “more important to train engineers, doctors, and agriculturalists than lawyers”⁵⁸ because “Africans who wished to read law were regarded as preparing for a career in politics,” and “it would be self-destructive for a colonial government to encourage the production of politicians.”⁵⁹ “Yet emphasis on these other fields was not apparent”⁶⁰ For example, at the end of British rule in 1964, “Zambia had a mere one hundred university graduates, of whom only two were medical doctors and one [was] an engineer; the rest were graduates in the field of education.”⁶¹ In 1959, Malawi had “only twenty-three Malawians with university degrees.”⁶² In Ghana, the colonial administration abandoned the plan, proposed and initiated by Sir Gordon Guggisberg, then governor of the Gold Coast Colony, aimed at training Africans

Officer Administering the Government of the Gold Coast (July 17, 1874)).

53. *Id.*

54. *Id.* (noting that there were many other issues involved, “[b]ut all too easily the issue became one of colour, and prejudices were aroused on both sides”).

55. There were those (expatriates and Africans alike) who did not see how an African could become a proper lawyer without studying professional legal training in England. *See da Rocha, supra* note 13, at 1; *see also* Jurist, *Legal Education in Nigeria, supra* note 38 (citing Order 16, Rule 1 of the Supreme Court Ordinance No. 43 of 1943).

56. Ndulo, *Legal Education in Africa, supra* note 10, at 489.

57. *Id.*

58. Twining, *Legal Education Within East Africa, supra* note 2, at 116.

59. *Id.* There was no provision for local legal training in British colonial Africa. *Id.* This was because “the officers of the colonial regime viewed the prospect of legally trained Africans with misgivings, regarding them . . . as particularly likely to form an effective spearhead of the nationalist movements.” GOWER, *supra* note 2, at 111; *see also* Twining, *Legal Education Within East Africa, supra* note 2, at 116; Ndulo, *Legal Education in Africa, supra* note 10, at 489; Ndulo, *Legal Education in Zambia, supra* note 13, at 446.

60. Ndulo, *Legal Education in Zambia, supra* note 13, at 446.

61. *See* Ndulo, *Legal Education in Africa, supra* note 10, at 489.

62. *See* Carrington, *supra* note 13, at 57 (noting that, prior to its independence in 1964, Malawi had no university or college and had to rely on other universities in the subregion for the training of its nationals; it was immediately after independence that the University of Malawi was established under the University of Malawi Act of 1964, and teaching began in September 1965).

to man medical, engineering, and other important positions.⁶³ Thus, legal education, like most other fields of study, suffered from lack of local attention.

The lesson to be drawn from this state of affairs for our inquiry on curricula reform is not so much the lack of training facilities.⁶⁴ Rather, the issue of importance to our inquiry is the way in which African students in these African countries with no local legal training institutions managed to read law to become attorneys and practice. We now look at that issue.

c. Journeying to London for Legal Education

Since there was no form of legal education in the colonized African countries, the only way an African could become a lawyer⁶⁵ “was to journey to London, join an Inn of Court, and acquire English professional qualifications.”⁶⁶ Only the rich could embark on such a quest to attain legal education. As a result, in the colonial era, British expatriates and Asians heavily patronized and dominated the legal profession in the African colonies.⁶⁷ Of the one hundred lawyers in Tanganyika (now Tanzania) in 1961, only one was African.⁶⁸ There

63. Sir Frederick Gordon Guggisberg was Governor of the Gold Coast (Ghana) from 1919 to 1927, where he implemented a ten-year development plan to provide socio-economic infrastructure. In eight years, he constructed a harbour, a college (Achimota), schools, a hospital (Korle-Bu), clinics, improved road transportation, railways, telephone and communications, encouraged agriculture, indirect rule, and African advancement in the colonial service. Even though Guggisberg’s eight-year administration is considered as “the most revolutionary in the development of [Ghana] in the colonial days,” *there were certain crucial aspects of Guggisberg’s plans that were never implemented by the colonial administration after the expiration of Guggisberg’s term as governor*. For example, Guggisberg planned that the Korle-Bu hospital complex, which he built in 1923, should become the medical college for all British West Africa for the training of doctors, nurses, technicians, and other health professionals, but this never materialized. It was about 40 years later, after independence under Dr. Kwame Nkrumah’s presidency, that the University of Ghana Medical School was established at Korle-Bu. See Ghana.co.uk, *Colonial Rule: Governor Guggisberg and Ghana*, http://www.ghana.co.uk/history/history/colonial_rule_governor_guggisberg_part1.htm; see also, H.B. Goodall, *The Beloved Imperialist*, http://findarticles.com/p/articles/mi_qa5391/is_200611/ai_n21402021/print (on file with the *McGeorge Law Review*).

64. For lessons from lack of local facilities, see Manteaw, *Reforming African Legal Education*, *supra* note 16.

65. With hardly any exception, all of these African lawyers were trained as barristers (advocates), not solicitors. See GOWER, *supra* note 2, at 108, 113 (noting that these African barristers (or advocates) “had no training at all in how to conduct the affairs and offer the services of a lawyer to whom a lay client had direct access”).

66. See Ndulo, *Legal Education in Zambia*, *supra* note 13, at 445-46. However, there existed some African institutions that offered some form of legal education. DENNING COMMITTEE REPORT, *supra* note 2, ¶ 24 (discussing two of the local facilities—the Institute of Administration at Zaria in Northern Nigeria and the Royal Technical College at Nairobi in Kenya—and noting that they lacked teaching facilities and, therefore, students who enrolled there had to rely on private study, often aided by correspondence course from England; moreover, they offered only Part I of the Bar examination, and thus the students still had to go to England to complete the course); see also GOWER, *supra* note 2, at 112, 129; Johnstone, *American Assistance to African Legal Education*, *supra* note 2, at 657-58; Lumumba, *supra* note 13.

67. DENNING COMMITTEE REPORT, *supra* note 2, ¶ 6; see also GOWER, *supra* note 2, at 113; Ojwang & Salter, *supra* note 13, at 79.

68. DENNING COMMITTEE REPORT, *supra* note 2, ¶ 6.

were less than ten Africans out of the over three hundred qualified lawyers in Kenya.⁶⁹ Out of about one hundred and fifty lawyers in Uganda, only twenty were African.⁷⁰ West Africa also lacked a significant number of African lawyers.⁷¹

The African legal profession, composed largely of wealthy foreigners, had little interest in public interest law (as opposed to the practice in pre-colonial times).⁷² The profession's focus, as influenced by British legal education curricula, was on private practice, representing rich and commercial clients, and litigating cases.⁷³ This seemed to have facilitated the profession's loss of touch with local realities and with the needs and aspirations of the poor majority. More importantly, there were grave inadequacies in the London legal training that prepared these lawyers for practice in Africa.

d. Trained in London to Practice in Africa: Inadequacies

According to Ndulo, "although a call to the English Bar was . . . considered sufficient for admission to practice in most African countries [during the colonial era], the legal education provided by the Inns of Court was—and is not today—in itself adequate training for practice in Africa."⁷⁴ The legal training "paid no attention to the problems of practicing in an underdeveloped country with multiple systems of law."⁷⁵ In fact, "English-trained lawyers did not study the [c]ustomary [l]aws of [African countries] as part of their education even though [c]ustomary law was and still is a very important part of the [African] [l]egal system."⁷⁶

Also, with hardly any exception, all the African lawyers were trained as barristers (advocates) and not solicitors.⁷⁷ This presented a problem that still affects African legal education and the legal profession. According to L. C. B. Gower, because African lawyers were trained exclusively as barristers, the focus

69. *Id.*

70. *Id.*

71. *Id.*

72. Jessup, *supra* note 13, at 387 ("The law courses of early curricular design did not reflect the needs of the society, and the training of lawyers was based on doctrinaire teaching geared to an adversary setting catering to litigation for the fortunate few at the cost of social injustice to the deprived many.").

73. *Id.*

74. Ndulo, *Legal Education in Africa*, *supra* note 10, at 490; *see also* DENNING COMMITTEE REPORT, *supra* note 2, ¶ 27; GOWER, *supra* note 2, at 108, 113; Hedges, *supra* note 2, at 75-76.

75. Ndulo, *Legal Education in Africa*, *supra* note 10, at 490 (noting that in the context of former British colonies, the Denning Committee Report drew attention to the need for local education and practical training in local law and procedure); *see also* GOWER, *supra* note 2, at 108, 113.

76. Nigeria Law Sch., Legal Education, <http://www.nigeria-law.org/Legal%20Education.htm> (last visited Dec. 23, 2007) [hereinafter Nigeria Law Sch., Legal Education] (on file with the *McGeorge Law Review*); *see also* DENNING COMMITTEE REPORT, *supra* note 2, ¶ 28.

77. *See* GOWER, *supra* note 2, at 112.

in African law was, and continues to be, litigation.⁷⁸ Not even the dramatic increase in local legal training initiatives during the independence era could change the profession's fixation on litigation and private practice.

3. *Post-Independence Era*

The rising fervor for independence in the 1950s and 1960s increased interest in establishing local training facilities for legal education in Africa.⁷⁹ According to Professor Johnstone, as emerging independent African countries began to establish "higher educational training facilities in particular professions and disciplines, the student flow abroad [began to fall] off markedly in those fields for which training [was] available at home. Law [was] no exception to this."⁸⁰

African legal education progressed dramatically immediately after independence.⁸¹ Many new African nations began establishing law faculties. For example, in 1956, the Council of the University of Ghana (formerly the University College of Gold Coast) accepted a proposal to establish a Department of Law in the college.⁸² The university admitted its first law students in 1959.⁸³ "Out of the 26 students admitted, 18 completed the program and graduate[d] in 1963."⁸⁴ Other legal training institutions were also established, and, by April 1972, there were "43 African universities with faculties of law, twelve of them in South Africa, nine in Arab countries bordering on the Mediterranean, and the remaining 22 in the great middle belt of the continent."⁸⁵ The number has grown steadily over the years to more than one hundred.⁸⁶ The legal training, at least in Ghana, was structured according to suggestions provided by the Denning Committee in 1961.⁸⁷

78. *Id.*

79. *Id.* at 117-29.

80. See Johnstone, *American Assistance to African Legal Education*, *supra* note 2, at 662-63; see also GOWER, *supra* note 2, at 117-29; FED'N NIGERIA, REPORT OF THE COMMITTEE ON THE FUTURE OF THE NIGERIAN LEGAL PROFESSION (1959); HUGHES PARRY REPORT, *supra* note 2.

81. See *supra* Part I.A.1.

82. See *Brief History on the Establishment of Department/Faculty of Law*, NEWSLETTER (Univ. of Ghana, Faculty of Law), 1998, at 5 [hereinafter *Brief History of Ghana Faculty of Law*]; HUGHES PARRY REPORT, *supra* note 2.

83. *Brief History of Ghana Faculty of Law*, *supra* note 82, at 5.

84. *Id.* at 4; see also da Rocha, *supra* note 13, at 1 (noting that the first locally trained lawyers were enrolled on 22 June 1963 in Ghana).

85. Johnstone, *American Assistance to African Legal Education*, *supra* note 2, at 657-58. Of those twenty-two faculties in the great middle belt of the African continent, "twelve . . . provide[d] instruction predominantly in English, eight in French, one in Italian, and one in Arabic." See *id.* at 658-59; see also *id.* at 658 n.2 (listing the forty-three faculties).

86. See Ctr. for Human Rights, Univ. of Pretoria, The Sixth All-African Human Rights Moot Court Competition, http://www.chr.up.ac.za/centre_projects/mooteng/archive_1997_report.html (last visited Apr. 4, 2008) [hereinafter Sixth All-African Human Rights Moot Court Competition] (on file with the *McGeorge Law Review*).

87. See generally DENNING COMMITTEE REPORT, *supra* note 2.

a. *The Denning Committee*

The British Government created the Denning Committee in October 1960 to examine legal education in Africa and to make recommendations for a suitable scheme of training.⁸⁸ The role of the Denning Committee was defined as follows:

(a) . . . [T]o consider, and report as soon as possible, what facilities ought to be made available to provide any additional instruction and training, either in the United Kingdom or elsewhere, which may be required to ensure that those members of local bars in Africa who obtain their legal qualifications . . . possess the knowledge and experience required to fit them for practice in the special conditions of the territories in which they are to practice, with special reference to the following:

(i) the acquisition of the practical experience in addition to academic qualifications

(b) . . . [C]onsideration should also be given . . . to the means to be adopted in the educational sphere to give the . . . [African countries] assistance which they may require in whatever provision they make for the education in Africa of local inhabitants seeking legal qualification.⁸⁹

After extensive hearings and discussions, the Denning Committee recommended that African countries not admit lawyers to local practice merely on the basis of British qualifications.⁹⁰ It suggested requiring additional practical training in local law and procedure.⁹¹ “The Committee further recommended the establishment of local training facilities, and specifically recommended the establishment of a law school in Dar-es-Salaam to serve East Africa.”⁹²

The Denning Committee’s recommendations were largely adopted and have influenced the system of legal education in Africa.⁹³ Of particular significance was the proposal that the normal pattern of legal education in the African territories should be a degree in law at an African university followed by one year of practical training at a school of law.⁹⁴ This recommendation formed the basis for common law Africa’s two-tiered legal education system: academic legal education in a university’s law faculty for a Bachelor of Laws degree and

88. A. N. Allott, *Legal Education in East Africa*, 4 J. AFRICAN L. 130, 130 (1960).

89. *Id.*

90. GOWER, *supra* note 2, at 110.

91. *Id.*

92. Ndulo, *Legal Education in Africa*, *supra* note 10, at 490; *see also* DENNING COMMITTEE REPORT, *supra* note 2, ¶ 51, 57.

93. GOWER, *supra* note 2, at 110.

94. *See id.* at 110, 118, 125-27; *see also* DENNING COMMITTEE REPORT, *supra* note 2, ¶ 68 (“[I]n the future . . . the normal pattern of higher legal education in the African territories will be a degree in law at a university in Africa followed by one year’s practical training at a school of law in Africa.”); Ojwang & Salter, *supra* note 13, at 80.

subsequent professional legal training in a law school for a “call to the Bar” (a Barrister/Solicitors’ Certificate).⁹⁵

b. *Legal Education in the “Heady Days” of Independent Africa*

When local institutions were established in the newly independent states of Africa, most countries faced an urgent need to train lawyers to run the courts and various government departments.⁹⁶ Consequently, African countries adopted the English system of law as an undergraduate course.⁹⁷ With slight local variations, the British legal education curriculum was introduced wholesale in African countries.⁹⁸ This curriculum ensured a smooth transition to local legal training as virtually all the lawyers in the Anglophone African countries had been trained in England or other countries in the British Commonwealth.⁹⁹ Invariably, the policy was to substantially continue with the legal education traditions of the British, to which the then African legal professionals were accustomed.¹⁰⁰

Apart from the focus on training lawyers to run the courts and government departments, the law curricula were heavily influenced by a private practice approach to juridical relationships.¹⁰¹ The curricula focused on private commercial activity and private affairs rather than the problems of the public.¹⁰² According to Grady Jessup: “The law courses of early curricular design *did not reflect the needs of the society*, and the training of lawyers was based on doctrinaire teaching geared to an adversary setting *catering to litigation for the fortunate few at the cost of social injustice to the deprived many.*”¹⁰³

This initial focus on litigation still permeates the legal system. Rarely is it regarded as a lawyer’s duty to settle cases out of court or to use the law as a tool

95. The law school professional legal training is akin to the Bar Review program in the United States.

96. See ARKU KORSAH, *LAW IN A CHANGING COMMUNITY* (1960) (“In the public field, it is of first importance to the success of the government’s policies that the law should provide for the efficient organization and functioning of the civil service and other public services, armed forces, local authorities, state corporations and other instruments of administration.”); Twining, *The English Law Teacher in Africa*, *supra* note 2, at 81.

97. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 488-89; see also Twining, *The English Law Teacher in Africa*, *supra* note 2, at 81 (noting the situation in Sudan where of the first seven Sudanese lawyers trained locally one became the Chief Justice, three became judges of the High Court, one was Attorney-General, one was a Minister of Commerce, and, finally, one became Foreign Secretary).

98. See DENNING COMMITTEE REPORT, *supra* note 2, ¶¶ 30-39.

99. See Harvey, *Comments on Legal Education*, *supra* note 2; Jessup, *supra* note 13, at 403.

100. See GOWER, *supra* note 2, at 144-45 (commenting that too many African lawyers are typical Englishmen). “We [the English] have stamped our mark on the law and on the lawyers of these [African] countries. Whether we or they like it or not, the mark is probably indelible, but it can be reshaped without too drastic plastic surgery. The trouble is that most African lawyers like it as it is” *Id.* at 144. This is reflected in the African legal profession which, though fused and not divided like in Britain, the terms barrister and solicitor are nevertheless still used. See *id.* at 104-05.

101. See Jessup, *supra* note 13, at 387.

102. *Id.*

103. *Id.* (suggesting a development clinic model of legal education in Africa) (emphasis added).

for public interest services and socioeconomic engineering.¹⁰⁴ As a former Director of Legal Education in Ghana noted:

Most people think of the legal profession in terms of the lawyers practising [sic] before the courts. Indeed, it is not unusual to hear some of our country folk expressing doubt whether a person is a lawyer simply because they do not see him in court. Even some lawyers think that the lawyer who practises [sic] before the courts is somehow a creature who is superior to the one who does not.¹⁰⁵

B. *The Present Process of Legal Education in Africa*

1. *The Law Degree: Program and Duration*

Legal education in Africa begins at the university level, and, in most parts of Africa, it is an undergraduate course of study.¹⁰⁶ In a few law faculties, legal education is a graduate program akin to the practice in the United States, Canada, and India.¹⁰⁷ An example is the University of Ghana, where legal education was changed from an undergraduate program into a graduate program in 2000.¹⁰⁸ In contrast, law was a postgraduate program in South Africa but was changed to an undergraduate program in 1998.¹⁰⁹

The undergraduate law degree is the Bachelor of Laws (LL.B.).¹¹⁰ The duration of an LL.B. program varies among the different African law faculties.¹¹¹ It is four years in Malawi, Kenya, Zambia, and most South African law faculties.¹¹² In other faculties, such as the University of Dar-es-Salaam law

104. See da Rocha, *supra* note 13, at 2 (discussing the situation in Ghana).

105. *Id.*

106. Ojwang & Salter, *supra* note 13, at 82. This is patterned after the English system of legal education. *Id.* With very few exceptions, the vast majority of Anglophone African countries follow this model. *Id.*

107. See David Mcquoid-Mason, The New Four Year Undergraduate LL.B. Programme in South Africa: On-Going Challenges, <https://olt.qut.edu.au/law/clea/gen/static/news/sp99/LL.B.htm> (last visited Mar. 30, 2008) [hereinafter Mcquoid-Mason, The New Four Year Undergraduate LL.B. Programme] (on file with the *McGeorge Law Review*); see also Proposal for the Conversion of the Current Law Programme, *supra* note 13.

108. To pursue an LL.B. degree at the University of Ghana, a degree from an accredited university is required. See Univ. of Ghana, Courses and Admission: Admission Requirements, <http://www.ug.edu.gh/admission.php> (last visited Apr. 4, 2008) [hereinafter UOG Admission Requirements] (on file with the *McGeorge Law Review*). But the KNUST Law Faculty in Ghana offers both graduate and undergraduate LL.B. degree programs. See Kwame Nkrumah Univ. Sci. & Tech. (KNUST), Regulations for the Conduct of Bachelor of Laws Degree (LL.B.) Programme, <http://www.knust.edu.gh/law/regulations.php> (last visited Apr. 2, 2008) [hereinafter KNUST Regulations for Bachelor of Law] (on file with the *McGeorge Law Review*).

109. See Mcquoid-Mason, The New Four Year Undergraduate LL.B. Programme, *supra* note 107.

110. The LL.B. degrees are classified as Honors First Class, Second Class (Upper and Lower Divisions), or Third Class. See, e.g., THE UNIVERSITY OF GHANA HANDBOOK (2003/2004). Graduates then apply to the Law School and are accepted if adjudged fit and proper for admission.

111. See *infra* App. II (listing curricula for select African countries).

112. See Mcquoid-Mason, The New Four Year Undergraduate LL.B. Programme, *supra* note 107; Lumumba, *supra* note 13; Ndulo, *Legal Education in Africa*, *supra* note 10, at 491; Univ. of Nairobi, Bachelor

faculty in Tanzania, the program is three years.¹¹³ It is two years in other faculties, such as the University of Ghana law faculty, which introduced a two-year graduate LL.B. program in 2000.¹¹⁴ Usually, each academic year consists of thirty weeks divided into two equal semesters of fifteen weeks.¹¹⁵

Some countries have experimented with different variations to their law degree programs.¹¹⁶ With the introduction of the graduate LL.B. degree program,¹¹⁷ the University of Ghana shortened the duration of its law faculty to two years, with each year of study divided into two equal semesters.¹¹⁸ Ghana's Kwame Nkrumah University of Science and Technology (KNUST) Law Faculty offers a three-year post-first degree LL.B. program (four years for part-time students) and a four-year undergraduate LL.B. program.¹¹⁹ These reforms and experiments suggest that African countries, at least those mentioned above, are looking for the best legal education model.

2. *Routes to Legal Education: South Africa and Ghana as Examples*

In Africa, a law degree does not alone qualify one to practice as a lawyer.¹²⁰ A further period of post-graduate practical training is required.¹²¹ While Ghana's academic legal education structure and the practical training program epitomizes the situation in common law sub-Saharan Africa, the South African program presents some essential contrasts that might be useful to the curricula reform inquiry.

of Law: Course Structure and Duration, http://www.uonbi.ac.ke/faculties/degree_programme.php?deg_type_id=277&type_name=Course+Structure+and+Duration°ree_id=87&fac_code=43 (last visited Apr. 1, 2008) [hereinafter Nairobi Bachelor of Law] (on file with the *McGeorge Law Review*).

113. See University of Dar es Salaam, The Faculty of Law, http://www.lawafrica.com/LegalEducation/go.asp?sectionID=DAR_FAC (last visited Apr. 2, 2008) [hereinafter Dar Es Salaam Faculty of Law] (on file with the *McGeorge Law Review*). The LL.B. course is normally completed in three consecutive years of full-time study, with examination at the end of every year.

114. See Proposal for the Conversion of the Current Law Programme, *supra* note 13. However, Ghana's Kwame Nkrumah University of Science and Technology (KNUST) Law Faculty has a three-year post-first degree LL.B. program (four years for part-time students) and a four-year undergraduate LL.B. program. KNUST Regulations for Bachelor of Law, *supra* note 108.

115. See Nairobi Bachelor of Law, *supra* note 112.

116. See Proposal for the Conversion of the Current Law Programme, *supra* note 13.

117. *Id.*

118. Thus, law students spend a total of four semesters in the faculty. See UOG Admission Requirements, *supra* note 108. To be eligible for admission, an applicant must have obtained an undergraduate degree, which is predominantly a four-year program in Ghana.

119. KNUST Regulations for Bachelor of Law, *supra* note 108.

120. Ndulo, *Legal Education in Africa*, *supra* note 10, at 493.

121. *Id.*

a. South Africa

In South Africa, the LL.B. degree is essentially a four-year undergraduate program.¹²² Practical training is required after the LL.B. degree.¹²³ While the practical training aspect was traditionally the province of the profession's articles of clerkship program (of at least a two year duration), the system is changing.¹²⁴ First, skills training in both law school curricula and post-graduate practical training programs has increased.¹²⁵ Second, the articles of clerkship period is now shorter.¹²⁶ Third, community apprenticeships have been created to facilitate practical training in public interest law.¹²⁷

South Africa has nine Practical Legal Training Schools (PLTS) approved by the provincial law societies.¹²⁸ They supplement an LL.B. graduate's training with a required five-week practical training course before clerkship.¹²⁹ If a law graduate undertakes an additional five months training at a PLTS, he or she "need only serve one year of articles [of clerkship], instead of two."¹³⁰ Articles of clerkship might be undertaken at private law firms, university law clinics, justice centers run by the Legal Aid Board, or public interest law firms, such as the Legal Resources Center.¹³¹ After the clerkship, the law graduate must pass the attorney's admission examination in order to apply for admission as an attorney.¹³²

Of special interest in this process is the community service apprenticeship in public interest law clinics. Law clinics enroll candidate attorneys and law students and provide them with opportunities to attain practical legal skills through their community service programs.¹³³ By employing a principal attorney (with a minimum of three years practical experience) to supervise law graduates, these clinics enable the candidate attorneys to appear in district courts, while the principals appear in the regional and High Courts.¹³⁴ Most of these clinics are

122. See McQuoid-Mason, *The New Four Year Undergraduate LL.B. Programme*, *supra* note 107.

123. *Id.*

124. See Thuli Mhlungu, *Educating and Licensing Attorneys in South Africa*, 20 GA. ST. U. L. REV. 1005, 1005 (2004).

125. *Id.*

126. *Id.*

127. *Id.*; see also David McQuoid-Mason, *Legal Aid Services and Human Rights in South Africa*, <http://www.pili.org/en/content/view/155/26/> (last visited Apr. 2, 2008) [hereinafter McQuoid-Mason, *Legal Aid Services in South Africa*] (on file with the *McGeorge Law Review*).

128. See Mhlungu, *supra* note 124, at 1009.

129. *Id.*

130. *Id.*

131. *Id.* at 1012.

132. See *id.* at 1026 (citing Attorneys Act 53 of 1979 § 14). The examination includes Estates, Ethics, Bookkeeping, and Court Procedure. *Id.*

133. *Id.* at 1022.

134. *Id.*

university based.¹³⁵ The Association of the University Legal Aid Institutions (AULAI) represents twenty such clinics that provide free legal services to indigent clients and provide law students and graduates training in the “skills and values required to practice law.”¹³⁶ They also “expose law students and candidate attorneys to . . . economic and social disparities,” and even “recruit [some of] them to practice public interest law after admission.”¹³⁷ Candidate attorneys interview clients, provide representation, give advice, prepare documents, and participate in community outreach programs and street law activities.¹³⁸ They are also required to attend monthly staff forums where representatives brief members on their work, thereby building confidence and broadening perspectives on law and development.¹³⁹ At the end of the training, both candidate attorneys and law students have been exposed to real-life problems of the poor and disadvantaged, and to different types of public interest legal practice.¹⁴⁰

b. Ghana

With its diverse programs, Ghana is an interesting comparative study because it offers instructive parallels to other countries’ programs. Ghana offers legal education through four routes.¹⁴¹ These include undergraduate and post-graduate LL.B. programs.¹⁴² Some programs are two years, others are three years, and there are even four-year programs.¹⁴³ First, a person may begin formal legal education by enrolling at the University of Ghana’s law faculty for a two-year post-first LL.B. degree and thereafter proceed to the Ghana School of Law for the two-year professional law certificate program.¹⁴⁴ Second, one might opt for a similar program at the Kwame Nkrumah University of Science and Technology (KNUST) Law Faculty, where the post-first degree LL.B. program is three years (or four years for part-time students) and then go to the Ghana School of Law.¹⁴⁵

135. *Id.* (noting there are twenty university-based law clinics).

136. *Id.* (citing Stephen Golub, *Battling Apartheid, Building a New South Africa*, in MANY ROADS TO JUSTICE: THE LAW-RELATED WORK OF FORD FOUNDATION GRANTEES AROUND THE WORLD 19, 39 (Mary McClymont & Stephen Golub eds., 2000)).

137. *Id.*

138. See David McQuoid-Mason, *The Delivery of Civil Legal Aid Services in South Africa*, 24 FORDHAM INT’L L.J. 111, 140 (2000) [hereinafter McQuoid-Mason, *Delivery of Civil Legal Aid*]; Mhlungu, *supra* note 124, at 1024.

139. Mhlungu, *supra* note 124, at 1024.

140. *Id.* at 1024-25.

141. COMMONWEALTH LEGAL EDUC. ASS’N, DIRECTORY OF COMMONWEALTH LAW SCHOOLS 2003/2004, at 127 (John Hatchard ed., 2003) [hereinafter CLEA DIRECTORY].

142. *Id.*; KNUST Regulations for Bachelor of Law, *supra* note 108.

143. CLEA DIRECTORY, *supra* note 141, at 127; KNUST Regulations for Bachelor of Law, *supra* note 108.

144. See CLEA DIRECTORY, *supra* note 141, at 127.

145. See KNUST Regulations for Bachelor of Law, *supra* note 108. KNUST is a relatively new law faculty, which commenced teaching in the 2003-2004 academic year and offers courses leading to the LL.B. degree. See also Ghana News Agency, *Universities Must Design Market-Driven Courses*, GHANAWEB.COM,

Third, the KNUST Law Faculty offers a four-year undergraduate LL.B. program, after which the students may proceed to the Ghana School of Law.¹⁴⁶ Fourth, the Ghana School of Law offers a Post-Call law course.¹⁴⁷ The Post-Call course is a three-month course designed for qualified lawyers of common law countries outside Ghana.¹⁴⁸ It covers two main subjects: Constitutional Law of Ghana and Ghana Customary Law.¹⁴⁹ Candidates who successfully pass the requisite final examinations are enrolled as lawyers to practice in Ghana.¹⁵⁰ Most African countries offer programs similar to Ghana's.¹⁵¹

3. Admission to Practice

Apart from law faculties, there is also a large miscellaneous group of *non-university* institutions that provide professional legal education in Anglophone African countries.¹⁵² Typically called law schools, these institutions include the Ghana School of Law, Kenya School of Law, Nigeria School of Law, Law Practice Institute of Zambia, Law Development Center of Uganda, and the College for Arabic and Islamic Studies in Omdurman (Sudan).¹⁵³ Akin to bar review programs in the United States, these institutions prepare students for, and conduct, bar examinations after a student has obtained the requisite academic qualification (usually, the LL.B. degree) from the law faculty of an accredited or recognized *university*.¹⁵⁴

Admission to the study of law in a *university* in most African countries is by written examination.¹⁵⁵ Depending on the country, a regional or national examinations body, a law faculty, or a law school may administer such an examination.¹⁵⁶ In a few African countries, like Ghana and Malawi, passing the

March 1, 2003, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/printnews.php?ID=33471> (on file with the *McGeorge Law Review*).

146. KNUST Regulations for Bachelor of Law, *supra* note 108.

147. CLEA DIRECTORY, *supra* note 141, at 127.

148. Such a country must be operating a legal system that is analogous to that of Ghana. *Id.*

149. *Id.* at 128.

150. *Id.* at 127.

151. *See infra* App. II.

152. *Id.*

153. In Tanzania, the faculty of law of the University of Dar-es-Salaam oversees the professional legal training, after the faculty's academic legal education, leading to the award of the LL.B. degree.

154. *See* CLEA DIRECTORY, *supra* note 141, at 127.

155. *See, e.g.*, University of Nairobi, Bachelor of Law: Entry Requirements, http://www.uonbi.ac.ke/faculties/degree_programme.php?degree_name=BACHELOR+OF+LAW°ree_id=87&fac_code=43 (last visited Apr. 5, 2008) [hereinafter Nairobi Entry Requirements] (on file with the *McGeorge Law Review*); Univ. of Zambia, General Entry Requirements: Bachelor of Laws (LL.B.), http://www.unza.zm/index.php?option=com_content&task=view&id=88&Itemid=117 (last visited Apr. 5, 2008) (on file with the *McGeorge Law Review*).

156. *See, e.g.*, Nairobi Entry Requirements, *supra* note 155 (noting the University of Nairobi requires potential law students to pass the Kenya Certificate of Secondary Education (KCSE) examination, administered by the Kenya National Examination Council). In the University of Ghana, it is the Faculty of Law that organizes

examination does not ensure automatic admission.¹⁵⁷ Successful applicants are required to attend an interview for further screening.¹⁵⁸

III. AFRICAN LEGAL EDUCATION CURRICULA

A. Curricula Examples from Select African Countries

As previously mentioned, legal education in common law Africa follows the English approach.¹⁵⁹ It is two-tiered: academic (LL.B. degree) and professional (bar course).¹⁶⁰ Students usually obtain “a law degree at a university [law faculty] followed by . . . training in professional skills at a separate law school.”¹⁶¹ Usually, the law faculties have specialty departments.¹⁶² Typical departments include International Law, Business Law, Public Law, Private Law, Jurisprudence, and Human Rights.¹⁶³ Some institutions also offer post-graduate programs, such as a Master of Laws degree (LL.M.), a Master of Philosophy in

the entrance examinations for prospective law students who must have a good first degree from an accredited university. UOG Admission Requirements, *supra* note 108.

157. UOG Admission Requirements, *supra* note 108.

158. *Id.* Interviews, however, have the potential for unintended abuse; interviewers may deny admission to otherwise qualified candidates for reasons that have no bearing on their ability to practice as ethical lawyers. Also, such interviews have the potential for perpetuating elitism and favoritism of established families of lawyers. Others might even perceive it as an insidious form of class and ethnic manipulation. Due to the possibility of subjectivity in the interview process, it may have to be abolished and only written or oral tests used instead. Such a special entrance examination should be designed to test the student’s facility in written communication and his or her ability to analyze arguments and restate them concisely in his or her own language.

A test with higher selection standards, like the LSAT in the United States, limits admissions to very good students, reduces the incidence of academic failure, enhances the legal education process, and helps maintain a high quality legal profession. A test might nevertheless have drawbacks in that it might “reduce[] opportunit[ies] for those whose early academic experience did not ready them for . . . law school entrance exam success.” See Elizabeth Rindskopf Parker, *A Dean’s Dilemma or Lessons in Diversity*, 37 U. TOL. L. REV. 117, 119 (2005). But interviews do not fix this problem and might even worsen it because the interview process screens *successful* examination candidates and might not favor brilliant, poor students. Increasing minority and disadvantaged student participation in a standardized testing regime requires a long-term solution of early preparation for minority students. See *id.* at 121. For example, McGeorge is collaborating with a neighborhood high school to reach back into “the earliest times in students’ academic career” to “*increase the numbers of academically competitive minorities.*” *Id.* (emphasis in original).

159. Ndulo, *Legal Education in Africa*, *supra* note 10, at 492.

160. See *id.* at 493.

161. GOWER, *supra* note 2, at 118.

In America, where nearly all legal education is undertaken by the universities, the term law school is generally taken to mean the “law faculty” in a university. . . . In England [and Africa], the position is different. . . . [T]he term “law school” is taken to mean a non-university institution for the professional training of lawyers. The term “law faculty” is reserved for the university institution which gives legal instruction.

Macaulay, *supra* note 14, at 81.

162. See, e.g., Univ. of Nigeria, Nsukka, Faculties, <http://www.unn-edu.net/faculties.html> (last visited May 12, 2008) (on file with the *McGeorge Law Review*) (listing the following departments: Commerical and Property Law, International Law and Jurisprudence, and Private and Public Law).

163. See *id.*

Law degree (M.Phil.), a Doctor of Philosophy degree (Ph.D.), or a Doctor of Laws degree (LL.D.).¹⁶⁴

1. *Nigeria*

a. *Law Faculties (Academic Training)*

Nigeria has over thirty university law faculties that offer LL.B. programs.¹⁶⁵ “These universities produce law graduates who then proceed to the Nigerian Law School for a minimum of one year of professional training.”¹⁶⁶ The curriculum’s core courses include: Criminal Law, Contracts, Evidence, Torts, International Law, Constitutional Law, Administrative Law, Nigerian Land Law, and Commercial Law.¹⁶⁷ The elective courses include Family Law, Islamic Law, Wills and Succession, Banking, Insurance, Labor Law, Mineral Law, Industrial Law, Revenue Law, and Criminology.¹⁶⁸

b. *Law Schools (Professional Training)*

In Nigeria, “[t]he [law] school admits only persons holding a law degree from an approved university or persons who passed the Solicitors[’] final examination of Great Britain and Ireland.”¹⁶⁹ The program is one year for students with law degrees from Nigerian universities and two years for those with law degrees obtained outside Nigeria.¹⁷⁰ Students with law degrees obtained outside Nigeria are required to pass the following subjects in the Bar Part I examination: Nigerian Legal system, Nigerian Land Law, Nigerian Criminal Law, and Nigerian Constitutional Law.¹⁷¹ “Holders of law degrees from Nigerian universities are exempt from the Bar Part [I] course.”¹⁷² The Bar Part II offers the following courses: Civil Procedure, Criminal Procedure, Legal Drafting and Conveyancing, Commercial Law, Law and Practice of Evidence, and General

164. See LLM Guide, Master of Law Programs Worldwide: Africa, <http://www.llm-guide.com/africa/1> (last visited May 5, 2008) (on file with the *McGeorge Law Review*) (listing twenty-three African institutions and the various degrees they offer); see also UOG Admission Requirements, *supra* note 108.

165. Jurist, Legal Education in Nigeria, *supra* note 38.

166. *Id.*

167. Nigeria Law Sch., Legal Education, *supra* note 76.

168. See Oko, *Legal Education in Nigeria*, *supra* note 13.

169. Jurist, Legal Education in Nigeria, *supra* note 38.

170. *Id.*

171. *Id.* “The Bar Part [I] course . . . introduce[s] foreign-trained students to the general principles of Nigerian Law.” *Id.*

172. *Id.* “Also exempt from the Bar Part I are graduates from other common law jurisdictions who have taught law for a minimum of five years in a Nigerian faculty of law and graduates from non-common law countries that have so taught for not less than 10 years.” *Id.*

Paper, comprised of Legal Practitioners' Accounts, Income Tax Law, Office Management, and Professional Ethics.¹⁷³

2. Ghana

a. Law Faculties (Academic Training)

At the University of Ghana Law Faculty, the LL.B. program lasts two years with a total of forty-eight courses offered.¹⁷⁴ The first year curriculum has twelve required courses and four elective courses.¹⁷⁵ The second year has four required courses and offers twenty-eight elective courses.¹⁷⁶ All these courses are three credits each.¹⁷⁷ Students are required to attend lectures and participate in tutorials for a minimum of eighteen credits and a maximum of twenty-one credits each semester.¹⁷⁸ In each year, students take thirty-six (minimum) to forty-two (maximum) credits.¹⁷⁹ To graduate, a student must fulfill all the course unit requirements by obtaining a minimum of seventy-two credits.¹⁸⁰

As shown in Appendix II, the required courses offered in the first year are Ghana Legal System, Legal Method, Law of Contract I and II, Constitutional Law I and II,¹⁸¹ Torts I and II,¹⁸² Immovable Property I and II,¹⁸³ and Criminal Law I and II.¹⁸⁴ Each of these courses is a year-long course, with the first part offered in the first semester and the second part in the second semester.¹⁸⁵ The four first-year elective courses are Public International Law I and II and Comparative Law I and II.¹⁸⁶ The second-year core courses are Jurisprudence I and II, Equity, and the Law of Succession.¹⁸⁷ The elective courses offered in the

173. *Id.*

174. See Proposal for the Conversion of the Current Law Programme, *supra* note 13 (as amended by the UG HANDBOOK FOR THE BACHELOR'S DEGREE (HUMANITIES), ch. 14, at 236-40 (2007).

175. For a list of the courses, see *infra* App. II.

176. See *id.*

177. See *id.*

178. See Proposal for the Conversion of the Current Law Programme, *supra* note 13 (as amended by the UG HANDBOOK FOR THE BACHELOR'S DEGREE (HUMANITIES), ch. 14, at 236-40 (2007).

179. *Id.*

180. *Id.*

181. Constitutional Law I studies constitutional theory, and Part II studies the Constitution of Ghana. See *infra* App. II.

182. Part I of the Law of Torts studies intentional torts, and Part II studies negligence and defamation. See *infra* App. II.

183. Part I of the Law of Immovable Property studies customary land law, and Part II studies general immovable property principles and theory. See *infra* App. II.

184. Part I of Criminal Law studies general principles, and Part II studies specific offences. See *id.*

185. See *id.*

186. Comparative Law I studies legal traditions. Comparative Law II studies comparative constitutional law. See *id.*

187. See *id.* (providing a list of courses). All five elective courses are available in both the first and second year. See *id.*

second year include Long Essay, Administrative Law, International Trade and Investment Law I and II, Natural Resource Law I and II, Environmental Law I and II, Intellectual Property Law I and II, Conflict of Laws I and II, International Humanitarian Law I and II, International Human Rights Law I and II, Gender and the Law I and II, Family Law I and II, Taxation Law I and II, Company Law I and II, Criminology I and II, and Commercial Law I and II.¹⁸⁸ Similar courses are offered in most common law African countries.¹⁸⁹

b. Law Schools (Professional Training)

In Ghana, after obtaining an LL.B., a student enrolls in the professional bar certification program at the law school.¹⁹⁰ This program is known as the Professional Law Course and lasts two years.¹⁹¹ The course is divided into two parts: Professional Law Part I and II.¹⁹² As shown in Appendix II, the courses that are offered during the Part I program are Criminal Procedure, Company Law, Law of Evidence, Legal Accountancy, Interpretation of Deeds and Statutes, and one of three elective courses.¹⁹³ The elective courses are Industrial Law, Law of Insurance, and Legislative Drafting.¹⁹⁴ The Professional Law Part II program entails the study of Civil Procedure, Conveyancing and Drafting, Family Law and Practice, Law of Taxation, and Advocacy and Legal Ethics.¹⁹⁵

Also, the Ghana School of Law offers a second program called the Post-Call Law Course, which is a three-month course designed for persons who have qualified as lawyers in common law countries outside Ghana.¹⁹⁶ The two main subjects that form the basis of the course are Constitutional Law of Ghana and Ghana Customary Law.¹⁹⁷ Again, as Appendix II shows, other common law African countries offer similar courses.¹⁹⁸

188. Commercial Law I is on sale of goods and hire purchase. Commercial Law II is on agency and banking. *See id.*

189. *See id.*

190. *See* Professional Law Course (LI) 1296 of 1984; *see also* da Rocha, *supra* note 13, at 5.

191. *See id.*; *see also* Professional Law Course (LI) 1296 of 1984. LI 1296 requires that a person pass the final examination (held by the University of Ghana, or by any other university or institution approved by the General Legal Council) in the subjects of Law of Contract, Law of Tort, Criminal Law, Constitutional Law, Ghana Legal System and History, Equity and Succession, and the Law of Immovable Property before proceeding to pursue a professional law course in the Ghana School of Law. *See* da Rocha, *supra* note 13, at 5.

192. da Rocha, *supra* note 13, at 5.

193. *Id.*

194. *Id.*

195. *Id.*; Professional Law Course (LI) 1296 of 1984; *see also* Ghana School of Law, Guidelines for Prospective Applicants (noting that successful candidates who pass through the Part I and II are enrolled as Barristers at Law and Solicitors of the Supreme Court of Ghana).

196. *See* Ghana School of Law, Guidelines for Prospective Applicants, *supra* note 195.

197. *Id.*

198. *See infra* App. II.

3. *Malawi: Law Faculties (Academic Training)*

In Malawi, the first-year curriculum includes Legal Systems, Legal Methods, Constitutional Law, Administrative Law, Criminal Law, Law and Society, and Torts.¹⁹⁹ In the second year, students are required to take Trusts, Land, Contracts, and Family Law.²⁰⁰ During the third year, students take Business Organizations, Commercial Law, Conflicts of Laws, Public International Law, Jurisprudence, and Wills and Succession.²⁰¹ In the fourth and final year, students complete the program with Civil Procedure, Criminal Procedure, Evidence, Advocacy and Ethics, Legal Accountancy, Taxation, and Dissertation (extended essay).²⁰²

4. *Tanzania: Law Faculties (Academic Training)*

The University of Dar-es-Salaam law faculty offers courses such as Constitutions and Legal Systems of East Africa, Criminal Law and Procedure, Law of Contract, Legal Method, Development Studies and Communication Skills in the first year.²⁰³ The second year courses include Administrative Law, Law of Evidence, Land Law, Law of Torts, Development Studies, and an elective course.²⁰⁴ Final year requirements include Jurisprudence, Civil Procedure, two elective courses, and a research paper (including coursework in Research Methodology).²⁰⁵ The elective courses include Civil System, Commercial Law, Conflict of Law, Constitutional Law, Criminology and Penology, Family Law, International Law, Islamic Law, Labor Law, Legal Aspects of International Trade and Investment, Public Enterprises and Cooperatives, Succession and Trusts, Tax Law, Law and Development, and Development Studies.²⁰⁶

5. *Zambia: Law Faculties (Academic Training)*

In Zambia, the students spend the first year in the School of Humanities and Social Sciences at the University of Zambia and may take any subjects in the arts and social sciences.²⁰⁷ “Students then spend three years in the law [faculty],” officially known as the School of Law.²⁰⁸ The first year consists of five core

199. Faculty of Law, Chancellor Coll., Univ. of Malawi, Faculty of Law Course Outlines, <http://www.sdn.org.mw/ruleoflaw/lawfaculty/CourseOutline.html> (last visited May 6, 2008) [hereinafter University of Malawi Law Faculty] (on file with the *McGeorge Law Review*).

200. *Id.*

201. *Id.*

202. *Id.*

203. See Dar-es-Salaam Faculty of Law, *supra* note 113.

204. *Id.*

205. *Id.*

206. *Id.*

207. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 491-92.

208. *Id.* at 492. In Zambia, it is the School of Law, one of the schools of the University of Zambia,

courses: Legal Process, Law of Contract, Torts, Criminal Law, and Constitutional Law.²⁰⁹ In the second year, students have to take core courses in Commercial Law, Family Law, Evidence, Administrative Law, and Land Law.²¹⁰ They also “participate in a moot court program based on appellate briefs and arguments.”²¹¹ The third and final year students take compulsory courses in Jurisprudence and Company Law.²¹² A student is required to select an additional three subjects from International Law, Labor Law, International Trade, and Criminology.²¹³

6. Uganda: Law Schools (Professional Training)

In Uganda, before a student graduates from the Law Development Center after passing the twelve-month Bar Course, the student must undergo four types of assessments.²¹⁴ First, there is Individual Continuous Assessment, which is done weekly for a total of thirty-two weeks, spread over four terms.²¹⁵ Second, in the first and second terms, a student must complete research and practical exercises (both oral and written) in Domestic Relations, Commercial Transactions, Criminal Proceedings, Civil Proceedings, and Land Transactions.²¹⁶ Third, in the third term, students must complete a mandatory clerkship or obtain practical work experience with a legal institution, such as a law firm, a court, or a judge.²¹⁷ Fourth, a final examination is administered at the end of the fourth term and covers six compulsory subjects: Commercial Transactions, Civil Proceedings, Criminal Proceedings, Domestic Relations, Land Transactions, and the General Subject.²¹⁸ The General Subject is comprised of Legislative Drafting, Professional Conduct, Accounts/Solicitor’s Accounts, Judicial Conduct and Art of Advocacy, and Revenue Law and Taxation.²¹⁹

which oversees the academic legal education (LL.B. degree) program. *See id.* at 491 (citing UNIV. OF ZAMBIA, LAW SCHOOL HANDBOOK 1 (1970)).

209. *Id.* at 492 (citing UNIV. OF ZAMBIA, LAW SCHOOL HANDBOOK 19 (Law. Prac. Inst. (1983)).

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.* The curricula in the law faculties in Kenya also follow a similar pattern. *See Lumumba, supra* note 13.

214. *See* Law Development Center—Uganda, Rules Governing the Passing of the Bar Course, <http://www.lawafrica.com/LegalEducation/go1.asp?file=ldc-partIIa.xml> (last visited Mar. 30, 2004) (on file with the *McGeorge Law Review*).

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.*

IV. AFRICAN LEGAL EDUCATION: GLOBALIZATION AND LOCAL NEEDS

A. Core Curricula Strengths

The law school curricula in Africa have unique strengths. By a stroke of historical luck and necessity, Africa was one of the first continents to internationalize law curricula, and it continues to preserve and enhance that advantage.²²⁰ The curricula essentially consist of a broad-scoped pedagogy sensitive to different legal systems. Like the pervasive inclusion strategy being considered in American law schools, such as University of the Pacific, McGeorge School of Law and New York University School of Law,²²¹ the curricula in African law schools expose students to public and private international law and comparative law materials.²²² British common law and juridical principles permeate almost every course, and American cases and principles on constitutionalism, separation of powers, and human rights form an essential core of African law school curricula.²²³ In fact, the core courses offered at the various levels are very relevant and seem to be similar to those offered in many other jurisdictions, including the United States.²²⁴ Also, legal history and jurisprudence are often core courses, designed to develop in students a sensitivity to various legal approaches.²²⁵ African law students are thus exposed to a proper

220. Ironically, law schools in various developed countries, including the United States, are now debating strategies for internationalizing law school curricula. McGeorge School of Law is playing an active role in the AALS and ABA International Law Section's initiatives on Internationalizing Law School Curricula. See Franklin A. Gevurtz et al., *Report Regarding the Pacific McGeorge Workshop on Globalizing the Law School Curriculum*, 19 PAC. MCGEORGE GLOBAL BUS. & DEV. L.J. 267 (2006) [hereinafter Gevurtz et al., *Globalizing the Law School Curriculum*]; see also Franklin Gevurtz & Elizabeth Rindskopf Parker, *A Curricular Core for the Transnational Lawyer* (2004), <http://www.aals.org/international2004/Papers/ParkerPaper.pdf> (unpublished article) (on file with the *McGeorge Law Review*).

221. See Louis Del Duca, *Strategies for Internationalizing Law School Curricula: Challenges and Opportunities 2* (AALS Conference Paper, 2004), <http://www.aals.org/international2004/Papers/DelDuca.pdf> (on file with the *McGeorge Law Review*).

222. See, e.g., Dar Es Salaam Faculty of Law, *supra* note 113 (offering courses in International Law, Islamic Law, and Legal Aspects of International Trade and Investment, among others).

223. African law students are very familiar with American cases such as *Marbury v. Madison*, 5 U.S. 137 (1803); *Brown v. Board of Education*, 347 U.S. 483 (1954); *Roe v. Wade*, 410 U.S. 113 (1973); *Miranda v. Arizona*, 384 U.S. 436 (1966), and many other U.S. cases and principles. *But see* Claudio Grossman, *Building the World Community: Challenges for Legal Education*, 18 DICK. J. INT'L. L. 441 (2000) (observing that curricula of U.S. law schools continue to focus on a domestic agenda with marginal incorporation of international law into legal training, and advocating for internationalized U.S. law school curricula).

224. Compare, for example, the courses offered in the first year at the University of Ghana Faculty of Law (Ghana Legal System, Legal Method, Law of Contracts I and II, Constitutional Law I and II, Torts I and II, Immovable Property I and II, and Criminal Law I and II) with those offered in the first year at the University of the Pacific, McGeorge School of Law (Civil Procedure I and II, Contracts I and II, Criminal Law, Legal Process, Property I and II, and Torts I and II). See *infra* App. II; McGeorge Sch. of Law, *First Year Courses (Required)*, http://www.mcgeorge.edu/Documents/catalog/2007_fall/2008_Course_Descriptions.pdf (last visited May 6, 2008) (on file with the *McGeorge Law Review*).

225. See, e.g., University of Malawi Law Faculty, *supra* note 199 (requiring students to take Jurisprudence in the third year).

understanding of many legal traditions—common law, customary law, civil law, Arabic and religious law—and other countries' approaches to certain legal issues.²²⁶ Law curricula effectively present ways to resolve conflicts that arise under different legal traditions.

The curricula also benefit from professors trained in countries outside Africa. African law professors often have graduate training in foreign countries, which results in an international and comparative approach to teaching.²²⁷ Also, in the “heady days” of the independence era, African law schools benefited from the assistance of highly qualified legal scholars and educators from the United States, Britain, and other developed countries.²²⁸ These law professors taught a wide range of core courses, which they greatly influenced with their American law, civil law, and other expertise.²²⁹ They also studied African customary law, developed case books and, for a couple of decades, gave African students the opportunity to learn from the best comparative law experts.²³⁰ In their subsequent roles as law professors, these African law graduates maintained this comparative approach to legal education. African law students continue to benefit from the generosity of many American and other developed countries' law schools. Schools such as Pacific McGeorge offer tuition waivers, financial assistance, and other resources and material support to enable African students to pursue graduate study, summer programs, long distance learning, and student and faculty exchanges.²³¹ In spite of these strengths, however, many weaknesses and challenges remain.²³²

B. Curricula Weaknesses

Weaknesses in African legal education include a lack of legal clinics to teach skills and sensitize students to local needs and aspirations, limited course offerings, over-reliance on lecture, scarce legal aid support services, and a lack of perspectives on African juridical and philosophical value systems as they relate to the global legal system. Also, law schools lack adequate learning resources, such as well-stocked libraries, electronic information retrieval databases, information and communications technology, and computers.²³³

226. See *infra* App. II (listing curricula at select African law faculties and law schools).

227. Indeed, until recently, “Africa’s few lawyers were trained in Britain.” Ndulo, *Legal Education in Africa*, *supra* note 10, at 488.

228. See *id.* at 493.

229. *Id.*

230. See *supra* note 3 (listing sources).

231. See McGeorge Sch. of Law, LLM & JSD Admissions: Frequently Asked Questions, <http://www.mcgeorge.edu/x836.xml> (last visited May 8, 2008) (on file with the *McGeorge School of Law*).

232. See Manteaw, *Reforming African Legal Education*, *supra* note 16, for a detailed inquiry into the weaknesses and challenges confronting African legal education and proposed reforms.

233. Ndulo, *Legal Education in Africa*, *supra* note 10, at 499.

Other factors negatively impact the curricula. Overcrowding and disproportionate student-faculty ratios might impede effective teaching.²³⁴ Inadequate remuneration for faculty might compel moonlighting in second or third jobs and, thereby, affect faculty preparation and delivery. Dysfunctional institutions, lack of a broad-based continental administrative structure (like the AALS or ELFA) to enhance the legal education process, corruption, poverty, lack of facilities, and scarce resources are all challenges confronting African legal education curricula reform. In addition to these broad challenges, there are a number of specific weaknesses to African legal education.

1. Pupilage: A Systemic Weakness

Pupilage is the final part of the practical training program in law school. It is supervised by the Council for Legal Education.²³⁵ In Ghana, for example, the pupilage is done after the law student has completed law school and has been enrolled as a lawyer.²³⁶ Pupils appear in court during their pupilage since they are already qualified and enrolled lawyers.²³⁷ The pupilage is served in the chambers of a senior lawyer for a minimum period of six months.²³⁸ In most of the other East African countries, like Kenya, pupils do not appear in court by themselves to present or argue cases because pupilage takes place while the pupils are still in law school and not yet lawyers.²³⁹

The need for pupilage arises because the training students receive in a law school is not sufficient for plunging straight into legal practice.²⁴⁰ The problems with this aspect of the legal training process lie in its structural deficiencies. First, there is no placement system to assist law students in getting accepted in an established law office.²⁴¹ Second, even if a student gets into a law office, there is no system to guarantee him or her the opportunity to become involved in office

234. See *id.* at 497 (“[M]any [African] law schools have doubled their intake of students during the last decade while not making similar adjustments to numbers of faculty, libraries, etc.”).

235. In Ghana, the Council for Legal Education (or General Legal Council) delegated the immediate administration and supervision of professional legal education at the Ghana School of Law to the Board of Legal Education. See da Rocha, *supra* note 13, at 11; see also Lumumba, *supra* note 13. Practical training after law study offers a central requirement in the qualification of an Advocate in Kenya. *Id.* The pupil obtains a Certificate of Compliance from his master upon completion of the period of pupilage. With this certificate and Certificates of Good Conduct from two other advocates, the pupil should petition the Chief Justice for admission to the Roll of Advocates. Admission is done by the Chief Justice on an appointed day in open court; thereafter, the new advocate signs the Roll and may take out a certificate of practice. *Id.*

236. da Rocha, *supra* note 13, at 6; see also Legal Profession Act 32 of 1960.

237. *Id.*

238. *Id.*

239. Lumumba, *supra* note 13.

240. da Rocha, *supra* note 13, at 6 (noting that the pupilage is supposed to offer students an experience to observe the law in practice and to impart skills that have a life-long significance). “It is during pupilage that the new lawyer cuts his teeth as an advocate in court, overcoming the inevitable stage fright first appearance and facing the bench with confidence.” *Id.*

241. *Id.*; see also Lumumba, *supra* note 13.

routine and practice, such as the actual handling of cases, assisting in case preparation, and trial advocacy.²⁴² Third, there is no assurance of performance review, such as discussions between the pupil and his or her superior.²⁴³

An effective pupillage requires “well-organized [sets of] chambers, well equipped with tolerably good law libraries and senior lawyers who are willing to undertake the guidance of new lawyers.”²⁴⁴ Since this is lacking in most parts of Africa, any curricula reform initiative might have to seriously review and restructure the pupillage program. Pupillage seems to be a legal education policy that assumes law graduates and, in some instances, law students, will go to work in law firms for fairly low wages (maybe for free). In return, the firm is supposed to teach the craft of the law, thus complementing the legal education process to effectively complete the graduate or law student’s education. The structural deficiencies in the pupillage program seem to indicate its failure to effectively meet the policy assumptions placed on law firms. The drawbacks of pupillage and the increasing number of law school graduates going into solo practice suggest a need to reform the pupillage system and to reinforce it with legal clinic opportunities.²⁴⁵

2. *Statutory Curricula: Another Systemic Weakness*

In some African law schools, the curriculum was fixed by statute or other enactment when the schools were established in the 1960s and 1970s.²⁴⁶ Many of these curricula have not seen any significant changes since their introduction and have become ossified and have fallen behind current trends in a globalized world.²⁴⁷ In Ghana, for example, the 1960 Legal Profession Act mandated the General Legal Council to make arrangements for the establishment of a system of legal education, including courses of instruction for students to obtain practical experience in law.²⁴⁸ The course structure of the Ghana School of Law, as discussed above, has been set out in the Professional Law Course Regulation.²⁴⁹ Restricting law school curricula to subjects specified by statute limits professional legal education.²⁵⁰ It might, however, be argued that these statutes are permissive and set broad guidelines only. In which case, introducing new courses, such as clinical legal education courses, might be a question of statutory

242. da Rocha, *supra* note 13, at 6; *see also* Lumumba, *supra* note 13.

243. *See* Ndulo, *Legal Education in Zambia*, *supra* note 13, at 451.

244. da Rocha, *supra* note 13, at 6.

245. *Id.*; *see also* Manteaw, *Clinical Legal Education in Africa*, *supra* note 16.

246. Ndulo, *Legal Education in Zambia*, *supra* note 13, at 445-47; *see also* da Rocha, *supra* note 13, at 5.

247. *See* da Rocha, *supra* note 13, at 4-5, 10-12 (discussing professional legal education in Ghana).

248. *See* Legal Profession Act 32 of 1960 § 13-15.

249. *See* Professional Law Course (LI) 1296 of 1984.

250. *See* da Rocha, *supra* note 13, at 5 (noting that there is a great deal more to the corpus of legal knowledge than is represented in the statute); *see also* Ndulo, *Legal Education in Africa*, *supra* note 10, at 492-93 (critiquing the rigid structure of the law school curricula in Africa).

interpretation since these statutes do not necessarily forbid new or additional subjects.

C. *Internationalizing Core Curricula: Local Realities*

The history and complexities of the African situation, while enabling African law schools to use a comparative and international pedagogy, have also created legal pluralism.²⁵¹ Africa is home to thousands of ethnic groups,²⁵² “each with its own history and way of life.”²⁵³ Customary law is consequently an integral part of the African legal system.²⁵⁴ Colonization and religion, in turn, have affected the indigenous African legal and cultural institutions, resulting in social, cultural, and legal pluralism in Africa.²⁵⁵ Thus, “the central characteristic of Africa, largely the heritage of the long night of colonialism, is an economic[, legal,] and cultural dichotomy.”²⁵⁶

251. For a discussion on the complexity of African societies, see AYITTEY, INDIGENOUS AFRICAN INSTITUTIONS, *supra* note 19, ELIAS, *supra* note 3, Manteaw, *Indigenous African Jurisprudence*, *supra* note 16, Yelapaala, *Circular Arguments and Self-Fulfilling Definitions*, *supra* note 24, and Kojo Yelapaala, *Western Anthropological Concepts in Stateless Societies: A Retrospective and Introspective Look at the Dagaaba*, 17 DIALECTICAL ANTHROPOLOGY 431 (1992).

252. AYITTEY, AFRICA IN CHAOS, *supra* note 12, at 43 (noting that there are over 2,000 ethnic groups in Africa). This appears to be more than the ethnic groups (Serbs, Greeks, Romanians, Bulgarians, etc.) living in the Balkans. For a discussion on the ethnic groups living in the Balkans, see Regents Prep, *Global History: Change and Turning Points: Nationalism*, <http://regentsprep.org/Regents/global/themes/change/nat.cfm> (last visited Mar. 30, 2008) (on file with the *McGeorge Law Review*).

253. See ELIAS, *supra* note 3, at 2 (quoting Hilda Kuper, *Cultures in Transition*, LISTENER, Aug. 1952, at 293).

254. See generally RATTRAY, *supra* note 3; Symposium, *Customary Law in African Legal Systems*, 9 J. AFR. L. 82 (1965).

255. See Seidman, *On Teaching Jurisprudence in Africa*, *supra* note 2, at 145.

[T]he law of Nigeria is a body of rules consisting of three levels of enforceable norms: (1) English law consisting of the common law of England, doctrines of equity and statutes of general application that were in force in England on the first day of January 1900, and imperial legislation passed prior to the attainment of independence and expressly extended to Nigeria; (2) local Nigerian legislation consisting of laws passed by the various federal and state legislative houses; and (3) bodies of customary law.

Okechukwu Oko, *The Problems and Challenges of Lawyering in Developing Societies*, 35 RUTGERS L.J. 569, 577-78.

256. See Seidman, *On Teaching Jurisprudence in Africa*, *supra* note 2, at 145; see also Woodman, *supra* note 3, at 457 (“The law of Ghana has for more than a century consisted of three types of law: Ghanaian and English statutory enactments, Ghanaian customary law, and common law. Each of these sources has affected the system of land tenure, which as a result is unusually complex.”); Paul Sergius Koku, *Market Forces and the Rule of Law as a Means of Improving the Quality of Life in Sub-Saharan Africa: Ghana, A Case of Critical Analysis*, 10 U. MIAMI INT’L & COMP. L. REV. 23, 29 (2002) (noting that colonialism and British common law and legal system have created an unintended schism of “a two-tier society: one tier for the well educated who understand and appreciate the British rule of law, and another tier for the uneducated who muse over the strangeness of the British system, but are resigned to ‘living with it,’” but nevertheless have an unshakable loyalty to the institutions and familiar traditions of the pre-colonial era). See generally DANIELS, *supra* note 3; ANTONY ALLOTT, *ESSAYS IN AFRICAN LAWS* (Butterworths 1960).

Attempts have been made to address this dichotomy. For example, the African Law Institute (ALI) is organized to simplify, clarify, and harmonize laws on the continent.²⁵⁷ Also, the Organization for the Harmonization of Business Law in Africa (OHADA), an African international organization, has enacted Uniform Acts on various aspects of business law.²⁵⁸ These Uniform Acts, which are directly applicable throughout member states, have rapidly modernized and harmonized business laws in the current sixteen member states.²⁵⁹ On the local front, however, many multi-faceted challenges remain. Although African legal education is progressively dealing with legal pluralism and internationalization, many domestic challenges hamper effective legal training in Africa.

D. Confronting Challenges

The challenges facing African legal education are multi-faceted and require a broad reform framework involving all stakeholders, including policymakers, law deans, and legal professionals.²⁶⁰ First, African lawyers are not trained to deal with local realities. Clinical legal education, for example, might teach practical lawyering skills and train lawyers to be more sensitive and responsive to local needs and aspirations.²⁶¹ It might also make legal services more accessible.²⁶² Yet, most African law school curricula have no clinical programs²⁶³ and continue to rely heavily on the lecture pedagogy.²⁶⁴ Change is needed. Given that a “lawyer’s

257. The African Law Institute (ALI) is a new organization dedicated to the “clarification, simplification, and harmonization of law, regulations, and law-related matters in Africa.” See AFRICAN LAW INST., CONSTITUTION OF THE AFRICAN LAW INSTITUTE, at art. II (enacted 2003), <http://www.africanlaw.org/constitution.pdf> (on file with the *McGeorge Law Review*). ALI is currently working on a Model Investment Law in collaboration with the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce. See Kojo Yelpaala, *In Search of a Model Investment Law for Africa*, 1 AFRICAN DEV. BANK L. FOR DEV. REV. (forthcoming 2008) (manuscript at 6). McGeorge School of Law Professor Kojo Yelpaala is a member of the Board of Governors of ALI. *Id.* at n.2.

258. See BORIS MARTOR ET AL., BUSINESS LAW IN AFRICA: OHADA AND THE HARMONIZATION PROCESS 16 (2d ed. 2007) (“Eight Uniform Acts have now entered into force . . . relat[ing], respectively, to general commercial law, commercial companies and economic interest groups, securities, simplified recover procedures and enforcement measures, collective insolvency proceedings, arbitration, accounting law and carriage of goods by road.”).

259. See *id.*; see also *id.* at 2 (listing Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, the Federal Islamic Republic of the Comoros, Congo, Côte d’Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Niger, Senegal, and Togo as current members of the OHADA); OHADA, Treaty and Implementing Regulations, <http://www.ohada.com/traite.php> (last visited Mar. 30, 2008) (on file with the *McGeorge Law Review*). By its *Treaty for the Harmonization of African Business Laws* and the *Common Court of Justice and Arbitration*, the OHADA promotes economic integration and development. See MARTOR ET AL., *supra* note 258, at vii. It has created a secure legal framework for the conduct of business in Africa and has harmonized commercial, company, insolvency, securities, and arbitration laws. *Id.* at x.

260. See *infra* Part V.C.

261. See generally Manteaw, *Clinical Legal Education in Africa*, *supra* note 16.

262. *Id.*; see also Amy E. Sloan, *Erasing Lines: Integrating the Law School Curriculum*, 1 J. ASS’N LEGAL WRITING DIRECTORS 3 (2002).

263. See generally Manteaw, *Clinical Legal Education in Africa*, *supra* note 16.

264. See Mhlungu, *supra* note 124, at 1008 (describing the teaching methods at the University of Natal

role is culture-bound, determined by the way in which he or she is taught and conditioned to perceive him [or herself], and the way in which he or she is perceived by the non-legal professionals among and for whom he [or she] works,"²⁶⁵ Africa should put a premium on practical legal training and reform law school curricula. Besides traditional classes, African law schools could introduce simulation and clinical programs that teach law students practical skills such as working directly with clients in community legal services, trial and appellate advocacy, drafting, public interest law, and Alternative Dispute Resolution (ADR). Law clinics might also improve systemic problems such as court delays, undue adjournments, high costs of representation, complex procedures, legal aid services, and access to justice.

Second, African legal education reform might have to focus on local challenges, beginning with extensive reform of domestic law schools, curricula, and administration. Any reform should meet domestic development needs, stimulate vibrant interest in perspectives on African law as it relates to the global legal order, and fix basic structural problems. For example, except for regional initiatives in South and East Africa, Africa has no established organizational structures that compare with the Association of American Law Schools (AALS),²⁶⁶ the European Law Faculties Association (ELFA),²⁶⁷ the European Law Students' Association (ELSA),²⁶⁸ and similar bodies that invest time and resources to develop and enhance legal education in other countries. A reform of African law curricula must necessarily confront these issues and address structural problems in the legal profession, the relationship between law schools and the legal profession, a consensus on the needs, cost, and methods for legal education, and the type of lawyer Africa needs.

Third, perspectives on African law as it relates to the present global order are critical.²⁶⁹ Do international politics and international law have an African angle?

and Fort Hare University, both in South Africa, as "highly formalistic classroom lectures in which the lecturer deliverers [sic] the content of the course with usually little or no participation from the students").

265. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 503.

266. See Ass'n Am. Law Schs., <http://www.aals.org/> (last visited May 5, 2008) (on file with the *McGeorge Law Review*).

267. See European Law Faculties Ass'n, <http://www.elfa-afde.org/index.html> (last visited May 5, 2008) (on file with the *McGeorge Law Review*).

268. See European Law Students Ass'n, <http://www.elsa.org/> (last visited May 5, 2008) (on file with the *McGeorge Law Review*).

269. See Kojo Yelapaala, *Owning the Secret of Life: Biotechnology and Property Rights Revisited*, 32 MCGEORGE L. REV. 111, 213-19 (2000) [hereinafter Yelapaala, *Owning the Secret of Life*] (discussing the essence and policy justification for property rights in biotechnological inventions, discoveries, or processes, and arguing for a regime reassessment and a return to first principles). Professor Yelapaala argues that

[o]ne solution Congress might consider that would guarantee an easier and wider range of access to patented ideas . . . is to apply the *usufruct* to patents.

. . . .

Elegant as its Roman law origins might be, the usufruct seems to have evolved independently in non-western collectivist societies with emphasis on developing techniques for managing access to common property, communal resources, or private property. . . . [T]he usufruct appears to have

Do African values systems drive African legal education? Is African legal education influenced by the peculiar African demand for ordered change and development? Africa has always been part of the world economy, but it is usually the recipient of benefits or affected by events—it seldom is the author of major events. For legal education to be relevant to Africa’s peculiar socioeconomic and geopolitical needs, Africa might have to deepen its comparative pedagogy. Law curricula should seek to adapt indigenous philosophical jurisprudence and values to African needs, the global economy, and international issues.²⁷⁰ The curricula should realign or even reform and apply African values to problems of modernity, dispute resolution, and institution building.

It is imperative for Africa to develop institutions that enhance indigenous values and facilitate democratization, good governance, development, modernity, and rule of law, however defined.²⁷¹ For example, an ADR strategy like mediation is a core African value that could be revived through mediation clinics. In Ghana, the World Bank, the Ghana Judicial Service, and the National House of Chiefs have initiated a project that seeks to re-empower chiefs to settle domestic disputes.²⁷² The Ghana Arbitration Center, ADRCoalition-Ghana, and other private ADR service providers also resolve disputes, educate on and publicize ADR, and confront access to justice problems.²⁷³ Africa has to deal with its indigenous cultural past, colonial past, and current connection with the world in order for its legal systems to meet old and new challenges.²⁷⁴

Fourth, a lawyer’s job is largely seen as litigation. However, a legal profession that sees litigation as its mainstay invariably misconceives the function of the lawyer. With very few exceptions, the law as applied in Africa focuses on the rules of the “litigation game” and not the ordering of norms for

existed in the land tenure systems of African societies for time immemorial.

Id. at 213-14; see also Manteaw, *Indigenous African Jurisprudence*, *supra* note 16; Samuel Manteaw, *Patents and African Concept of Property* (forthcoming 2008) [hereinafter Manteaw, *Patents and African Concept of Property*].

270. See Manteaw, *Indigenous African Jurisprudence*, *supra* note 16 (noting that inquiries on indigenous African philosophical and jurisprudential ideas should inform, but not necessarily dictate, policy considerations or choices that might have to be made on any issue that affects Africa); see also Yelapaala, *Owning the Secret of Life*, *supra* note 269, at 213-19; AYITTEY, *INDIGENOUS AFRICAN INSTITUTIONS*, *supra* note 19; Manteaw, *Patents and African Concept of Property*, *supra* note 269.

271. See generally Ghana Ctr. for Democratic Dev., *Governance, Democracy and Development in Africa: A Cultural Approach* (2001) (unpublished article), <http://unpan1.un.org/intradoc/groups/public/documents/idep/unpan003346.pdf> (on file with the *McGeorge Law Review*).

272. See *Chiefs Get World Bank Support for Dispute Resolution*, GHANA NEWS AGENCY, Sept. 23, 2005.

273. See Ghana Arbitration Ctr., *Objectives of the Centre*, <http://www.ghanaarbitration.org/gac/objectives.html> (last visited May 5, 2008) (on file with the *McGeorge Law Review*); see also Uniform Manual on Alternative Dispute Resolution Practice in Ghana (October 2007).

274. Africa is part of the globalization process as the continent is linked to the world and its various demanding legal systems. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 495 (“In an effort to promote economic development, the World Bank and the International Monetary Fund (IMF) have imposed on African countries Structural Adjustment Programs . . . to integrate African countries into the world economy.”).

social life. A legal profession that sheds the law of its “value-content” and finds solace in litigation is a failed model of law and legal practice. As Gower said, African countries ought to convert the legal profession “from one that regards litigation as its objective rather than its failure.”²⁷⁵ African law curricula might have to consider inculcating a better sense of public interest services among lawyers. The private practice approach to African legal education seems to be an elitist policy perpetuating the colonial legacy of protecting markets, receipts of revenues, and the interests of businessmen and traders.²⁷⁶ However, in a developing continent like Africa, any system of legal education should aim at producing the lawyers Africa needs: well-trained lawyers who have the highest levels of competence and responsibility, who are alive to demands of globalization with a globally competitive posture, and who are in touch with local realities, needs, and aspirations.

Finally, African legal education should produce the different types of lawyers Africa needs. This calls for specialization and cultivation of substantive and practical legal skills in various areas of law.²⁷⁷ Africa needs experts in mediation, arbitration, health, environment, natural resources, joint ventures, and project finance. African law schools need rich curricula for students to sample a wide array of course and clinic options. Students can then design a program of study that fits their individual interests, expertise, or career plans. For example, Pacific-McGeorge and the George Washington University Law School offer over 240 elective courses.²⁷⁸ Yet, all courses offered by the University of Ghana Law Faculty total less than fifty.²⁷⁹ Administrative, constitutional, and customary law experts might fix corruption and dysfunctional institutions. Public interest law demands clinical attention to social engineering needs and policy demands. Globalization requires deepening African comparative curricula. Students might better understand domestic law and indigenous values, and appreciate international differences through a deepened, pervasive approach to teaching

275. See GOWER, *supra* note 2, at 131-32.

Legal education [in Africa] must be restructured to offer programs that sensitize lawyers, early in their careers, to their public service responsibilities. Law faculties must teach prospective lawyers that public service is a vital component of professional practice. The most effective approach would be to introduce programs and courses that expose prospective lawyers to the legal needs of the poor and the legal problems frequently encountered by the poor.

Oko, *Consolidating Democracy*, *supra* note 8, at 635.

276. See Jessup, *supra* note 13, at 403; Seidman, *Law and Stagnation in Africa*, *supra* note 3; Amissah, *supra* note 45, at 3; HARVEY, *LAW AND SOCIAL CHANGE IN GHANA*, *supra* note 3.

277. See da Rocha, *supra* note 13, at 7-8.

278. See McGeorge Sch. of Law, Elective Courses, <http://www.mcgeorge.edu/x633.xml> (last visited May 5, 2008) (on file with the *McGeorge Law Review*) (“Pacific McGeorge offers 100 elective courses in a typical year.”); George Washington Univ. Law Sch., Curriculum, <http://www.law.gwu.edu/Resources/Hidden+Content/Records+Office/Curriculum.htm> (last visited May 5, 2008) (on file with the *McGeorge Law Review*) (“The Law School offers more than 240 different elective courses.”).

279. See Univ. of Ghana, Faculties and Departments: Faculty of Law, http://www.ug.edu.gh/faculty_details.php?recordID=4 (last visited Mar. 30, 2008) [hereinafter Univ. of Ghana, Faculty of Law] (on file with the *McGeorge Law Review*).

traditional courses. As information technology leapfrogs Africa into an era of accelerated development,²⁸⁰ a need also exists for lawyers with specialization in the evolving field of information technology and intellectual property.²⁸¹

E. Meeting Reform Needs

Given the need to train lawyers to confront transnational challenges and local demands, African legal education must deal with crucial policy issues regarding curricula reform, structural problems in the legal profession, and the legal profession's relationship with the legal training institutions. Law schools and the legal profession should not isolate themselves in their search for an appropriate paradigm of legal education; stakeholders such as the government, policymakers, the legal profession, and deans of African legal training institutions should forge a consensus on the needs, cost, and methods of legal education. Presently, Africa lacks a broad-based approach that involves all stakeholders in the legal education process. It is imperative for legal training institutions, the legal profession, and policymakers to collaborate, confront the inherited systems, adjust to the present global order, and reform African legal education so that it can adequately meet Africa's development needs. This article initiates the discussion with a critical focus on curricula and structural reform.²⁸²

V. RETHINKING CURRICULA REFORM

Considering the weaknesses and challenges facing African legal education, a question seems to suggest itself: Is it not time to change, or at least re-examine, the law curricula model? Given the need to train African lawyers to confront transnational challenges and local needs, the African legal education system must deal with crucial policy issues regarding curricula reform. Such issues might include specialization, acquiring practical skills, using legal clinics to teach skills, and sensitizing students to local needs and aspirations, reducing over-reliance on lecture, increasing public interest sensitivity, changing the litigation and private practice focus of African legal education, increasing the number of courses offered, addressing geopolitical needs, pupilage inadequacies, dysfunctional institutions, and globalization needs, stimulating a vibrant interest in perspectives on African law as it relates to the global legal order, and improving learning resources, such as libraries, electronic information retrieval databases, computers, and information and communications technology. The need also exists to offer continuing legal education to

280. See generally Samuel O. Manteaw, *Entering the Digital Marketplace: E-Commerce and Jurisdiction in Ghana*, 16 *TRANSNAT'L LAW* 345 (2003); Zachary, *supra* note 1.

281. See da Rocha, *supra* note 13, at 7-8.

282. Reforming the curricula and structure of legal education would inevitably require a corollary expansion of human and material resources. For a discussion of the need for funding, resources, and facilities, see Manteaw, *Reforming African Legal Education*, *supra* note 16.

lawyers in private practice, establish more legal institutions and organizations, and encourage public service. Training judges, legal support, paralegals, and administrative staff is also critical.

As noted earlier, the curricula reform needs of African legal education are multi-faceted and not limited to mainstream legal education institutions. However, any reform scheme must involve both the law faculties and law schools using a two-pronged reform agenda that focuses first on reforming law faculties and second on reforming law schools. The law faculties and the law schools have the same objective: to train the type of lawyer Africa needs. The fundamental question is what is the best way to achieve that objective.

A. *Reforming African Law Faculties*

1. *Research and Development-Oriented Courses*

Should the curricula be modified at the law faculty level? If so, in what way? It seems “research-oriented courses would enable graduates to conduct independent research on the tasks they face in practice and write meaningful and informative papers” for use by policymakers.²⁸³ Potential areas of research include stagnant development programs, land tenure and land acquisition practices, funding for improvements in transportation, health delivery, education, and provision of social services. Stamping out corruption in the civil service, reforming some customary practices, curbing the scourge of HIV/AIDS, and many other topical issues serve as illustrative problem projects that African legal research can, and might have to, focus on. African law faculties, therefore, need to introduce research-oriented courses. Such courses are likely to emphasize the skills and perspectives a lawyer needs to discharge both domestic and international obligations, and could take into account local needs and the challenges of practicing law in an increasingly globalized world.²⁸⁴

2. *Lecture, Tutorials, and Analytical Skills*

Is the goal of law faculties to produce graduates who can solve problems using analytical reasoning? If so, law faculties need to introduce curricula that emphasize the reasoning, analytical skills, and perspectives a lawyer needs to discharge his or her many responsibilities in this era of globalization. The academic side of the law is what creates great analytical minds that are essential for the practice of law. It is certainly not by accident that some of the great legal practitioners are also great minds.²⁸⁵ Law school graduates need a theoretical

283. Ndulo, *Legal Education Africa*, *supra* note 10, at 501.

284. *Id.* (noting that the long-term needs of African countries will not be met by routine training of a purely technical kind, but only by imaginative programs).

285. See Richard A. Posner, *The Deprofessionalization of Legal Teaching and Scholarship*, 91 MICH. L.

perspective to evaluate law and legal arguments because, increasingly, they will be required to handle theory in practice.²⁸⁶ Legal analysis and reasoning might be obtained through a syllogistic approach to legal problems and a heuristic method for expressing legal arguments where students are encouraged to investigate, explore, and seek answers to legal problems.²⁸⁷ Such an approach to teaching legal skills compels law students to analyze and critique the law and apply it to different facts.

The curricula in African law faculties appear to aim at achieving this goal.²⁸⁸ As mentioned previously, the Denning Committee's recommendations for law schools in Africa specifically state that the normal pattern of legal education in the African territories should be a university degree in law at a law faculty followed by one year of practical training at a school of law.²⁸⁹ The Denning Committee couched its reason for a practical training program in the following language:

In some parts of the world, a university degree in law is considered by itself to be a qualification to practice. We do not take this view. We think that *practical training is a necessary part of the equipment of a lawyer just as it is of a doctor*. After a man has taken his degree at the university, he should have a period of one year's practical training at a school of law where he can be taught such things as the drawing of pleadings, trust accounts and bookkeeping, practical conveyancing, etiquette and professional conduct.²⁹⁰

While the Denning Committee clearly intended *law school* to be a practical training experience, this has not been the case.²⁹¹ African legal training institutions use the lecture as the predominant means of instruction.²⁹² As the main method of teaching law in Africa, lectures are heavily magisterial and commonly involve conveying knowledge to a large, passive audience.²⁹³ "The weight of numbers and the very size of lecture venues make it difficult to engage

REV. 1921, 1925-26 (1993) (providing a summary on the need for theory and interdisciplinary scholarship in the law school curriculum).

286. See Byron D. Cooper, *The Integration of Theory, Doctrine, and Practice in Legal Education*, 1 J. ASS'N LEGAL WRITING DIRS. 50, 52 (2002).

287. See Sloan, *supra* note 262, at 3.

288. Ndulo, *Legal Education in Africa*, *supra* note 10, at 491.

289. See DENNING COMMITTEE REPORT, *supra* note 2, ¶ 68.

290. See *id.* ¶ 60, (emphasis added); see also Ndulo, *Legal Education in Zambia*, *supra* note 13, at 450-51.

291. See Ndulo, *Legal Education Africa*, *supra* note 10, at 494 ("Students attend lectures in various subjects, and the courses are increasingly taught as academic subjects. The only practical experience that students receive is through work at the various law firms to which the institutions are attached.").

292. *Id.*

293. See Clive Walker, *Legal Education in England and Wales*, 72 OR. L. REV. 943, 946 (1993).

in any dialogue.”²⁹⁴ The lecture seems to be an inapposite training approach in *law school* and also runs counter to the law school curricula as originally envisaged.²⁹⁵

Since *law faculties* are supposed to teach theory, it might be argued that their use of the lecture is understandable. After all, “lectures, supplementary material, and outside student reading [are] needed” to teach positive law.²⁹⁶ Also, according to economist Paul Samuelson, a 1970 Nobel Memorial Prize recipient, “as law professors [gain] ever more knowledge to impart to students, they [are] compelled” to rely on the lecture method.²⁹⁷ Dean Cooper sums it up as follows: “It seems likely that as faculty attempt to convey theory to students, they are relying more and more on lectures.”²⁹⁸ Thus, although lectures are widely deemed “as the least effective teaching method because they involve passive rather than active learning[, t]hat may not [necessarily] be correct if the goal is merely to convey information.”²⁹⁹ However, such a goal seems to focus on short-term knowledge.³⁰⁰ Lectures do not develop or enhance the ability to analyze cases, statutes, and legal principles, and to apply them to new facts.³⁰¹

This article does not claim that the lecture pedagogy has no utility. The lecture method provides a sound framework for teaching legal subjects³⁰² and has produced great lawyers in Africa.³⁰³ The argument is that the lecture pedagogy is most effective when complemented by other teaching methods like tutorials.³⁰⁴ Through lecture *and* tutorials, law students gather information on legal issues, principles, and concepts, and analyze, critique, and apply them to other contexts.³⁰⁵ As already noted, “lectures, supplementary material, and outside student reading is needed” to teach positive law.³⁰⁶

294. *Id.* at 946-47 (1993). Similar to the situation in England, “[t]he lecturer may choose to put forward challenging views or criticisms, which stimulate . . . debate.” *Id.* at 946. Also, many lecturers “invite questions at natural pauses in the presentation.” *See id.* at 946-47.

295. *Id.* at 944 (“As originally envisioned, the method of instruction was to be as practical as possible with few formal lectures.”).

296. *See* Cooper, *supra* note 286, at 60 n.44; Llewellyn, *Case Method*, *infra* note 306, at 251 (“[K]nowledge of the positive law is won under case discussion only at [a] heavy cost in time.”).

297. Paul A. Samuelson, *The Convergence of the Law School and the University*, 44 AM. SCHOLAR 256, 270 (1974); Cooper, *supra* note 286, at 54 & n.23 (citing and quoting Samuelson, *supra*, at 297).

298. Cooper, *supra* note 286, at 54-55.

299. *Id.* at 55.

300. *Id.*

301. *Id.*

302. Walker, *supra* note 293, at 946; *see* Ephraim A. Vordoagu, *The 50th Anniversary of the University of Ghana: An Occasion for Stocktaking and Redirection of Policy Objectives*, NEWSLETTER (Univ. of Ghana, Faculty of Law), 1998, at 7 (discussing the problems that current overcrowding poses to students and lecturers in the University of Ghana).

303. But, in almost all the African legal training institutions, the lecture method is never used exclusively; rather, it is often complemented by discussions, questions, tutorials, etc.

304. *See* Walker, *supra* note 293, at 946-47.

305. *Id.*

306. Cooper, *supra* note 286, at 60 n.44; Karl N. Llewellyn, *Case Method*, in 3 ENCYCLOPEDIA OF

Tutorials are used to complement the lecture in most Anglophone African countries.³⁰⁷ “Having compiled a written commentary on the law through lectures and lecture-directed research, the student is then expected to delve further into selected areas of the syllabus by way of ‘tutorials’”³⁰⁸ Unlike lectures, “tutorial[s] [are] meant to be interactive,” and “[t]he student is expected to derive a sophisticated understanding of particular legal areas via a written programme of directed reading and questions produced by the tutor.”³⁰⁹ The exchange of ideas and the discussions that ensue during tutorials aid students’ appreciation of the law and its application to solve problems.³¹⁰ Attendance at tutorials is usually compulsory, and the tutorials are used to monitor the progress of students.³¹¹ Obviously, tutorial groups do not involve large student numbers.³¹² With the current congestion in these African universities, however, tutorials have turned into lecture sessions, and, in many cases, they are not organized at all.³¹³ The lecture, therefore, remains the predominant mode of instruction at law faculties.

With the problems affecting the effective use of tutorials,³¹⁴ it might be time to review the pedagogical model of law faculties. “[T]eaching theory is a challenge, in part because theory itself usually entails significant practice components such as microeconomic analysis, social research methods, techniques of literary criticism, or historical method.”³¹⁵ Africa’s academic and practical two-tiered legal education system seems to offer a useful structure for teaching legal theory. Since African law schools are set up to deal mainly with practical legal skills, African law faculties have ample room to deal with legal theory. Complex legal theory can, therefore, be dealt with extensively enough to make it useful to the students.

Also, the tutorial system can effectively complement the lecture method in training students in analytical skills, and it should be reviewed and enhanced.³¹⁶ “[T]oo much lecturing is likely to encourage in students the tendency to privilege

SOCIAL & BEHAVIORAL SCIENCES CASE METHOD 251, 252 (1930) [hereinafter Llewellyn, *Case Method*] (“[K]nowledge of the positive law is won under case discussion only at a heavy cost in time.”).

307. See Walker, *supra* note 293, at 946. This is similar to the traditional pattern of teaching law in British universities, which “rel[y] heavily upon a mixture of lectures and tutorials.” *Id.*; see also Ndulo, *Legal Education in Africa*, *supra* note 10, at 492.

308. Walker, *supra* note 293, at 947 (discussing the legal education process in England and Wales). Though the discussion focuses on England and Wales, it nevertheless fits the lecture/tutorial pedagogy that was introduced in the law faculties in common law Africa.

309. *Id.* (“In a good tutorial, the student will be prepared to discuss the area of law being addressed and to ask questions where areas of doubt persist.”).

310. *Id.*

311. *Id.*

312. See *id.*; Ndulo, *Legal Education in Zambia*, *supra* note 13, at 452 (noting that there is the need to offer some courses as seminars; this would entail small groups studying specific problems in law on an intensive basis, giving students a chance to develop their writing skills and perspective about law).

313. See Vordoagu, *supra* note 302, at 7 (discussing the situation at the University of Ghana).

314. See *id.* and accompanying text.

315. Cooper, *supra* note 286, at 54.

316. See Walker, *supra* note 293, at 947.

the instructor's views."³¹⁷ Lecturers might put forward challenging views or criticisms, which stimulate debate and invite questions at natural pauses in the presentation.³¹⁸ Also, not having a right answer to write down can be extremely frustrating when trying to take notes. Law students want certainty. African law faculties should teach students that they cannot have certainty in law. The less certainty, the better the training and the more students have to think for themselves. Tutorials facilitate such a process as they enhance analytical skills and are an important aspect of the teaching/learning process. Factors affecting the smooth utilization of tutorials in the law faculties must be addressed.

3. Course Structure

The course structure of African law faculties needs to be reviewed. Some of the courses offered on a full-year basis should be evaluated to determine whether course content or the volume of the subject matter warrants such treatment.³¹⁹ Some of these courses might have to be reduced into half-year courses. If the instruction periods of some courses are appropriately reduced, more courses can be added to the curriculum. Courses that African law faculties need to introduce include health and the evolving field of information technology, such as e-commerce, computer, and Internet law. Also, with the establishment of law schools, it seems law faculties have abandoned some core subjects, such as Evidence, Civil Procedure, and Criminal Procedure to the law schools.³²⁰ Substantive knowledge and analytical skills are of course needed in such subjects before any effective practical legal skills can be acquired.

Obstacles to introducing new courses include time constraints, the rigid structure of law faculties' curricula, and faculty availability, expertise, and incentive.³²¹ Any curricula reform initiative should consider and address these issues. However, new courses can be introduced without any reduction in the coverage of materials by using outside reading.³²² Also, reform efforts might have to consider ways of introducing course materials that substitute rather than add.³²³ All these changes can be introduced if law schools and law faculties are given

317. Cooper, *supra* note 286, at 55 (“[S]tudent curiosity will for the most part be limited to trying to identify what is most likely to turn up on examinations.”).

318. Walker, *supra* note 293, at 946-47.

319. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 501-02.

320. See *infra* App. II (listing courses).

321. See Ndulo, *Legal Education in Zambia*, *supra* note 13, at 452.

322. See Karl Llewellyn, *The Current Crisis in Legal Education*, 1 J. LEGAL EDUC. 211, 215 (1948) (noting that to save time, we need to encourage students to turn to outside reading).

323. See generally Gevurtz & Parker, *supra* note 220 (suggesting approaches to resolving the dilemma of enhancing curricula without adding too many materials to the already expanded existing courses); see also Ndulo, *Legal Education in Zambia*, *supra* note 13.

more autonomy, and if law teachers are given more flexibility in designing courses.³²⁴

4. Skills Training

The discussion that follows focuses on African law faculties, but it also applies to law schools.³²⁵ African law faculties might have to introduce a modest number of clinical programs into their curricula and current learning pedagogy. Presently, the clinical aspect of legal education appears to be the sole prerogative of the law schools or practical institutes, but even they have sadly failed to live up to that responsibility.³²⁶ Clinical opportunities might include legal research and writing programs, such as student and faculty law journals and moot court programs.³²⁷ Such programs might help impart lawyering skills to complement theoretical knowledge.³²⁸ Though the goal of the law faculties is primarily academic training in legal theory, such clinical programs might introduce law students to some practical skills and equip them to ascertain and apply the law.³²⁹

5. Information and Communications Technology

Computer-assisted, student-directed learning and legal retrieval systems are virtually unavailable in most African law schools and law faculties.³³⁰ This state of affairs is an anomaly in the present global, information-based society and economy.³³¹ The lack of electronic data—both in legal and other fields—is not the only information technology limitation in African law faculties and law schools. Some of these institutions do not even have a single computer for the general law student body to use.³³² Others have started introducing the use of computers, a

324. See Ndulo, *Legal Education in Zambia*, *supra* note 13, at 452-53 (“Law schools will have to fight for more power as African universities are often autocratic, overcentralized, and run by administrations insensitive to the changing needs of various academic disciplines.”).

325. However, regarding the law schools, further recommendations for reform are provided. See *infra* Part V.B.

326. See Ndulo, *Legal Education in Africa*, *supra* note 10, at 493-94.

327. *Id.* at 493; see also Lumumba, *supra* note 13.

328. See REPORT OF THE ORMROD COMMITTEE ON LEGAL EDUCATION ¶ 102 (1971) [hereinafter ORMROD COMMITTEE REPORT]; see also Walker, *supra* note 293, at 949.

329. See ORMROD COMMITTEE REPORT, *supra* note 328, ¶ 102.

330. See DataCenta, Towards a Better Legal Information Culture, http://www.datacenta.com/dc_about.htm (last visited Apr. 16, 2008) (on file with the *McGeorge Law Review*).

331. As far back as 1965, some foreign jurisdictions were actively considering the uses of computers for lawyers. See Colin Tapper, *The Uses of Computers for Lawyers*, J. SOC'Y PUB. TEACHERS L. 261 (1965) (observing that “the most promising use of computers is likely to lie in the field of information retrieval”). In the United States, legal retrieval systems are effectively used in the process of legal education. See LexisNexis, <http://www.lexisnexis.com/lawschool> (last visited Apr. 16, 2008); Westlaw, <http://www.westlaw.lawschool.com>; Findlaw, <http://www.findlaw.com> (last visited Apr. 16, 2008); Hieros Gamos, <http://www.hg.org> (last visited Apr. 16, 2008).

332. A typical instance is the Ghana School of Law. It is, however, worthy of note that through the

phenomenon that was hitherto, in the very recent past, unavailable in many African law faculties and law schools.³³³

Law faculties and law schools need to adopt corrective measures so that information technology can be fully utilized in the African legal training process. In Ghana, for instance, the Law Students' Union, in collaboration with the law faculty administration, embarked on a successful drive to provide law students with computers and some necessary accessories in 2000.³³⁴ The project is ongoing and support is urgently needed.³³⁵ In Uganda, the United States Agency for International Development (USAID) teamed up with the faculty of law at Makerere University and, in 2002, established "a successfully operational Legal Informatics Center and a body in the Law Faculty which will develop computer applications for teaching and improve teaching materials."³³⁶ The drive for computer and Internet facilities must continue with great speed, as well as the efforts to store legal information on computer/Internet-assisted retrieval systems.

6. Partnerships and Exchanges

African legal training institutions—both law faculties and law schools—need to establish partnerships and collaborations aimed at facilitating the exchange of ideas, stimulating intellectual activity among African legal scholars, and enhancing comparative studies within Africa. Continental exchanges and collaboration must also be forged among the legal training institutions, the legal profession, policymakers, and other stakeholders in the legal development process. Such exchanges and partnering programs must seek to bring together domestic legal luminaries and legal professionals to discuss topical issues of national or educational importance.

Such exchanges might be done through teaching appointments in sister African countries or through the funding of conferences and workshops on legal and developmental issues, including legal education. Collaboration might also be done through subregional or regional structures like the Economic Community of

efforts of the 2003 Student Representative Council of the school, some computers have been procured for the use of students. The project is yet to become operational as of the time of writing this article. Further assistance is sorely needed.

333. See generally Zachary, *supra* note 1.

334. An interview conducted by Mrs. Emma Pimpong in February 2003 revealed that a modest number of twenty computers have been procured through the instrumentality of Professor Akua Kuenyehia, Dean of the Ghana School of Law at the time, working in collaboration with the Law Students' Union. See Interview Conducted by Emma Pimpong in Accra, Ghana (Feb. 2003) [hereinafter Pimpong Interview] (notes on file with author). The respondents include Mr. Kisseih (the registrar of the faculty), Professor Ofori Amankwaah (a professor on the faculty at the time of the interview but currently the Dean of the Kwame Nkrumah University of Science and Technology law faculty in Kumasi, Ghana), and some of the administrative and clerical staff of the faculty. *Id.*

335. *Id.*

336. See USAID, Uganda: Activity Data Sheet 617-005, <http://www.usaid.gov/pubs/cbj2002/afr/ug/617-005.html> (last visited Apr. 18, 2008) (on file with the *McGeorge Law Review*).

West African States (ECOWAS)³³⁷ and similar organizations. Another approach may involve domestic collaboration, as in South Africa, where all of the twenty-two law faculties have organized themselves under umbrella organizations such as the Association of the University Legal Aid Institutions (AULAI).³³⁸ Through such collaboration and partnerships, time and resources can be effectively invested in developing and enhancing legal education in Africa. The African Union,³³⁹ the Economic Commission for Africa,³⁴⁰ the Association of African Universities,³⁴¹ and other development partners could and should be instrumental in African legal education reform.

B. Reforming African Law Schools

1. Practical Skills Training

It may be recalled that the Denning Committee, in recommending the establishment of law schools, stated that “one year’s practical training should be provided for students after they have taken their degrees in law and law schools should be set up for this purpose.”³⁴² African law schools, however, have not lived up to the task of becoming centers of practical legal experience.³⁴³ In Zambia, for instance, the Law Practice Institute provides a course of post-graduate study for law graduates wishing to enter the legal profession which is supposed to use a practical method of instruction with few formal lectures.³⁴⁴ “The intention was to produce an atmosphere of a practitioner’s office.”³⁴⁵ Using a series of exercises in each subject, the students were to receive practical experience over “a far wider field than is covered by most clerks.”³⁴⁶ Unfortunately, the only practical experience that students of the Law Practice Institute receive is through work at

337. See ECOWAS, <http://www.ecowas.int/> (last visited May 8, 2008) (on file with the *McGeorge Law Review*).

338. See AULAI, Association of University Legal Aid Institutions (AULIA), <http://www.aulai.org.za/AULAI.html> (last visited Apr. 18, 2008) (on file with the *McGeorge Law Review*). Nigeria, with over thirty law faculties, could initiate a similar program.

339. See African Union, <http://www.africa-union.org/> (last visited May 8, 2008) (on file with the *McGeorge Law Review*).

340. See Econ. Comm’n for Afr., <http://www.uneca.org/> (last visited May 8, 2008) (on file with the *McGeorge Law Review*).

341. See Ass’n of African Countries, <http://www.aau.org/> (last visited May 8, 2008) (on file with the *McGeorge Law Review*).

342. DENNING COMMITTEE REPORT, *supra* note 2, ¶¶ 60-62, 85.

343. Ndulo, *Legal Education in Africa*, *supra* note 10, at 494.

344. Ndulo, *Legal Education in Zambia*, *supra* note 13, at 450 (citing LAW PRACTICE INSTITUTE HANDBOOK (1971)).

345. *Id.*

346. *Id.*

the various law firms attached to the Institute.³⁴⁷ Even then, students are not allowed to appear in court.³⁴⁸ According to Ndulo:

[t]he trouble with such arrangements is that the practical skills the students acquire depend on the enthusiasm and commitment of their supervisor within the firm or government department. . . . Generally, the experienced lawyers are too busy to assist in the development and training of the young lawyers. Moreover, in some cases, being apprenticed to members of the existing bar may merely perpetuate the relatively low standards of the old.³⁴⁹

In Ghana, the pupillage serves as the main period of practical training.³⁵⁰ But, just as Llewellyn asked of U.S. law schools in 1935, “How many get it? And with whom? And under what conditions favorable to learning? Do you know? Does anybody?”³⁵¹ Due to structural deficiencies, the pupillage program failed to meet the policy assumption that law firms will complement the legal education process.³⁵² The drawbacks of the pupillage, the increasing number of law school graduates going into solo practice, and lack of effective mentoring for new associates suggest a need for reforming the pupillage.

Moreover, law schools are statutorily obligated to inculcate practical legal training in their curricula.³⁵³ But, like the Ghana School of Law, African law schools are currently poor versions of law faculties.³⁵⁴ During a year-long program, “[s]tudents attend lectures in various subjects.”³⁵⁵ “[C]ourses are increasingly taught as academic subjects,” with very few in-class assignments or practical lessons.³⁵⁶ For the legal training at the law schools to be in sync with professional certification, practical training might have to be revisited, reviewed, and revived.³⁵⁷ Clinical legal education opportunities should be considered, as

347. Ndulo, *Legal Education in Africa*, *supra* note 10, at 494.

348. Ndulo, *Legal Education in Zambia*, *supra* note 13, at 450.

349. *Id.* at 450-51.

350. The pupillage program is, however, being bogged down with a compendium of problems and limitations, and is therefore not living up to its objectives. *See supra* Part IV.B.1.

351. Karl Llewellyn, *On What is Wrong with So-Called Legal Education*, 35 COLUM. L. REV. 651, 668 (1935) (emphasis in original).

352. *See supra* Part IV.B.1 (discussing the pupillage as a systemic curricula weakness).

353. *See, e.g.*, Legal Profession Act 32 of 1960 § 13-15 (mandating the General Legal Council to make provisions for the training and qualification of professional lawyers and requiring them to make arrangements for establishing courses of instruction for students to read and to obtain practical experience in law). The Ghana School of Law is the result of that statutory mandate, but the school is failing to live up to its full responsibility.

354. Ndulo, *Legal Education in Africa*, *supra* note 10, at 494.

355. *Id.*

356. *Id.*

357. The Qualifying Certificate that the General Legal Council of Ghana issues under section 13(3) of the Legal Profession Act 32 of 1960 provides in relevant part: “[The person named therein] has attained the necessary standards of proficiency in the law, that he [or she] *has obtained adequate practical experience in the law* and that he [or she] is otherwise qualified to practise [sic] as a lawyer and accordingly that he [or she] is

they might effectively integrate theory, doctrine, and practice in African law schools.

2. *Legal Clinics*

African law schools need to introduce legal clinics with experienced full-time instructors.³⁵⁸ Clinical legal education imparts practical skills to law students.³⁵⁹ The approach to legal education in African law schools should be practical and multi-disciplinary, drawing intellectual strength and clinical skills from many sources such as philosophy, history, social sciences, and the study of developmental and societal problems.³⁶⁰ In particular, African law schools need to provide vigorous practical training programs that both introduce the relevant courses and enhance the student's ability to handle practical problems. Such programs might teach practical skills in the following areas: counseling, advocacy, negotiation, mediation, arbitration, dispute resolution, law office management, computer applications, legal drafting, construction of documents, and use of law as an aid to development. This means that in addition to the normal lecture pedagogy in African law schools, some of the courses should be packaged and delivered via clinical and practical means.

3. *Teaching Methods*

In addition to effectively utilizing the clinical approach in law schools, the use of lecture should be reduced. Lecture has its effectiveness, particularly when teaching theory,³⁶¹ but, as noted earlier, the concern here is the almost exclusive use of the lecture in most African law schools.³⁶²

African legal training institutions, particularly law schools, need to revisit the traditional clinical and practical teaching/learning pedagogy that has served indigenous African societies so well for thousands of years.³⁶³ In the olden days in Africa, education was undertaken by practice.³⁶⁴ Whatever degree of

entitled to be enrolled on the Roll of Lawyers in accordance with the provisions of the above [Legal Profession] Act." Legal Profession Act 32 of 1960 § 13(3) (emphasis added).

358. See Manteaw, *Clinical Legal Education in Africa*, *supra* note 16.

359. *Id.*; see also Lumumba, *supra* note 13; McQuoid-Mason, *Delivery of Civil Legal Aid*, *supra* note 138, at 129-30 (noting that, in South Africa, the first independent university law clinics were set up in the early 1970s, and, by 1982, most of the twenty-one law faculties had established them); Justice Initiative, *Clinical Legal Education in Africa*, http://www.justiceinitiative.org/activities/lcd/cle/cle_africa (last visited Apr. 18, 2008) (on file with the *McGeorge Law Review*) (noting that, in West Africa, Sierra Leone's Fourah Bay College is the only school with a functional clinical legal education program).

360. Ndulo, *Legal Education in Africa*, *supra* note 10, at 493; see also Lumumba, *supra* note 13.

361. See *supra* Part V.A.2 (discussing the need for lectures, tutorials, analytical, and other lawyering skills).

362. Ndulo, *Legal Education Africa*, *supra* note 10, at 494.

363. Jessup, *supra* note 13, at 385-86.

364. KIMBLE, *supra* note 3, at 61.

proficiency a person wanted to attain in a vocation, craft, or trade, he or she had to undergo varying periods of practical instruction and training within the complexities of his or her own familial and social system.³⁶⁵ According to Nana Annor Adjaye:

[T]he son of the fisherman spent his mornings by the seashore, swimming in the surf until he became proficient in swimming and diving as in walking and running. With a miniature net he practised [sic] casting in imitation of his father The son of the farmer accompanied his father to the farm and gradually acquired the father's lore. He studied when the planting should be carried out, right times for clearing and growing crops, and when the harvest was ripe and ready for gathering. In like manner, the girl trod in the footsteps of the mother As she grew older she took part in the household offices and was taught apprenticeship by mothering the younger members of the family [T]he education of the African child by the African system is a preparation and practical training for the life that lies before it.³⁶⁶

Unfortunately, this education is deemed informal, and usually discarded by the “revered” formal education, which is predominantly literary.³⁶⁷ Students’ heads are being “filled with stuff which they [do] not understand, much less apply.”³⁶⁸

The above sentiments—expressed over seventy years ago—still hold true in the present African legal education process. Apart from South Africa, where clinical legal education has its deepest roots,³⁶⁹ the universities and law schools in most African countries do not have a clinical program.³⁷⁰ For example, in West Africa, Sierra Leone is the only country with a functional clinical legal education program.³⁷¹ There is a need for the reintroduction and effective utilization of the traditional clinical, research, and practical pedagogy in African legal training institutions. “The principal goal of a clinical legal education program is to

365. *Id.*

366. *Id.* (quoting NANA ANNOR ADJAYE, *NZIMA LAND* ch. vi (1931), and discussing education and African leadership).

367. *See id.* (noting that the word education has been used in a rather restricted sense to mean only the formal instruction in European-type schools).

368. *Id.* (quoting ADJAYE, *supra* note 366, at ch. vi).

369. *See* Justice Initiative, *Clinical Legal Education in Africa*, *supra* note 359 (noting that “there are over 20 clinics operated by law schools in South Africa”). Law students at the University of Cape Town established the first university law clinic in 1972. *Id.* In 1973, the faculty at the Universities of Witwatersrand (Johannesburg) and Natal (Durban) started a similar initiative. *Id.* Most of South Africa’s 21 law schools followed suit, and they “have run independently-funded law clinics for at least 20 years,” some of which attract course credit. *Id.*; *see also* McQuoid-Mason, *Legal Aid Services in South Africa*, *supra* note 127.

370. Justice Initiative, *Clinical Legal Education in Africa*, *supra* note 359.

371. *Id.* “Clinic [is] at Fourah Bay College (FBC) in Freetown, Sierra Leone.” *Id.* It “was founded in December 2000 by a group of FBC students and human rights activists supported by the Open Society Institute (OSI), and working in cooperation with students from Yale Law School,” New York University, and Columbia University. *Id.*

provide students the opportunity to obtain a comprehensive legal experience, which encompasses the theoretical foundations of the law and practical legal skills training.³⁷² An important tenet of clinical legal education is affording students the opportunity to learn from practical experience: "Knowledge of practice cannot be acquired by any other method."³⁷³ Thus, lecture might have to be reduced and the use of practical teaching methods increased.

In sum, African law schools should consider the issue of practical skills training and equip students with competent legal "craftsmanship."³⁷⁴ Law schools should treat the law as "a craft to be mastered" and ensure legal training "evoke[s] some of the more positive characteristics of a guild: pride in work, recognition of the importance of the work to society, [and] routine acceptance of obligations to meet the needs of society without profit as the overriding concern."³⁷⁵ Law graduates will then be able to knowledgeable, skillfully, and ethically fulfill their roles as lawyers. For African legal education to produce the type of lawyer Africa needs, clinical legal education might have to play an integral part in the law school training process. Any African legal education curricula reform initiative must consider and address this issue.

C. Planning and Priorities in the Reform Process

The proposed reforms may seem overly ambitious. However, the necessary commitment, collaboration, and resources can be mobilized incrementally to develop the process of African legal education.³⁷⁶ If African law faculties improve their resource base, it might aid the development of university legal education.³⁷⁷ Africa also needs local collaborators to support the drive to stock law libraries with adequate books, provide law library consulting services, install computer and internet facilities, store legal information on retrieval systems, assist in the expansion of law faculty (and law school) physical campuses, and provide material and other logistical support. As Akua Kuenyehia urged, "there is a need . . . to ensure that the [African legal] training institutions are adequately financed so that they will be able to have the needed resources to provide the required training for lawyers."³⁷⁸ A search for new sources of funding and new

372. Jessup, *supra* note 13, at 400.

373. William Rowe, *Legal Clinics and Better Trained Lawyers—A Necessity*, 11 ILL. L. REV. 591, 598 (1917).

374. See Cooper, *supra* note 286, at 62 ("Unfortunately, there is no synonym [for craftsmanship]. *Skills* is too narrow; *competence* from its use in malpractice and disciplinary proceedings sets too low a standard; *professionalism* is close, but has become too much associated with behavior and ethics.").

375. *Id.* at 64.

376. For a comprehensive discussion on the need for funding and improvement of resources and facilities, see Manteaw, *Reforming African Legal Education*, *supra* note 16. See also *infra* Part V.A.3.

377. Lumumba, *supra* note 13.

378. Kuenyehia, *supra* note 13, at 300.

partners in the education process is imperative.³⁷⁹ For a long time, the search for funding has focused on foreign sources.³⁸⁰ It might be time to explore the major assistance of local collaborators in enhancing African legal education reform.

1. *Collaboration: Proposing an Association of African Legal Training Institutions*³⁸¹

Obviously, the proposed reform initiatives will require significant funding³⁸² and cannot be undertaken all at once. But even the incremental implementation of the reforms suggested here will require considerable funding and support. A successful implementation of the proposed reforms calls for the collaboration and assistance of all stakeholders in the legal education process. The reform process might have to begin with the creation of a collaborative network among the deans of the African legal training institutions. There should be collaboration among the deans at the domestic, sub-regional, and continental levels. Since Africa has over one hundred law faculties and many other law schools,³⁸³ it should not be difficult to form a coalition of law deans who would work towards the development of African legal education.

A network of deans and administrators would be an invaluable asset to African legal education. It could be formed under an umbrella of African legal training institutions. Currently, there is no such association in Africa.³⁸⁴ The principal forum that brings African legal educators together to deliberate on legal education and its development is the Commonwealth Legal Education Association (CLEA).³⁸⁵ This is inadequate, and a dynamic association of African law deans is long overdue. Through periodic meetings, conferences, workshops, and joint initiatives on legal education in Africa, the deans might achieve some significant gains. The most probable gain would be building a consensus among key stakeholders in the legal education process, particularly the policymakers and

379. *Id.*

380. *See, e.g.*, GOWER, *supra* note 2, at 134-45.

381. Some of the views expressed in this subsection were previously presented to the Conference on Educating Lawyers for Transnational Challenges held May 26-29, 2004. A copy of the paper presented by the author during the conference can be found at the Association of American Law Schools website. *See* Samuel O. Manteaw, *Reform of Legal Education in Africa: Some Suggestions for Change* (2004), <http://www.aals.org/international2004/Papers/SamuelManteawParkersynopsis.pdf> (unpublished article) (on file with the *McGeorge Law Review*).

382. For a comprehensive discussion on the need for the funding and improvement of resources and facilities, see Manteaw, *Reforming African Legal Education*, *supra* note 16 (discussing the challenges that African legal education faces, particularly the shortcomings of finance, facilities, books, human, and material resources as well as inadequate opportunities for graduate study and specialization).

383. Sixth All-African Human Rights Moot Court Competition, *supra* note 86.

384. Interview with Raymond Atuguba, Lecturer, Univ. of Ghana, in Ghana (Dec. 2003) (on file with author); *see also* Pimpong Interview, *supra* note 334.

385. *See* CLEA DIRECTORY, *supra* note 141, at 1; *see also* Commonwealth Legal Educ. Ass'n, <https://olt.qut.edu.au/law/clea/gen/index.cfm?fa=dispHomePage> (last visited May 16, 2008) (on file with the *McGeorge Law Review*).

the legal profession, as to the reform needs of African legal education. Clearly, a vibrant coalition of law deans and administrators would be able to spearhead such a consensus-building effort.

Collaboration could also reduce costs and facilitate access to legal education among the various states. While there are more than one hundred law faculties, and many other law schools, geographical distribution of the law faculties on the continent is highly skewed with twenty-three faculties in Nigeria,³⁸⁶ twenty-one in South Africa,³⁸⁷ two in Ghana,³⁸⁸ and some African countries with none.³⁸⁹ Moreover, an African student attending school in an African country other than his home state is deemed an international student and charged high international student rates.³⁹⁰ An association of African Legal Training Institutions, if established, could collaborate with governments and policymakers to fashion an appropriate scheme to enhance access to legal education. One feasible approach would be to confront the problem on a regional basis. Another approach would be a legal based system, but this alone would not encourage continent-wide access to education.

Other gains that could be achieved through collaborative efforts might include broad based reform of legal education, courting governmental policy recognition of legal issues, and winning the committed support of the legal profession, foundations, foreign sister legal training institutions, other domestic and foreign institutions, and even philanthropists. An active commitment to the development of African legal education by the deans, policymakers, and legal profession might induce foundations, governments, and other institutions to be more forthcoming in providing additional funds and support for African legal education. A parallel may be drawn from South Africa, where such collaboration exists. There is, for example, the South African Association of University Legal Aid Institutions, which provides accreditation to the university law clinics. It also supports and organizes colloquia and other activities on clinical legal education.³⁹¹ A more apposite example is the Association of American Law Schools and the infrastructure that exists between it, the American Bar Association, and other stakeholders in the American legal education process.

386. See Nigeria Law Sch., Universities in Nigeria That Have Law Faculties, www.nigeria-law.org/UniversitiesWithLawFaculties.htm (last visited Mar. 31, 2008) (on file with the *McGeorge Law Review*).

387. See McQuoid-Mason, *The New Four Year Undergraduate LL.B. Programme*, *supra* note 107.

388. See CLEA DIRECTORY, *supra* note 141, at 127-28.

389. See HG.org, Law Schools—Africa and Middle East, <http://www.hg.org/africamideast-schools.html> (last visited Mar. 30, 2008) (on file with the *McGeorge Law Review*). The countries listed without law schools include Angola, Botswana, Cape Verde, Comoro Islands, Djibouti, Equatorial Guinea, Eritrea, Gambia, Guinea, Guinea-Bissau, Lesotho, Mali, Mauritania, Mauritius, Namibia, Niger, Sao Tome & Principe, Seychelles, Somalia, and Tunisia. See *id.*

390. See Manteaw, *Reforming African Legal Education*, *supra* note 16.

391. See Justice Initiative, *Clinical Legal Education in Africa*, *supra* note 359; see also McQuoid-Mason, *Legal Aid Services in South Africa*, *supra* note 127.

2. *The Need for a Development Plan*

To meet the demands of the expansive and expensive reforms that African legal education needs, even a vibrant network of deans will have to set out priorities. Through workshops, meetings, and conferences a multi-year development plan could and should be developed. In addressing questions of priority and planning order, the deans might first have to work out an effective system of collaboration. Committees might also have to be created within the network of Africa law deans. The committees should be tasked with the design and possibly the supervision of various aspects of the reform initiatives, such as curricula reform, clinical legal education, facility development, research and publication, electronic data and information retrieval, fundraising and outreach, specialization and graduate programs. In executing their tasks, the committees will have to collaborate with the legal profession, policymakers, and other “structures and institutions”³⁹² that have resources—even if limited—that African legal education could utilize.

3. *Restructuring Relationships and Forging Partnerships*

A planning order might also consider the relationship between the legal profession and the legal education process. The legal profession seems isolated from the search for an appropriate paradigm of legal education. The legal profession, along with many other structures and institutions, could facilitate the process of legal education.³⁹³ Considering the role that the existing structures and institutions could play in the African legal education process, at least through sponsorship and clinical work, it becomes obvious that the legal training institutions are presently underutilizing them. If existing structures are properly utilized, the reform process might not need a complete restructuring of the law faculties and schools.

4. *Legal Aid Board: An Illustration*

The Legal Aid Board is a typical example of an institution that can aid the initiation of clinical legal education in Africa. Since 1994, the South African Legal Aid Board has partnered with many universities and has established law

392. These include the legal profession (the Bar, Law Societies, the Judiciary, and Paralegals), Law Chambers, Legal Department of Companies and Institutions, Non-Profit Organizations engaged in a variety of law and development related work, as well as state and para-statal institutions involved in law related work (such as Police Service, Prison Service, Legal Aid Board, Social Welfare, Commissions overseeing matters such as Human Rights, Administrative Justice, Law Reform, Reconciliation, etc.). Further, there exist a plethora of foreign institutions that can support such reforms (i.e., international and multilateral institutions, governments, foundations, foreign sister legal training institutions, philanthropists, etc.).

393. See *id.* (providing a list of some of these structures and institutions).

clinics in most of South Africa's twenty-one law schools.³⁹⁴ These Legal Aid Board law clinics handle over 25,000 cases a year.³⁹⁵ However, in many parts of Africa, the resources of the Legal Aid Board have not been harnessed.³⁹⁶ The Legal Aid Boards of many African countries are underutilized and usually disconnected from legal education.³⁹⁷ They generally become part of the process during the pupillage period.³⁹⁸ Though this is beneficial, more could be done to make the Legal Aid Boards active collaborators in clinical legal education initiatives in Africa. The present situation needs to be reviewed so that the Legal Aid Boards can become active partners in the African legal education process.

5. *The Legal Profession: Another Illustration*

The legal fraternity, i.e., the Bar and law societies, can play very active and instrumental roles in the legal education process. However, at present, there seems to be a disconnect between legal education institutions and the legal profession as to the needs, costs, and methods of legal education.³⁹⁹ If the infrastructure or relationship between the legal profession and legal training institutions is strengthened, the profession might become more active in its support of initiatives in legal training institutions. Such an active infrastructure between the legal training institutions, the legal profession, and other existing structures and institutions could form the basic source of support for some aspects of reform initiatives, particularly the funding and support of clinical legal education.⁴⁰⁰ In Ghana, for instance, the Legal Resources Center could be an instrumental collaborator in any clinical legal education process.⁴⁰¹ It might be

394. See McQuoid-Mason, *Delivery of Civil Legal Aid*, *supra* note 138, at 124-25.

395. See *id.*

396. See generally *id.* at 117-21 (discussing the Legal Aid Board of South Africa).

397. *Id.*

398. *Id.*

399. See da Rocha, *supra* note 13, at 10-12.

400. See Jessup, *supra* note 13, at 400-01.

401. The Legal Resources Center (LRC) was established in 1997 by some visionaries who were then students of the Ghana School of Law. Legal Res. Ctr., About LRC, <http://matrix.msu.edu/~numbuo/lrc/about.html> (last visited May 3, 2008) (on file with the *McGeorge Law Review*). LRC is organized into three main departments. Legal Res. Ctr., Departments, <http://matrix.msu.edu/~numbuo/lrc/departments.html> (last visited May 3, 2008) [hereinafter About LRC] (on file with the *McGeorge Law Review*) (noting the Legal Resources Center operates under five departments). First, there is the public education department whose primary target groups are individuals and communities most vulnerable to human rights abuses due to a variety of reasons including poverty, illiteracy, and discrimination. *Id.* This program is called the "Human Rights and Democracy Public Education Programme," and it involves educating the communities on human rights issues and aspects of good governance. The second department is the legal aid clinic. *Id.* The services provided by the clinic include free legal advice and counseling as well as representation in court. The clinic also runs an Alternative Dispute Resolution (ADR) Centre and prefers to settle disputes through that mechanism. The third department is the parliamentary advocacy department, which investigates policies, laws, and practices that relate to a variety of social issues that adversely affect members of certain communities or constituencies. *Id.* The department then advocates for the reform of these policies, laws, and practices. Legal Res. Ctr., Parliamentary Advocacy, <http://matrix.msu.edu/~numbuo/lrc/parliament.html> (last visited May 3, 2008) (on file

very useful for the coalition of law deans to consider how the resources of the existing structures and institutions could be utilized in the legal education process. The reform initiative remains with the legal training institutions, particularly the deans, faculty, and law students.⁴⁰²

VI. SUMMARY OF KEY RECOMMENDATIONS

A. *Reforming African Legal Education*

1. *African Jurisprudence*

Africa needs a legal education process that is driven by a pragmatic jurisprudence based on core African value systems, examples, and models, and is primarily concerned with the practical problems of using law as a tool of socio-economic engineering. Legal education might have to realign, reform, and apply African values to problems of modernity, dispute resolution, institution building, etc., and address the question of how much training is necessary for African lawyers to deal with the many complex international law questions from an African perspective.⁴⁰³

2. *Sensitivity to Public Service Responsibilities*

The legal profession's fixation with private practice is compromising its ability to use the law as a tool for socio-economic engineering. Absent a change of focus, the legal profession will confront growing public cynicism and outright disrespect. In training lawyers in Africa, a critical focus must be the development of lawyering skills that are necessary to practice within the context of social justice. Because there is a need for lawyers who are sensitive to their public service responsibilities in Africa, legal training institutions must introduce programs and courses that expose prospective lawyers to the legal needs and problems frequently encountered by the poor. It is imperative for the legal education process to pay attention to the social engineering needs and the policy demands in Africa, and to socialize lawyers to use the legal system to serve underrepresented clients' interests, as well as the interests of corporate and other paying clients.⁴⁰⁴

with the *McGeorge Law Review*). So far, the department has been investigating some issues at the systemic level as they relate to the New Town and Nima/Maamobi communities in Ghana.

402. Law students initiated some of the clinical legal activities in Ghana, Sierra Leone, and South Africa. See, e.g., About LRC, *supra* note 401.

403. See *supra* Part IV.D.

404. See *id.*

3. *Specialization in Law*

It is critical for African legal professionals to have the opportunity to specialize in legal areas such as complex joint venture transactions, privatization, debt management, international arbitration, commercial negotiations, international finance, intellectual property and technology transfer agreements, health, administrative justice, the environment, and natural and water resources. Globalization and the present information economy necessitate training for current geopolitical, business, trade, and information technology needs. Though lawyers may well-serve the community as general practitioners, there is an urgent need for hard-core specialist lawyers. Legal training institutions need to consider critically the current lack of opportunities for specialization and institute programs that will produce the different types of lawyers Africa needs. Obviously, the establishment of such programs requires human, financial, and material resources. African legal training institutions have to explore innovative means of mobilizing resources to undertake graduate and specialized programs.⁴⁰⁵

4. *Information Technology*

Computers, Internet, and computer-assisted, student-directed learning and legal retrieval systems are virtually unavailable in most African law schools and law faculties. This state of affairs is an anomaly in the present global information-based society and economy. Corrective measures need to be adopted so that information technology can be fully utilized in the learning process in African legal training institutions. Some legal training institutions have initiated projects aimed at remedying the situation by making information technology common and accessible. Support should be extended to facilitate the drive for computer and Internet facilities, and to store legal information on computer/internet-assisted retrieval systems.⁴⁰⁶

B. *Planning and Priorities*

1. *A Vibrant Network of African Law Deans and Administrators*

In addressing questions of priority and planning, the deans of the African legal training institutions first need to create an effective system of collaboration among themselves. The reform process should begin with a collaborative network (domestic, sub-regional, and continental) among the deans and the legal training institutions. Through periodic meetings, conferences, and workshops, deans and administrators could and should develop a multi-year development

405. *See id.*

406. *See supra* Part V.A.5.

plan and create joint initiatives. Committees might also be created within an association of African legal training institutions to design and, possibly, supervise various aspects of the reform initiatives, including curricula reform, clinical legal education, facility development, research and publication, electronic data and information retrieval, fundraising and outreach, and specialization and graduate programs. A dynamic network of African law deans under the umbrella of an association of African legal training institutions is long overdue. An association of African legal training institutions should be established for this purpose.⁴⁰⁷

2. Building a Consensus Among Key Stakeholders

Consensus is needed among key stakeholders in the legal education process, particularly deans, policymakers, and the legal profession, as to the reform needs of African legal education. Clearly, a vibrant coalition of law deans and administrators would be able to spearhead such a consensus-building effort and, thereby, court governmental policy recognition of the issues and win the committed support of the legal profession. An active commitment by deans, policymakers, and the legal profession to the development of African legal education might even induce foundations, governments, and other domestic and foreign institutions to be more forthcoming in providing additional funds and support for African legal education.⁴⁰⁸

3. Strengthening Relations: The Legal Profession and Legal Training Institutions

In the search for an appropriate paradigm of legal education, the disconnect between legal training institutions and the legal profession needs urgent review. The legal profession, and many other governmental and non-governmental organizations already exist in most African countries that could facilitate the process of legal education, particularly in the area of clinical legal education. The infrastructure that should exist between the legal profession and the legal education process needs to be considered.⁴⁰⁹

4. Stimulating the Exchange of Ideas and Intellectual Activity of African Legal Scholars

African legal training institutions need to establish partnerships and collaboration aimed at facilitating the exchange of ideas and stimulating intellectual activity of African legal scholars, as well as enhancing comparative

407. See *supra* Part V.C.1.

408. See *id.*

409. See *supra* Part V.C.3.

studies. This may be done through foreign teaching appointments in Africa or through the funding of conferences and workshops on legal and developmental issues and legal education. Such exchanges should not be focused on international (sub-regional, regional, and global) discourse only, but should additionally bring together domestic legal luminaries and legal professionals to discuss topical issues of national and academic or educational importance.⁴¹⁰

C. *Reforming African Law Faculties*

1. *Directed Research*

Increased legal research and writing courses might have to be initiated in the African law faculties. “[R]esearch-oriented courses would enable law students to conduct comprehensive independent research projects [under the supervision of a faculty member, resulting in scholarly,] meaningful[,] and informative papers for use by those charged with decision making.”⁴¹¹ Potential areas of research include evaluating ongoing development programs, evaluating land tenure and land acquisition practices with proposals for reform, designing new arrangements for investment, funding improvements in transportation, health delivery, education, and creating provisions for social services. Stamping out corruption in the civil service, reforming some customary practices, curbing the scourge of HIV/AIDS, and many other topical issues serve as illustrative problem projects with substantial field study inputs. Such research and publication efforts must be supported, and consideration might even be given to the establishment and adequate funding of institutes of legal research in African law faculties and universities.⁴¹²

2. *Teaching Methods*

Although lecture is still required to teach theory, it needs to be modified by occasional questioning and debate. Lecturers should increasingly put forward challenging views or criticisms, which stimulate debate and invite questions at natural pauses in the presentation. Tutorials can effectively complement the lecture method in training students in analytical skills. Thus, law faculties should be reviewed and enhanced to include the tutorial teaching method.⁴¹³

410. See *supra* Part V.A.6.

411. Ndulo, *Legal Education in Africa*, *supra* note 10, at 501.

412. See *supra* Part V.A.1.

413. See *supra* Part V.A.2.

3. *Course Structure*

The course structure of legal training institutions in Africa needs to be reconsidered. Some of the courses that are offered on a full-year basis should be evaluated to determine whether the course content or the volume of the subject matter warrants such time commitment. Some of the courses taught on a full-year basis might have to be reduced to half-year courses. If the instruction periods of some courses are appropriately reduced, more courses can then be added to the curricula, particularly in the law faculties (while in the law schools, more clinical programs can be introduced). In addition to the courses already mentioned above,⁴¹⁴ African law faculties might have to introduce courses on health, public interest law, and the evolving field of information technology, particularly e-commerce, computer, and Internet law.⁴¹⁵

4. *Skills Training*

African law faculties also need to introduce some clinical programs into their curricula. Such clinical opportunities might include legal research and writing courses, vibrant student and faculty law journal programs, and expanded moot court programs, as well as opportunities for concentration in specialized areas of law.⁴¹⁶

D. *Reforming African Law Schools*

1. *Practical Skills Training*

Law schools need to provide vigorous practical training programs by introducing relevant courses and programs that enhance students' ability to handle practical problems. There might have to be programs that practically address skills in areas such as counseling, advocacy, negotiation, dispute resolution, arbitration, law office management, computer applications, legal drafting, and the construction of documents, as well as the use of law as an aid to development. Some of the courses should be packaged and delivered via clinical and practical means.⁴¹⁷

2. *Legal Clinics*

The law schools should revisit the traditional clinical method of teaching and apply it in various legal and social matters. The approach to legal education in

414. *See supra* Part V.A.3.

415. *See id.*

416. *See supra* Part V.A.4.

417. *See supra* Part V.B.1.

African law schools must be practical and multi-disciplinary, drawing upon intellectual strength and clinical skills to address development and societal problems. Law schools in Africa need to become centers of professional and practical legal training. The clinical approach must be effectively utilized in the law schools, in addition to a reduced use of the current teaching (or lecturing) pedagogy. Law schools in Africa might have to introduce legal clinics with experienced full-time instructors. Such clinics might need to build networks and seek collaborators, particularly the support of the legal profession, to enhance the efficiency and effectiveness of such clinical programs and projects.⁴¹⁸

3. *The Pupilage System*

Pupilage is an integral part of the legal education process in some African countries. But the problems affecting its implementation necessitate a critical review. Reliance on pupilage as a means of acquiring practical skills should be reduced and clinical programs at the law schools increased. If law school curricula and pedagogy are reformed, and take on a clinical and practical approach with skilled instructors and collaborators, the pupilage program might become less relevant.⁴¹⁹

4. *Teaching Methods*

African law schools need to revisit the traditional clinical and practical teaching/learning pedagogy that has served indigenous African societies so well for thousands of years. Clinical work might have to become an integral part of the legal education process in Africa, and academic credit should be given to participating students. Law schools can use externships, in-house or live-client simulated projects, mediation clinics, and advocacy clinics, including moot court and public education programs, street law clinics, legal aid clinics, as well as legal research and publication. These might have to be combined with tutorials or seminars and a reduced use of the lecture pedagogy. Not only would such clinics help students develop lawyering skills that are necessary in practice, but they would also advance social justice, help improve access to legal services, address the problems of the poor, and contribute to initiatives aimed at entrenching the rule of law in Africa.⁴²⁰

VII. CONCLUSION

Legal education in Africa should, at its core, be driven by African value systems and by the peculiarly African demand for ordered change and

418. *See supra* Part V.B.2.

419. *See supra* Part IV.B.1.

420. *See supra* Part V.B.3.

development. It also needs to be made relevant to the socio-economic and geopolitical needs of Africa. Evaluating ongoing development programs, designing new arrangements for funding improvements in transportation, health delivery, education, provision of social services, evaluating land tenure and land acquisition practices with proposals for reform, stamping out corruption in the civil service, reforming some customary practices, curbing the scourge of HIV/AIDS, and many other topical issues serve as illustrative problem projects with substantial field study inputs that African legal research can and might have to focus on. The reasoning and analytical skills needed for such tasks can be enhanced in the law faculties. The law schools, through practical training, can complement these skills with practical experience in ADR, public service, and other practical lawyering skills.

Instructed by the needs of Africa in this millennium, this article presents a broad conceptual framework for understanding the development, structure, processes, strengths, and weaknesses of African legal education so as to facilitate informed discussions on curricula and other reforms. In seeking a legal system that is sensitive and responsive to the needs of Africa, the legal training institutions have to reconsider the structure and content of the curricula for legal education in Africa. This article suggests many areas for reform, including legal clinics, increased course offerings, pervasive perspectives on African law and juridical value systems as they relate to international law and the global legal order, collaboration, and development planning. African legal education might continue to fall short in many respects, and no effective reform can be implemented unless there is greater collaboration among the legal profession, academics, and policymakers. Consensus among these stakeholders regarding the reform needs of African legal education might enable them to take effective action. Ultimately, Africa needs well-trained lawyers who have the highest levels of competence and responsibility, are alive to the demands of globalization with a global competitive posture, and are in touch with local realities, needs, and aspirations. This paper has initiated a discussion on the complex issues surrounding African legal education reform, not only as a matter of academic discourse, but also as policy issues to be considered, analyzed, refined, and implemented.

APPENDIX I

BRIEF SURVEY OF U.S. AND BRITISH LEGAL EDUCATION: KEY LESSONS

1. *Legal Education in the United States*

As of 1776, the United States trained lawyers through apprenticeships.⁴²¹ In 1779, the College of William and Mary established the first law school in the United States.⁴²² Twenty law schools existed by 1860.⁴²³ In 1878, the American Bar Association (ABA) created a Committee on Legal Education and Admission to the Bar and, in 1900, the Association of American Law Schools (AALS) was created to regulate law schools.⁴²⁴ The U.S. law degree is offered as a postgraduate degree,⁴²⁵ and, unlike the distinction in the United Kingdom between solicitors and barristers, the U.S. legal profession is fused.⁴²⁶ Like the American model, the African legal system does not make such a distinction. In some African countries, such as Ghana, the LL.B. program resembles the U.S. program. Although the American law school curricula differ from state to state, the curricula are very multidisciplinary with a wide array of course and clinic options.⁴²⁷

Except in a few states, bar admission requires graduation from an accredited law school, and apart from special arrangements between some states, the bar examination must be taken in each state in which a person wants to practice.⁴²⁸ “Bar exams are designed to screen out people who are not qualified in terms of knowledge or communicative ability or time management (or some combination) to practice law. The exam involves essay and multiple-choice questions.”⁴²⁹ In

421. See J.P. Ogilvy, Address at Columbus School of Law, The Catholic University of America: History of Clinical Legal Education (2004), <http://www.aals.org/nlt2004/ogilvy.pdf#search=%22ogilvy%20history%20of%20clinical%20legal%20education%20columbus%20school%22> (on file with the *McGeorge Law Review*).

422. *Id.*; see William & Mary School of Law, About the School of Law: Quick Facts, <http://www.wm.edu/law/about/quickfacts.shtml> (last visited Oct. 7, 2006) (on file with the *McGeorge Law Review*) (noting that the first Bachelor of Law degree in the United States was awarded by William and Mary in 1793). The school, founded in 1793, is located in Williamsburg, Virginia. *Id.*

423. See Ogilvy, *supra* note 421.

424. *Id.*

425. See Gregory S. Crespi, *Comparing United States and New Zealand Legal Education: Are U.S. Law Schools Too Good?*, 30 VAND. J. TRANSNAT'L L. 31, 36 (1997). The law degree is referred to as the Juris Doctor (J.D.). *Id.* at 35. It is generally a three-year program. *Id.* at 36.

426. See Marilyn J. Berger, *A Comparative Study of British Barristers and American Legal Practice and Education*, 5 NW. J. INT'L L. & BUS. 540, 544 (1983) (“Lawyer in England is a divided profession. One must choose to be either a barrister, a ‘courtroom lawyer,’ or a solicitor, an ‘office lawyer.’”); GOWER, *supra* note 2, at 104-05.

427. See, e.g., UNIV. OF THE PAC., MCGEORGE SCHOOL OF LAW, CATALOGUE 49-94 (2005-2006) [hereinafter MCGEORGE SCHOOL OF LAW CATALOG] (offering over 200 course and clinic options); see also UOG Admission Requirements, *supra* note 108.

428. See American Bar Association, Bar Admissions and Comprehensive Guide, <http://www.abanet.org/legaled/baradmissions/basicoverview.html> (last visited Oct. 7, 2006) [hereinafter ABA Overview] (on file with the *McGeorge Law Review*); see also Lumumba, *supra* note 13.

429. Lumumba, *supra* note 13. Moreover, one has to get past the Character and Fitness Committee,

many states, one also has to pass the Multi-State Professional Responsibility Examination.⁴³⁰ This test, which is offered in at least twenty states, consists of fifty multiple-choice questions about professional ethics under the ABA's Model Code of Professional Responsibility and Model Rules of Professional Conduct.⁴³¹ The purpose of the test is to ensure basic familiarity with these ethics and codes. Some states, including Alaska, Colorado, and California, have adopted a performance component in their bar exams.⁴³² The performance component varies in content, but the California Bar Exam includes two drafting assignments based on simulated cases.

In American law school curricula, clinical legal education programs are prominent.⁴³³ Although only "a handful of [U.S.] law schools had a clinic" in 1969, "[t]oday, no [U.S.] law school is without a clinic, with most having several."⁴³⁴ Such programs enable students to develop lawyering skills while facilitating their transition from law school to legal practice. Clinical legal education as a facet of American legal education is a "relatively recent phenomenon."⁴³⁵ However, "a few, scattered programs [existed] earlier, [and] clinical legal education" became a pervasive aspect of American legal education in the 1970s.⁴³⁶

The Ford Foundation played a key role in the pervasive initiation of legal clinics in U.S. law schools.⁴³⁷ From 1959 to 1965, "[t]he National Council on Legal Clinics (NCLC)[,] funded by the Ford Foundation[,]. . . made grants totaling some \$500,000 to nineteen [U.S.] law schools for clinical programs."⁴³⁸ In 1968, the "Ford Foundation announce[d] a commitment of \$12 [million] over a ten year period to 'incorporate clinical education as an integral part of the curriculum of [American] law schools.'"⁴³⁹ In the same year, with funding from the Ford Foundation, the Council on Legal Education for Professional

which evaluates moral character. *Id.* In most states, the state's highest court appoints a Character and Fitness Committee that collects reams of data from bar applicants, checks numerous references, and interviews each candidate individually. *Id.* The Character and Fitness Committee advises whether the candidate should be admitted. *Id.*

430. This is known as the MPRE. See ABA Overview, *supra* note 428.

431. There are also a few questions about the American Bar Association's (ABA) Code of Judicial Conduct. See *id.*

432. See M. Faye Hadley, Bar Exam Pathfinder, May 2, 2008, <http://www.law.utulsa.edu/library/research/pathfinders/bar> (on file with the *McGeorge Law Review*) (listing states that administer the Multistate Performance Test).

433. See MACCRATE REPORT, *infra* note 442.

434. Ogilvy, *supra* note 421, at 15.

435. *Id.*

436. *Id.*

437. *Id.* at 17.

438. *Id.*

439. *Id.*

Responsibility (CLEPR) was created.⁴⁴⁰ By 1970, in CLEPR's first two years, "[c]redit-bearing clinical programs grew from 25 to 80."⁴⁴¹

The MacCrate Report also significantly contributed to the enhancement of legal clinics in U.S. law schools.⁴⁴² In 1989, following rising discomfort as to the quality and competency of the law students preparing for law practice in America, Robert MacCrate formed the Task Force in Law Schools and the Profession for the purpose of studying and improving the process of preparing new members of the profession for law practice.⁴⁴³ The MacCrate Report clearly emphasized incorporating clinical (practical) approaches to legal education.⁴⁴⁴ It also enumerated certain fundamental lawyering skills and values of the profession that every law school should endeavor to impart in its legal training.⁴⁴⁵ The four core values discussed were: (1) providing "competent representation;" (2) "striving to promote justice, fairness, and morality;" (3) "striving to improve the profession;" and (4) "professional self-development."⁴⁴⁶ Ten lawyering skills were also discussed: (1) problem solving; (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and alternative dispute resolution procedures; (9) organization and management of legal work; and (10) recognizing and resolving ethical dilemmas.⁴⁴⁷ The MacCrate Report and other initiatives by legal organizations, including the AALS, the ABA, and Association of Legal Writing Directors (ALWD), have enhanced law school legal clinics in the United States.⁴⁴⁸

Presently, American law schools are exploring the issue of creating a curricular core to train transnational lawyers.⁴⁴⁹ Recognizing the need to train all lawyers for transnational challenges, the AALS is debating strategies and approaches to provide such education. With the leadership and coordination support of top U.S. law schools, such as University of the Pacific, McGeorge School of Law, New York University School of Law, and New England School

440. *Id.*

441. *Id.*

442. AM. BAR ASS'N, AN EDUCATION CONTINUUM REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992), <http://abanet.org/legaled/publications/onlinepubs/maccrate.html> [hereinafter MACCRATE REPORT] (on file with the *McGeorge Law Review*).

443. *Id.*

444. *Id.*

445. *Id.*

446. *Id.*

447. *Id.* For example, with regards to skill one, problem solving, the MacCrate Report states:

[I]n order to develop and evaluate strategies for solving a problem or accomplishing an objective, a lawyer should be familiar with the skills and concepts involved in: identifying and diagnosing the problem, generating alternative solutions and strategies, developing a plan of action, implementing the plan, and keeping the planning process open to new information and new ideas.

Id.

448. *See generally id.*; Sloan, *supra* note 262.

449. *See* Gevurtz & Parker, *A Curricular Core for the Transnational Lawyer*, *supra* note 220, at 1.

of Law, various inquiries are being made on this issue.⁴⁵⁰ The University of the Pacific, McGeorge School of Law, playing an active role in the AALS and ABA International Law Section's initiatives on Internationalizing Law School Curricula,⁴⁵¹ initiated a project preparing casebooks and supplements containing both international and comparative materials to be integrated into core courses in U.S. law schools.⁴⁵²

Such U.S. initiatives on initiating, coordinating, funding, and implementing projects to improve legal education provide useful lessons for African legal education. In reference to the internationalization of law school curricula, the breadth of core curricula in most parts of Africa are pervasively broad-scoped, incorporating comparative and international materials.⁴⁵³ African countries should maintain, develop, and enhance this historical heritage. Additionally, U.S. law schools offer a wide array of courses and many clinical options to students.⁴⁵⁴ Such clinical options, although useful, are unavailable in many African law schools;⁴⁵⁵ therefore, it might be useful to explore ways to reform the African law curricula by drawing lessons from the U.S. legal education development efforts.

2. *Legal Education in the United Kingdom*

"In England, the [legal] profession is divided into solicitors and barristers."⁴⁵⁶ "Solicitors are organised [sic] into firms of varying size from sole practitioner to large multinational practices."⁴⁵⁷ They provide "all legal services and instruct barristers."⁴⁵⁸ Their professional organization is called the Law Society.⁴⁵⁹

On the other hand, barristers are primarily advocates, with the exclusive right of audience before all superior courts.⁴⁶⁰ "Barristers represent clients in the courts on the instruction of solicitors, although their exclusive rights of audience in the higher courts have been eroded in recent years."⁴⁶¹ "Barristers are organised [sic]

450. See generally Del Duca, *supra* note 221.

451. See generally Gevurtz et al., *Globalizing the Law School Curriculum*, *supra* note 220.

452. See Del Duca, *supra* note 221, at 2; see also Gevurtz & Parker, *A Curricular Core for the Transnational Lawyer*, *supra* note 220, at 7; Gevurtz et al., *Globalizing the Law School Curriculum*, *supra* note 220, at 325-27.

453. See *supra* Part IV.A.

454. See, e.g., MCGEORGE SCHOOL OF LAW CATALOG, *supra* note 427 (listing over 200 course and clinic options).

455. See *infra* App. II.

456. GOWER, *supra* note 2, at 104; see also Sarah Carter, *A Guide to the UK Legal System*, Oct. 1, 2002, <http://www.llrx.com/features/uk2.htm#Legal%20Education> (on file with the *McGeorge Law Review*).

457. Carter, *supra* note 456.

458. See *id.*

459. See Law Soc'y, *Who We Are*, <http://www.lawsociety.org.uk/aboutlawsociety/whoweare.law> (last visited Oct. 6, 2006) (on file with the *McGeorge Law Review*).

460. Carter, *supra* note 456.

461. *Id.* A Solicitor can be an advocate in the inferior courts and has limited access to the superior courts. See Bar Standards Bd., *Qualifying for the Bar*, <http://www.barstandardsboard.rroom.net/qualifyingforthebar/> (last visited Apr. 5, 2008) [hereinafter *Qualifying for the Bar*] (on file with the *McGeorge Law*

into sets of Chambers, but are essentially self-employed.”⁴⁶² “Their professional organisation [sic] is called the Bar.”⁴⁶³

To qualify as a solicitor or a barrister, a student must complete both an academic and professional course of training.⁴⁶⁴ To enroll in the professional programs, one must have a law degree with at least lower second class honors.⁴⁶⁵ U.K. law degrees are undergraduate degrees and take three years to complete.⁴⁶⁶ Aspiring solicitors and barristers with a degree in a subject other than law must complete a one-year qualifying course, known as the Common Professional Examination (CPE), in the core subjects of law to be eligible for the qualifying courses.⁴⁶⁷ Professional training for both solicitors and barristers is provided at the postgraduate level.⁴⁶⁸

a. Solicitors

A student desiring to progress to the solicitor’s vocational training stage is required to pass seven subjects known as “The Seven Foundations of Legal Knowledge.”⁴⁶⁹ After successful completion of the law degree, CPE, or Diploma in Law, a solicitor in the United Kingdom must take the Legal Practice Course (LPC) for one academic year, or two years if taken part-time.⁴⁷⁰ The LPC provides professional training for solicitors.⁴⁷¹ The student enters into a two-year training contract, known as an apprenticeship, with a firm of solicitors or a

Review).

462. Carter, *supra* note 456.

463. *Id.*

464. *Id.*

465. *Id.* For those who do not wish to take a degree, it is possible to qualify as a solicitor by obtaining employment in a legal office, joining the Institute of Legal Executives, and taking the examinations to qualify as a member and, subsequently, a Fellow of the Institute of Legal Executives. Law Soc’y, Ways to Qualify as a Solicitor, <http://www.lawsociety.org.uk/becomingasolicitor/waystoqualify.law> (last visited Oct. 6, 2006) [hereinafter Law Soc’y, Ways to Qualify as a Solicitor] (on file with the *McGeorge Law Review*). “The process is lengthy, demanding and academically challenging, but it does enable non-graduates to qualify as a solicitor.” Law Soc’y, Qualifying Without a Degree, <http://www.lawsociety.org.uk/becomingasolicitor/waystoqualify/qualifyingnodegree.law> (last visited Oct. 6, 2006) (on file with the *McGeorge Law Review*).

466. See British Council, Undergraduate Studies in the UK, <http://www.britishcouncil.org/sweden-education-studyuk-undergraduate.htm> (last visited May 11, 2008) (on file with the *McGeorge Law Review*).

467. See Solicitors Regulation Authority, Common Professional Examination (CPE) Rules 2 (Aug. 24, 2007), <http://www.sra.org.uk/documents/students/conversion-courses/cperulesjointacademicstageboard.pdf> (on file with the *McGeorge Law Review*) (noting that the course leading to the Common Professional Examination, or the post-graduate Diploma in Law, is a one year full-time, two year part-time course).

468. Carter, *supra* note 456.

469. *Id.* These subjects are Criminal Law, Equity and Trusts, Law of The European Union, Obligations I (Contracts), Obligations II (Torts), Property Law, Public Law (Constitutional and Administrative Law and Human Rights). *Id.* Would-be solicitors must therefore study and pass the examinations and assessments in all seven Foundations of Legal Knowledge subjects. *Id.* In addition, students are required to receive training in the skill of Legal Research. *Id.*

470. Law Soc’y, Ways to Qualify as a Solicitor, *supra* note 465.

471. *Id.*

practicing solicitor.⁴⁷² A statutory committee composed of senior members of the Law Society, specially chaperoned by the Master of the Rolls, supervise the conduct of admitted solicitors.⁴⁷³ A solicitor's role is that of a general legal adviser, but he can also be an advocate with limited access to the superior courts.⁴⁷⁴

b. Barristers

Aspiring barristers must complete the law degree, CPE, or Diploma in Law.⁴⁷⁵ Additionally, an aspiring barrister must also register as a student member of one of the four Inns of Court: Gray's Inn, Lincoln's Inn, Inner Temple, or Middle Temple.⁴⁷⁶ Barristers must then pursue the one-year Bar Vocational Course (BVC), a highly practical course in nature.⁴⁷⁷ After passing the BVC, their respective Inns call the barristers to the Bar.⁴⁷⁸ "The Inns form the Council of Legal Education and the Inns of Court School of Law," which are concerned with examination and training of students in their preparation for Call to the Bar.⁴⁷⁹ The Inns of Court have "control over barristers' education and requirements for Call to the Bar" and "concentrate on the development of law practice skills," while "[t]he universities primarily are responsible for academic and theoretical development of legal principles and institutions."⁴⁸⁰ After a Call to the Bar, newly enrolled barristers must train for another year with senior counsel.⁴⁸¹ This process is called pupillage.⁴⁸²

c. Pupillage

"Pupillage is the final stage of the route to qualification at the Bar"⁴⁸³ It enables a pupil to gain "practical training under the supervision of an experienced barrister."⁴⁸⁴ Pupillage involves understudying a senior counsel in his or her day-to-day practice for a period of twelve months.⁴⁸⁵ "Pupillage is divided into two

472. *Id.*

473. *See* Carter, *supra* note 456.

474. *Id.*

475. *See* Bar Standards Bd., *Joining an Inn*, <http://www.barstandardsboard.org.uk/qualifyingforthebar/aboutthebvc/joininganinn/> (last visited May 3, 2008) (on file with the *McGeorge Law Review*).

476. *Id.*

477. *Id.*

478. *Id.*

479. Berger, *supra* note 426, at 570.

480. *Id.* at 562-63.

481. *See id.* at 565.

482. *Id.*

483. Bar Standards Board, *What is Pupillage?*, <http://www.barstandardsboard.org.uk/qualifyingforthebar/whatispupillage/> (last visited May 3, 2008) (on file with the *McGeorge Law Review*).

484. *Id.*

485. *Id.*

parts: the non-practicing six months during which pupils shadow their supervisor, and the second practicing six months when pupils, with their approved pupil supervisor's permission, can undertake to supply legal services and exercise rights of audience."⁴⁸⁶

Legal education as it exists in most parts of Anglophone Africa is patterned after the British model, though the fused profession in Africa gives it a semblance of the American model.⁴⁸⁷ Legal education curricula in most common law African countries follow the U.K. model.⁴⁸⁸ African countries should consider strategies for making this structure useful to local challenges and global needs. Legal clinics and enhancement of the comparative approach to legal education offer useful lessons.

APPENDIX II

A SAMPLE OF COURSES: SELECT COUNTRIES

University of Ghana Law Faculty (LL.B. Degree)

At the University of Ghana Law Faculty, the LL.B. program lasts two years with a total of forty-eight courses offered and seventy-two credits minimum to graduate.

I. First Year Curriculum

A. *First Semester* (Students are required to have a minimum of eighteen credits and twenty-one maximum.)

Required Core Courses (All courses are three credits)

Ghana Legal System

Law of Contract I

Constitutional Law I (Constitutional Theory)

Torts I (Intentional Torts)

Immovable Property I (Customary Land Law)

Criminal Law I (General Principles)

Elective Courses (All courses are three credits)

Public International Law I

Comparative Law I (Legal Traditions)

486. *Id.*

487. GOWER, *supra* note 2, at 104-05.

488. *See infra* App. II.

B. *Second Semester* (Students must have a minimum of eighteen credits and twenty-one maximum.)

Required Core Courses (All courses are three credits)

Legal Method

Law of Contract II

Constitutional Law II (Constitution of Ghana)

Torts II (Negligence and Defamation)

Immovable Property II (General Immovable Property Principles and Theory)

Criminal Law II (Specific Offences)

Elective Courses (All courses are three credits)

Public International Law II

Comparative Law II (Comparative Constitutional Law)

II. Second Year Curriculum

A. *First Semester* (Students must have a minimum of eighteen credits and twenty-one maximum.)

Required Core Courses (All courses are three credits)

Jurisprudence I

Equity

Elective Courses (All courses are three credits)

Long Essay

International Trade and Investment Law I

Natural Resource Law I

Environmental Law I

Intellectual Property Law I

Conflict of Laws I

International Humanitarian Law I

International Human Rights Law I

Gender and the Law I

Family Law I

Taxation Law I

Company Law I

Commercial Law I

Criminology I

Administrative Law

B. *Second Semester* (Students must have a minimum of eighteen credits and twenty-one maximum.)

Required Core Courses (All courses are three credits)

Jurisprudence II

Law of Succession

Elective Courses (All courses are three credits)

International Trade and Investment Law II

Natural Resource Law II

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Environmental Law II
Intellectual Property Law II
Conflict of Laws II
International Humanitarian Law II
International Human Rights Law II
Gender and the Law II
Family Law II
Taxation Law II
Company Law II
Commercial Law II
Criminology II

The Ghana School of Law (Professional Training)

It is known as the Professional Law Course and is of two-year duration.

I. Professional Law Course: Part I

Core Courses

Criminal Procedure
Company Law
Law of Evidence
Legal Accountancy
Interpretation of Deeds and Statutes

Elective Courses (Students are required to take one elective course.)

Industrial law
Law of Insurance
Legislative Drafting

II. Professional Law Course: Part II

Core Courses

Civil Procedure
Conveyancing and Drafting
Family Law and Practice
Law of Taxation
Advocacy and Legal Ethics

(No Elective Courses)

III. Post-Call Law Course

This program is a three-month course designed for persons who have qualified as lawyers in common law countries outside Ghana.

Core Courses

Constitutional Law of Ghana

Ghana Customary Law
(*No Elective Courses*)

University of Malawi Law Faculty (LL.B. Degree)

At the University of Malawi Law Faculty, the LL.B. program lasts four years with eighty-four credits minimum or ninety-six maximum to graduate. The courses include the following:

I. First Year Curriculum

Legal Systems
Legal Methods
Constitutional Law
Administrative Law
Criminal Law
Law & Society
Torts

II. Second Year Curriculum

Trusts
Land
Contracts
Family Law

III. Third year Curriculum

Business Organizations
Commercial Law
Conflicts of Laws
Public International Law
Jurisprudence
Wills and Succession

IV. Fourth Year Curriculum

Civil Procedure
Criminal Procedure
Evidence
Advocacy & Ethics
Legal Accountancy
Taxation
Dissertation (extended essay)

Tanzania: University of Dar-es-Salaam Law Faculty (LL.B. Degree)

At the University of Dar-es-Salaam Law Faculty, the LL.B. program lasts three years and the courses include the following:

I. First Year Curriculum

- Constitutions and Legal Systems of East Africa
- Criminal Law and Procedure
- Law of Contract
- Legal Method
- Development Studies and Communication Skills

II. Second Year Curriculum

- Administrative Law
- Law of Evidence
- Land Law
- Law of Torts
- Development Studies

III. Third Year Curriculum

- Jurisprudence
- Civil Procedure
- Research Paper and Research Methodology
- Civil System
- Commercial Law
- Conflict of Law
- Constitutional Law
- Criminology and Penology
- Family Law
- International Law
- Islamic Law
- Labor Law
- Legal Aspects of International Trade and Investment
- Public Enterprises and Cooperatives
- Succession and Trusts
- Tax Law
- Law and Development and Development Studies

University of Zambia School of Law (LL.B. Degree)

This is a four-year program. The first year is spent in the school of Humanities and Social Sciences, and the remaining three years are spent in the Law School. The courses include:

I. First Year Curriculum

Students are free to take any subjects they choose in the arts and social sciences at the school of Humanities and Social Sciences of the University of Zambia.

II. Second Year Curriculum

- Legal Process
- Law of Contract
- Torts
- Criminal Law
- Constitutional Law

III. Third Year Curriculum

- Commercial Law
- Family Law
- Evidence
- Administrative Law
- Land Law
- Moot Court (Appellate briefs and arguments)

IV. Fourth Year Curriculum

- Jurisprudence
- Company Law
- International Law
- Labor Law
- International Trade
- Criminology

The Nigerian School of Law (Professional Training)

The program is one year (Bar Part II only) for students with law degrees from Nigerian universities and two years for those with law degrees obtained outside Nigeria.

I. The Bar Examination: Part I (All courses are required for only those with law degrees from outside Nigeria.)

- Nigerian Legal System
- Nigerian Land Law
- Nigerian Criminal Law
- Nigerian Constitutional Law

II. The Bar Examination: Part II (Students are required to take all courses.)

- Civil Procedure

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Criminal Procedure
Legal Drafting and Conveyancing
Commercial Law
Law and Practice of Evidence
General Paper (Legal Practitioners' Accounts, Income Tax, Office Management, and Professional Ethics)

Uganda: The Law Development Center (Professional Training)

The program is a twelve-month Bar Course and lasts for four terms.

I. First and Second Term (*All courses are required*)

Individual Continuous Assessment
Domestic Relations
Commercial Transactions
Criminal Proceedings
Civil Proceedings
Land Transactions

II. Third Term (*All courses are required*)

Individual Continuous Assessment
Mandatory Clerkship or Practical Work (attachment to a law firm, court, or a judge)

III. Fourth Term (*All courses are required*)

Individual Continuous Assessment
Commercial Transactions
Civil Proceedings
Criminal Proceedings
Domestic Relations
Land Transactions
General Subject (Legislative Drafting, Professional Conduct, Accounts/Solicitor's Accounts, Judicial Conduct and Art of Advocacy, and Revenue Law and Taxation)