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**LEGAL EDUCATION IN GHANA: INTERNATIONAL AND LOCAL**  
**DIMENSIONS**  
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**Introduction**

While all countries need to find a balance between local and international elements in legal education, it is my general impression that in many countries the international and transnational dimensions of law are not given sufficient weight in legal education programmes. Accordingly, the theme for my address today is that legal education should pay more attention to international and transnational dimensions than is customary now in many of our legal systems. Legal educators everywhere, to my mind, need to work seriously to redress any imbalance. In this address, I will use Ghana to illustrate this general theme and to focus attention on the more general discussion which should take place in legal education circles regarding the right balance to be struck between local and international considerations. This address is intended to provoke a debate on what that right balance should be.

My speech will briefly consider some of the local and international aspects of legal education in Ghana. It then goes on to examine the issue of what more is

needed to give Ghanaian legal education a transnational element that is fit for purpose in the twenty-first century.

Except perhaps in the largest jurisdictions, studying the common law has an international dimension. For a small to medium jurisdiction such as the Ghanaian, many of the issues for which the common law has fashioned answers may not have arisen in local litigation. Accordingly, the case law of other common law jurisdictions has to be studied to fill the gaps in the local case law. On the other hand, right from the date of introduction of English law into the Ghanaian jurisdiction, the colonial authorities preserved the application of the indigenous customary law. That body of law is local to Ghana and plays its role alongside the common law in the Ghanaian legal system. Additionally, there is, of course, Ghanaian legislation. The country's resultant pluralistic legal system implies that there are both international and local elements that any system of legal education for Ghana will have to incorporate. This is quite apart from the need to study public international law, private international law and the various elements of transnational law. It is clear that merely teaching the common law from other jurisdictions, the local common and customary law and local statutory and constitutional law in Ghana would not amount to delivering a transnational legal education in the country. More transnationalism in educational perspectives is needed because of the increased interdependence in the modern world on international trade and investment, increased social interaction across national boundaries and political cross-penetration.

### **The Origins of Legal Education in Ghana**

The modern legal profession in Ghana, trained in the common law, dates back to the late nineteenth century. The formal reception of English law into the then Gold Coast was in 1876 by the Supreme Court Ordinance, 1876. Initially some

Ghanaians were allowed to practise before the local colonial courts without any formal legal training. Soon however, young Ghanaians went to the Inns of Court in London for legal training as barristers and returned to practise before the local courts. Professional legal training remained an overseas activity for Ghanaian lawyers until late 1958, when the Ghana Law School was established.

The origins of legal education in Ghana today, therefore, are traceable to the establishment of the Ghana Law School. That School, although local, had an international dimension right from the start as the moving spirit behind its establishment was Geoffrey Bing, QC, an English barrister and former Member of the UK Parliament, who was the then Attorney-General of Ghana. Thus, although the Ghana Law School constituted the first attempt to localise the training of lawyers in Ghana, it was introduced through a foreign protagonist. Among the reasons advanced by Bing for championing the establishment of the Ghana Law School was the need to increase the supply of lawyers in the country and to provide an opportunity for able Ghanaians to study for legal qualification part-time in the evenings. The Ghana Law School provided non-University part-time legal education for those who could not make it to the United Kingdom for legal training. Bing was also a political adviser of Dr. Kwame Nkrumah, Ghana's leader at Independence, and the political advantage to Nkrumah of diluting the ranks of the British trained lawyers, who tended to be conservative and opposed to Nkrumah, with a supply of locally trained ones would not have been lost on him.

The origins of university-based legal education in Ghana are traceable to a decision by the Council of the University College of the Gold Coast in 1956 to establish a Department of Law. The appointment by the Ghana Government of an International Advisory Committee, comprising Professors L.C.B. Gower of the London School of Economics, Zelman Cowen, a Vice-Chancellor of an Australian University and Arthur Sutherland of the Harvard Law School,

facilitated the implementation of this decision. The Committee produced a Report on Legal Education in Ghana which recommended two routes to the practice of law in the country. One route was through a four-year LL.B degree programme at the University, followed by a year's practical training at the Ghana School of Law. The other route was through a diploma programme offered by the Ghana School of Law, followed by the year's practical training at the same institution.

The Department of Law at the University College of Ghana was established in 1958 and admitted its first students in October 1959. It later became the Faculty of Law in 1962, after the University College of Ghana became the independent University of Ghana. The two institutions: namely, the Faculty of Law at the University of Ghana and the Ghana School of Law, have played critical roles in establishing legal education in Ghana, combining local and international dimensions.

### **Interplay between English and American Influences on Ghanaian Legal Education**

International influence on Ghanaian legal education has come principally from England and the United States of America. The first Head of the Department of Law at the University College of Ghana was an English solicitor, Professor Lang. He was also the first Director of Legal Education appointed by the General Legal Council, the regulator of the legal profession in Ghana, to take charge of the Ghana School of Law. He served for about two years. His approach to legal education was naturally derived from his country of origin. He established a system of lectures and tutorials at the University. He was succeeded in both his roles in the University and at the Ghana Law School by Professor William Burnett Harvey, an American from Michigan University.

Professor Harvey was quite critical of the system of instruction that was in place before his assumption of office. He thought that it relied excessively on the learning of rules and doctrines. While he accepted that a certain level of information about rules and doctrines was inevitable in legal education, he did not consider the learning of such information to be the principal objective of legal education. Rather, his view was that what was critical were the skills of case analysis, statutory interpretation and the ability to develop useful doctrinal generalisations from prior experience. These skills he did not consider could be communicated through lectures to which students were mere listeners. Students needed to be more active participants in class and needed to prepare before lessons. In short, he was in favour of the Socratic method widely in practice in the US. His view was that students developed by performing or attempting to perform lawyer's tasks under the guidance of the law teacher. The law teacher's task was to organise the cases and other materials to stimulate the student to sharpen his analytical skills.

These contrasting pedagogical approaches to legal education, those of Professors Lang and Harvey, have continued to compete even in contemporary Ghana. The didactic lecture remains in competition with the Socratic method. It is for individual lecturers to determine what particular pedagogical methods to adopt. When I taught contract law to first year students at the Faculty of Law at the University of Ghana in the 1970s, I deployed the Socratic method, because of my experience as a student at the Yale Law School. Some other lecturers used the straight lecture method, although even in lectures students were allowed, and even encouraged, to ask questions. This eclecticism took place within the context of a legal education programme which was itself eclectic. The lecture method, however, appears to have won against the Socratic method, as the main method of instruction in Ghanaian institutions of legal education today.

The Ghanaian legal education programme, championed by Dean Harvey and put in place after the amendment of Professor Lang's initial programme, was justified by a position paper dated October 1962, from the Law Faculty in the following terms:

“4. The circumstances of certain of the new countries may justify “crash programs” for the training of minimally qualified legal technicians. We see no persuasive evidence that these circumstances obtain in Ghana today. Therefore, in projecting its program, Ghana is entitled to concentrate on the production of lawyers who are soundly and liberally educated, entitled to full acceptance and respect in the international legal community.

5. No existing system of legal education provides a model fully responsive to Ghana's conditions and needs. British University education in law, which achieves magnificently in the development of analytical skills and historical perspective, can perhaps afford to be extremely non-professional in view of the ancient instructional programs of the Inns as well as the pre-professional apprenticeships and courses of study required of solicitors. In America the University law schools long tended toward excessive, narrowing professionalism. A high degree of professionalism can be defended there, however, in view of the fact that law is post-graduate education, the student having pursued his general studies beyond the secondary school level and very commonly having earned a B.A. or equivalent degree before entering law school. The German system involves an interesting combination of legal and non-legal instruction. The Universities are able, however, to shape their programs in reliance on the student's having three years of referendar study and practical observation after leaving the University and before entering his profession. Thus the underlying assumptions of the various foreign

models are not valid in Ghana. This country must devise its own model, borrowing from abroad whatsoever is useful but feeling no initial commitment to any pattern merely on the basis of familiarity.”

This justification for the system of legal education proposed by the Law Faculty and adopted by the University and the General Legal Council explains also the current legal education system in Ghana, although it has been tweaked and has evolved since those early heady days of 1962. From its early days, the Ghanaian legal education system was, and has remained, customised to Ghanaian needs. A relevant fact is that there was an early Ghanaianisation of the Law Faculty because a dispute broke out between the Ghana Government and Dean Harvey and some of the American law teachers who had been recruited by him. This led to a mass departure of most of them in 1963. The predominance of Ghanaians on the Law Faculty, subsequently, meant that there was consolidation of the customisation of the legal education programme to Ghanaian needs.

### **Current State of Legal Education In Ghana**

Ghana’s legal education provision has now evolved beyond the two original institutions described above. Legal education providers now include four public universities as well as several privately-owned university colleges. The four public universities are: University of Ghana, Kwame Nkrumah University of Science and Technology (“KNUST”) in Kumasi, Cape Coast University, and the Ghana Institute of Management and Public Administration (or GIMPA). The privately-owned Colleges, which are all affiliated to the KNUST Law Faculty, are: Mount Crest University College, Central University College, Wisconsin University College and Kaaf University College. Other privately-owned institutions, such as Zenith University College and the Empire African Institute, prepare students to sit for external LL.B degrees of the University of London, under its International Programmes. Lancaster

University Ghana also runs a programme for a Lancaster degree and another privately-owned college prepares students for a London Metropolitan University LL.B degree. The original Ghana School of Law has also now grown and has three campuses for the professional/vocational training of lawyers.

The curriculum of the University of Ghana's School of Law (formerly the Law Faculty) may be used as a microcosm of that of the other institutions of legal education in Ghana. (The Faculty of Law of the University of Ghana was renamed "the School of Law" this year after an internal restructuring of the University.) Both the curriculum put in place under the leadership of Professor Harvey in 1962 and that which preceded it, under the leadership of Professor Lang, included subjects of transnational import: namely, comparative law, conflict of laws and public international law. These subjects are of even greater relevance in the contemporary more globalised legal world. Although, ideally, Law Faculties and Law Schools currently need to pay more attention to legal systems beyond their own domestic law, unfortunately, in contemporary Ghana, imparting knowledge of the domestic legal system has predominated over expanding education on transnational law.

Thus, comparative law, for instance, has virtually disappeared from the LL.B curriculum of the University of Ghana's School of Law. Although it is nominally in the syllabus, it is not taught. This is a pity since comparative law, as we all know, is the systematic study and comparison of different legal systems. The methods evolved in this discipline provide a useful tool for expanding the transnational dimensions of legal education. There is, however, some countervailing progress in the School of Law's introduction of some more detailed courses of transnational interest such as: international trade and investment law, natural resources law, environmental law and international

human rights law. Public international law and conflict of laws also remain on the curriculum.

The full curriculum for the LL.B degree at the University of Ghana comprises: Ghana Legal System, Legal Method, Law of Contract, Constitutional Law, Torts, Immovable Property, Criminal Law, Public International Law, Administrative Law, Jurisprudence, Equity, Law of Succession, International Trade and Investment Law, Natural Resources Law, Intellectual Property Law, Conflict of Laws, Commercial Law, International Human Rights Law, Gender and the Law, Environmental Law, Criminology, ADR, Taxation, International Human Rights Law, English for Law Students and Logic for Law Students. There is thus little doubt that subjects dealing with domestic Ghanaian law predominate.

The Law Faculties of sister Ghanaian Universities and University Colleges follow a similar trend. In addition, KNUST and Cape Coast Universities incorporate elements of professional skills training in their curricula. The KNUST curriculum, by way of further illustration, offers the following subjects: Ghana Legal System and Method, Constitutional Law, Law of Contract, Law of Torts, Criminal Law, Land Law, Equity and Trusts, Administrative Law, Introduction to Trial Advocacy, Conflict of Laws, Commercial Law, Public International Law, Jurisprudence, Legal English and Study Skills, Legal Drafting, Analytical and Research Skills, Law Clinic and Environmental Law. There are also electives including: Intellectual Property Law, Labour Law, Law of Evidence, Revenue and Taxation Law, International Human Rights Law, International Trade and Investment Law, Medical Law and Ethics, Petroleum and Natural Resources Law, Criminology, Family Law, Sports Law, Computers and the Law and Gender and the Law.

## **Transnationalism**

The issue which arises is whether the need of many Ghanaian lawyers for transnational legal skills is adequately addressed by the existing local legal education system. This is an issue that probably confronts many other legal systems.

To equip lawyers trained in Ghana with the skills needed to succeed in the modern international market place and in the socially and politically interwoven world that we inhabit, the Ghanaian institutions of higher learning which teach law should systematically consider the international and transnational dimensions of law and embody imaginative elements in their curricula. This is an issue which is probably a live one for most of the jurisdictions represented here. There is thus currently a great opportunity for imaginative curriculum development to meet the needs of the contemporary world. This opportunity needs to be seized by legal educators such as those gathered here today. How you do it is best left to you. My task is merely to highlight the need for it. We need to take to heart the credible argument that has been made by comparatists for years, namely that comparative law teaches respect for legal cultures of other peoples, through which students eventually come to understand their own domestic law better. Quite apart from such respect, I consider that an expanded teaching of comparative law should help in a better functioning of the legal transactions and activities of our globalised world.

Since the late 1950s and the early 1960s when the rudiments of the legal education system in Ghana were laid down, the world has become much more interconnected technologically, economically and politically. Legal education in Ghana and elsewhere has to respond to this more globalised context. It is no longer adequate to teach conflict of laws and public international law in the traditional fashion. Students need to be made aware of new developments, such as the creation of parallel law by international arbitrators which does not

necessarily coincide with the law that issues from state institutions such as municipal courts and international courts. Law students need to be equipped with the skills to deal with this arbitral law and similar phenomena.

In view of the above, restoring the teaching of comparative law in Ghanaian legal education institutions is an important part of the required strategy for giving greater emphasis to the transnational dimensions of law. Comparative legal studies are, in my view, an essential part of the international dimensions of Ghanaian legal education which need to be given a boost. Unfortunately, the training of Ghanaian comparative law teachers has been problematic, since not enough people have been attracted into this specialisation. More needs to be done to encourage young graduates to specialise in comparative law. Comparative law introduces students to legal concepts and methods different from what they are used to in their domestic legal system. It thus enables them to understand better the viewpoint of lawyers from other jurisdictions with whom they have to interact in the contemporary globalised milieu. A trend seems to be evolving by which comparative law courses are taught at the postgraduate level in some Ghanaian institutions. For instance, the Faculty of Law at Kwame Nkrumah University of Science and Technology has recently proposed to the National Accreditation Board an LL.M programme which includes a course in Comparative Constitutional Law, besides courses in international law and municipal law.

Another way of infusing comparative law dimensions into the curriculum is to integrate comparative law aspects into the teaching of the main bread and butter LL.B subjects, such as contract and torts. For this to happen, however, the teachers of these subjects must themselves have a degree of comparative law education.

It is worth mentioning that the curriculum for the Lancaster University Law School, Ghana, includes a course on Introduction to Comparative Law and also

Courts, Law and Politics in Comparative Perspectives. The University of London International Programmes LL.B curriculum also includes a course on “Introduction to Islamic Law,” but none on general comparative law. Thus, apart from the Lancaster University Law School in Ghana, my critique of the curricula of legal education providers in Ghana applies also to the non-Ghanaian providers.

Beyond comparative law, there should be an endeavour to view law more transnationally and to reflect this transnational view in legal education. States cannot afford to be islands unto themselves, so to speak, legally. This is probably true of all States these days. I understand transnational law to be the aggregation of international law and domestic law (both of host states and foreign states) applicable to cross-border cases, problems and issues. Increasingly, in these contemporary times, such law may be “soft law”, in the sense that the norms applicable to particular problems or issues may not be made by State institutions, such as Parliaments or courts, but by private entities such as commercial arbitral tribunals, industry-wide rule making bodies, or by particular companies through the corporate best practices they have accepted. Greater effort should be made to make students aware of the hard and soft law which make up transnational law. Students need to be introduced to the output of bodies such as UNIDROIT (the International Institute for the Unification of Private Law) and UNCITRAL (the United Nations Commission on International Trade Law), the decisions of regional bodies such as the African Court of Human and People’s Rights, the European Court of Justice, the Inter-American Court of Human Rights, the Directives and Regulations of the European Union, the decisions of arbitral tribunals set up by the International Chamber of Commerce and ICSID (the International Centre for the Settlement of Investment Disputes), and so on.

It has become trendy to speak, in some circles, of “global governance”. By this is meant that a combination of hard and soft law across borders increasingly governs important aspects of the modern world. To understand how this governance works, prospective lawyers have got to be educated to be able to decipher the various standards and rules laid down by both formal and informal networks of both domestic and international governmental and non-governmental institutions.

## **CONCLUSION**

In short, the local elements of legal education in Ghana are well taken care of in the curricula of the local institutions of legal education, with the exception of those that teach for external degrees whose awarding institutions cannot be expected to customise their degrees to the needs of Ghana. However, there is need for Ghanaian legal education providers to raise their game in relation to the international dimensions of legal education. There needs to be a revival of comparative law and greater emphasis on transnational law in an endeavour to equip students with the knowledge and skills needed to solve contemporary legal problems of a globalised world. What the right balance is between domestic and transnational/international law is the subject for a debate that will continue. I hope that this address has drawn attention to the need for that debate.