LEGAL EDUCATION IN MALAYSIA: 
THE PRESENT AND FUTURE ROLE OF THE 
SCHOOL OF LAW AT THE INSTITUTE 
TECHNOLOGY MARA 

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Introduction

Legal education in Malaysia, though it is still relatively new, has developed quite rapidly and we have seen many trends and changes especially during the last twenty years. The setting up of law schools locally made it cheaper for Malaysians to study law and they have also provided for more places at which to do so. As a result, law study has become popular and there has been a tremendous increase in the number of people seeking places to study law. Even with the present four local law schools they do not seem to provide enough places. As a result, many private colleges and institutions started to provide courses in law; either through external degree programmed or as a linkage programmed with foreign universities. Still, we have Malaysians going abroad to study law and who are coming home with law degrees.

This growing demand for university law degrees is a direct consequence of the requirements in the Legal Profession Act 1976 which made the possession of a law degree as the only way to qualify to become a practicing lawyer other than through article- clerkship. Thus, a university law school has a very important role to play in the making of a lawyer.

With the increase in the number of law schools and law graduates, more and more new lawyers are being admitted to the Bar each year. In 1980, there were a hundred and three new lawyers admitted to the Bar, and in 1990 the number has increased to four hundred and fifty-four. This has caused the legal profession to question the standards and qualities of these new lawyers, thus questioning also the standard and quality of law teaching at law schools.

At the same time, the Government has introduced policies which call for a reexamination of the role of university law schools. Two such policies
are, firstly, the use of Bahasa Malaysian in the legal process and, secondly, the plan to turn Malaysia into an industrialized and developed country by the year 2020. This plan requires changes to take place and here, the role of law is to ensure that the process of change occurs in an orderly fashion. We need good lawyers to promote an orderly change either by means of legislation or judicial decisions.

The aim of this paper is to examine the role of the Law School at the Institute of Technology MARA (ITM) in the light of some, if not all, of the issues mentioned above.

The Aim of Legal Education

It is quite common for the public to expect that when a law school is established, its aim is to produce lawyers for practice. While it is only natural to subscribe to this belief, it is not always the case for law schools and the people who design the course structures.

While it is true to say that the main role of the law school is to prepare lawyers for practice, however, it is submitted that this should not be the only role. A law school should focus its attention beyond the requirements of legal practice. If law is to be a tool for the advancement of social well-being, then those concerned with the law should not regard practice as the ultimate achievement. A responsible lawyer is more than just a practicing lawyer. According to Professor Vanderbilt, the five functions of a lawyer are: a wise counsellor; a skilled advocate; a person who does his part to improve his profession, the courts and the law; a leader of public opinion; and a man ready to answer the call of public service.

Thus, a law school should have in its curriculum, apart from the normal courses, some elements promoting a sense of public duty. It may even include the performance, by its students, of public or community services. Program such as legal aid, rendering social services in prisons, drug rehabilitation centers and organizing law seminars for the public and other non-law oriented community services should be included as part of its curriculum. By such programs, law students will be more sensitive to the needs of the society and they will serve the society better as law graduates. Furthermore, it should be realized that not all the students who enter the law schools would want to become a practicing lawyer. Some may be more inclined to become policy-makers, public servants, social workers, corporate leaders or law teachers. Thus, the Law School should prepare lawyers, not only for practice but also to serve the society.

The law programma at the Institute of Technology MARA (ITM) Law
School is divided into two tiers, quite similar to the system of legal education in England. The first three years is academic and the fourth and the final year is vocational. The curriculum of the first three years is designed to give a proper and broader education to the students. This stage concentrates on the understanding of the law as it is and also the law as it affects the people. Apart from the 'bread and butter' subjects, other courses are included to provide students with a broad legal education. Courses in Law and Society, Law and Politics, Law and Economics, Law and Development, Contemporary Legal Issues, are included to focus the students' minds to the social realities of the law. As for the specialized areas of the law, elective courses are offered form a host of subject areas such as Intellectual Property, International Trade, Bankruptcy and Aviation Law to name a few. Practical Training and Mooting are also made compulsory to the students.

The aim here therefore is to impart knowledge to the students and, at the same time, to instil a sense of responsibility to the society. It may also be suggested here that perhaps, law schools curriculum, should also include something quite analogous to the medical profession in the study of preventive medicine. In the law curriculum, this may be called 'preventive lawyering'. This element gives a sense of duty to lawyers when advising their client to avoid or minimize litigation in cases where this is possible. This saves much of the court's time and minimizes undue public expenditure. This is important because, for too long, we have been emphasizing to the students that victory is the ultimate goal for lawyer while we tend to overlook the methods are used then a victory is not a true victory in the context of the society. This danger is inherent in the adversarial nature of our legal process.

Even when a law graduate decides to become a practicing lawyer, his understanding of the society is of great value because in his acknowledged roles of advocate and counsellor, the lawyer's attitudes to social and moral questions obviously have some bearing upon his clients' responses to problem situations.

Thus, if there is a higher goal of the university legal education that goes beyond the preparation of lawyers for practice, then the question of whether we are producing too may law graduates in a non-issues.

Secondly, for those students who have completed the first tier and who aspire to become professional lawyers, they may enroll into the one year Advanced Diploma in Law Programmed which forms the second tier in the system. At this stage, the training becomes vocational and the course is practical and professional oriented. The teaching method also changes from

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the traditional classroom lectures to simulated office environment and the emphasis at this stage of training is 'learning by doing'.

We believe that to a great extent, lawyering skills can and should be taught in the law schools. Here, the students are divided into "law firms" and each firm operates from a simulated law office with regular use of the mock court, with constant supervision by experienced instructors. The subjects covered include Contentious Matters, Non-Contentious Matters, Trial and Advocacy, Advanced Criminal Procedure, Advanced Civil Procedure, Opinion Writing, Magisterial Skills, Forensic Science, Solicitors' Accounts and Courtroom Practice.

While it is conceded that there is no substitute to real practice with real clients and real problems, this 'learning by doing' method, as it is conducted, has its merits when it is reinforced with other conditions. One such condition is the employment of experienced practicing lawyers to conduct and to oversee the students' works. Other conditions will require that assessments are done continuously on a weekly basis. The students' instruction manuals are reviewed regularly to include changes in the law and in practice. The Moot Court is constantly used as if it is a real court. Real court and other statutory forms are used by the students in doing their exercises which necessarily include actual drafting. In short, the environment is created to emulate real practice and the students are required to act and think like a lawyer. This method teaches the skills required of a lawyer both in the office as well as in the court; and it is while the lawyer is in the office that he is required to possess and use much of his skills. Law does not only operate in courts, but it operates everywhere and much law is applied in a lawyer's office.

This method of learning by doing takes the students one step further from the academic stage. But it is closer to the realities of practice when one compares it with the training that students receive at the Inns of Courts in England. Meant to be the institution providing professional training for intending English barristers, the teaching at the Inns of Court is still basically academic in nature; where much of the student's time is spent on attending lectures rather than doing exercises and practicing professional skills.

It is our hope that the present method employed by the Law School in ITM can bridge the gap between the training of lawyers and the demands of actual practice in this country.
The Role of the ITM Law School

The role of the law school at ITM may be examined from three different perspectives, namely:

(i) Its role within ITM
(ii) Its role within the legal profession and the legal fraternity, and
(iii) Its role towards the society and the nation as a whole.

The Role within ITM

Within ITM, apart from providing legal training to law students either for a non-practicing career or for professional practice, the Law School has a special role in providing specific legal knowledge to students following professional courses in other disciplines.

For many years, members of the faculty have been teaching law to students following professional courses in Accountancy, Engineering, Architecture, Mass Communication, Business Management, Banking, Transport, Hotel Management, Industrial Design and Secretarial Science. Throughout those years, we have developed expertise in subjects like Business Law, Contraction Law, Tax Law, Communication and Media Law, Banking Law, Insurance Law, Law of Carriage, Inn Keepers’ Law, Patent and Copyright and Investment Law.

This service rendered by the Law School to the other schools in ITM is expected to expand in the future when more new courses are introduced which will require legal input into their curriculum. Under this system, the Law School decides the level of legal input in the other courses. Thus, the Law School exercises a strict control over the teaching of law in all schools in ITM to ensure that proper standard is maintained. For this reason we maintain a big faculty. We now have a total of fifty-eight law teachers in the School, not including those employed on part-time basis.

The Role within the Legal Profession

The role of the ITM Law School within the legal profession is to train lawyers for private legal practice, the Judicial and Legal Service and also for the corporate and private sectors. When the Law School was established in 1967, the main activity was to prepare students to sit for the external examination of the University of London LL.B degree. At the same time, the School was also involved in providing legal knowledge to students.
following professional courses in other disciplines as mentioned earlier.

In the London LL.B external program, the School produced forty-two graduates. By 1980, the program was discontinued and replaced by our own program, the Diploma in Law. Of these forty-two graduates, most of them proceeded to sit for the Bar examinations in London and are now in private practice. Those who did not complete the course here went over to London to complete it.

With the introduction of our own law programs, namely the Diploma in Law in 1980 and Advanced Diploma in Law in 1984, the School has assumed a new role in providing more places to train students to be para legal and professional lawyers. By June 1992, the School has produced six hundred and forty-four graduates in the Diploma in Law and two hundred and seventy-nine graduates in the Advanced Diploma in Law. These students are now employed in the government and private sectors and most of the Advanced Diploma students are either in the Legal and Judicial Service or in private practice.

To ensure that the proper standard is maintained, the students enrollment has been kept small and the enrolment into the Advanced Diploma program has always been thirty students per intake. At the same time, external examiners are appointed to review the students academic performance to ensure the proper standard is maintained.

The Role Towards the Society

As far as the society and the nation as a whole is concerned, ITM Law School has a special role to perform, that is in the training of Bumiputra lawyers for the country. In line with the philosophy behind the setting up of ITM, the Law School has a special task of training legally qualified Bumiputras in the various sectors. It is in this regard that we have an important role to play in contributing to the government’s efforts to restructure the society under the New Economic Policy.

In 1978, the percentage of legally qualified Bumiputras in Peninsular Malaysia was only 23.2%. This figure does not reflect the actual percentage of bumiputras who are in private practice which is only about 19% as many legally qualified Bumiputras are employed in the government sector. It is hoped that the proper racial balance is achieved in the near future.

Another unique feature of the ITM Law School is that we also offer our courses to members of the public through part-time study. Since 1982, the School has started the off-campus law program where members of the public can enroll to study for the Diploma in Law. The idea is to give members
of the public, who are working people, the opportunity to study law where they did not have that opportunity in earlier after leaving school. This program is popular with government officers, police and army officers, bank executives, court staff and businessmen. Lectures are conducted in the evenings in the School premises by members of the faculty. The students sit for the same examinations together with our regular full-time students. However, because it is a part time course, the course duration is two years longer. Out of the six hundred and forty-four Diploma in Law graduates produced so far, one hundred and eighteen of them were following the course through this off-campus program and a number of them later enrolled and graduated from the Advanced Diploma in Law program. In recent enrolment exercises, the trend has been that we are getting more and more applications from non-law graduates who are employed but who want to have additional knowledge in the law or who want to improve their career. This program is expected to expand in the future. At the moment, we are, perhaps, the only government institution providing such a service to the public.

Another role played by the ITM Law School in society is in providing legal knowledge to the public through short courses on a specific area of the law, seminars and public lectures. The members of the faculty have been engaged in conducting courses and giving lectures to the following departments and institutions:

(a) Bank Negara
(b) Immigration Department
(c) Prison Department
(d) Police College
(e) Customs Department
(f) Petronas
(g) National Productivity Center
(h) Tourist Development Board
(i) FELDA

Some members of the faculty are also engaged in teaching at other universities and sitting in committees in the Ministry of Trade and Dewan Bahasa dan Pustaka.

The Future

While the Law School will continue to play the present role, it is
expected that it will assume new roles in the future in line with the
development in legal education and national development.

The provision of legal knowledge to the students in ITM following the
other professional courses is expected to expand as more and more new
courses will require legal input into their curriculum. Within the law
program itself, new subjects will be introduced as the law curriculum is
reviewed from time to time. There is also a plan to conduct courses for
higher degrees in law.

At the same time, members of the faculty have been encouraged to
conduct research and be more active in legal publication. With this
emphasis, it is hoped that the Law School can play a role by contributing to
the legal literature in the future.

The School will continue to provide legal knowledge to the public by
providing more specialized short courses and giving other services whenever
they are needed. There is also a proposal to set up a consultancy center for
law in the area of commerce. As a preparation, many members of the
faculty have been granted study leave to pursue higher degrees.

All these future plans can only be achieve with firm commitments of all
the members of the faculty. In the past, many plans remained as plans on
the drawing boards. One reason for this was the fact that many of the
faculty members have left the School for better opportunities elsewhere.

The future role of the Law School should not only be viewed from its
individualistic vision. It is submitted that more meaningful role can be
played if all the Law Schools can develop more and better cooperation.
Thus it is hoped that, for the future, more joint programs can be developed
and introduced for the common benefit of all concerned. The followings
may be considered;

(i) One such joint effort is to set up a consortium consisting of all the
law schools in the country. This consortium may then identify the
strength of each law school for the purpose of developing
specialization for each law school.

(ii) The government should also give better recognition to the resources and
expertise that are found in the law schools. Collectively there are vast
resources in terms of materials and expertise in the law schools and it
is quite disheartening sometimes to know that foreign experts are
consulted upon instead of using the services of the experts locally.
Perhaps it is not too early to suggest, at this stage, for the
establishment of an institute for legal research as has been done in

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many countries including our neighboring countries. This institute can be entrusted with the development of the law including law revision. To staff the institute, members from various law faculties can be seconded to it depending on the needed expertise.

(iii) Lastly, the law schools also need the support and cooperation from the legal profession. There can be more active participation by members of the legal profession in part-time teaching, sitting in advisory panels and acting as external examiners. On the other hand, Law Schools would also benefit in joint programs such as clinical legal education and legal aid.

Conclusion

In the final analysis, the question of what role should a law school play should depend on the question of what role can law play in the society. It is obvious, however, that law is an important tool for social engineering. Apart from ensuring social justice in the society, law can be used to promote social changes for development.

In the light of the Government’s plan to develop the country there has to be changes. Thus, Law Schools should always be responsive to these changes in order to play its proper role in society.

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Sumbangan darah anda menolong jiwa sesama manusia

IKLAN PELAYANAN "HUKUM dan PEMBANGUNAN" untuk PMI

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