

## Role of the Law Schools in Terms of Professional Ethics

*transcribed plenary speech of*  
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What do you mean by the practice of law, the legal dictionary says that the "practice of law is the professional task performed by the lawyers in their offices or in court or in day to day basis". It also says the practice of law depend on lawyers having clubs that is actually very narrow definition of the practice of law. It just relates to the way lawyers function with clients and it can be questioned whether that definition is a very narrow definition and whether lawyers should have a wider function towards society, towards the community. The theme of this conference is professionalism for national development. So it is pertinent to pose the question if we see the practice of law in such a narrow way whether our lawyers really fulfilling their responsibility at a national level.

At the Howard law school there is specialized sector on the legal profession so they think the study of the legal profession itself is something very important and this is the report it's called "lawyers as professionals and citizens key roles and responsibilities of the 20<sup>th</sup> century". This has generated a lot of debate in US where they also looking at the question on what is the role of lawyers is, what do you mean by professionalism among lawyers The earlier definition on practice of law said the lawyer must have client and it is what the lawyer does in court or his office so on, Now the aforementioned report has a very interesting definition of the role of lawyers and it says the lawyer should be an expert technician, a wise councilor and an effective leader and then it goes on to say that in fulfilling these roles the lawyers have four ethical responsibilities and these are responsibilities to their client and stakeholders (obviously) , also responsibilities to the legal system, responsibilities to institutions and responsibilities to society at large. We are taking a much wider definition on what the practice of law is and what the roles and responsibilities of the lawyers are, The report says that, if you read the report it discusses this argument in the context of companies and law firms and law school unlike the way the lawyers practice here independently. It will be focused on the role of law schools, the role of law teachers and how we fulfill our responsibilities. Many of us tend to forget that law teachers are also a part of the legal profession and the reason they are often not counted as a part of the legal profession is that most

of them don't go to court and not allowed to. They don't even do counseling and there are many law teachers who haven't even joined the bar although they have PHD s in law. But generally it has been acknowledged that they are the branch of the legal profession and our function or practice of law is to teach the law and train future lawyer. Weeramanthri J. says in his book called ' an Invitation to Law' it is stated that

" the legal profession is seen not as a two way but as a three way partnership in which the academic branch of the profession is by no means the least important " .

He had stated that the academic branch of the profession is the law teachers and the law schools and we are not the least important branch of the legal profession. If they are also a branch of the legal profession as law practitioners they practice by teaching that they also have to be expert technicians, wise councilors and effective leaders and also have responsibilities to clients which are the students, to the legal system, to the institutions and to the society at large. The question I would like to put forward is how law teachers and law schools , how are we carrying out to this function and are we producing graduates who in turn has fulfilled this roles and responsibilities. When doing that obviously first of all we must have the capacity to fulfill our own role. We ourselves need to be expert technicians which means we need to be able to teach, we need to maintain our own academic standards, we have responsibilities to our institution which is to a university or a law school, we have to be innovative and creative in teaching students. Teaching you not just the basics of law but teaching skills and these skills include the skills commonly required of a lawyer such as analytical reasoning, problem solving abilities, reading and writing skills, research presentation skills in fact I think if we look hard at our curriculum most law schools we tend to concentrate on teaching the substance of law rather than teaching skills. There are many reasons for this since we work under certain concentrates but that is something that we have to think about. But the whole mark of a lawyer is not just being an expert technician and I think the more difficult question is, are we teaching lawyers are we producing lawyers who can be wise councilors and effective leaders and I think this is where the national question comes in

to play here. Are we inculcating that kind of professionalism in lawyers as that we produce that they will contribute to national development? Now to be an expert technician you need certain skills which I mention few of them earlier but to become a wise councilor and an effective leader lawyers need more than that, they need to develop consciousness of their ethical responsibilities as the previous speaker said not only to their clients but to a wider community. I am looking at the practice of law beyond clients, to something as the role that the lawyers play in the wider community and in society at large. So they need to be prepared to fulfill their responsibilities even when they are not actually interrupting in clients. Here I would like to quote from the speech given by Sandra Conner a current judge of the supreme court she said this many years ago it is relevant to us too. She said it is my belief that the dialogue appropriate to teaching ethics, morality and the law would transcend the discussion limited to the code of professional responsibility. To a large extent the court merely focuses on what a lawyer should not do as a practitioner such guidelines are no longer necessary but they do not address the broader aspect what a good lawyer should do to live up to the ideal of legal profession. So she says the code of ethics of lawyers which is very important as Dr. Costa was telling you about but nevertheless that code I think focuses mainly on the lawyer client relationship and what a lawyer does in court but it does not focus on what a lawyer should not do. It does not address the wider aspect of what lawyers ought to do to contribute to society at large. Now to illustrate my point I would like to share an anecdote. In a law school Some students were asked to interview a practicing lawyers and find out 18<sup>th</sup> amendment to the constitution. They came back and told their teachers most of them lawyers, many of them senior lawyers said we are not interested to the 18<sup>th</sup> amendment to the constitution we practice family law, land law or labor law, we are not constitutional lawyers so we do not know what the 18<sup>th</sup> amendment to the constitution is because they are not interested. Now the student came back very discouraged and very disheartened at the response and there we need to ask ourselves a question what kind of lawyers are we turning out who can say that they are not interested on what a constitutional amendment all about and it was that anecdote actually made me think about what kind of lawyers are we turning out. And I think personally as a law teacher we have failed somewhere down the line if we are producing lawyers who are saying that. We have probably taught them to be good

technicians, good lawyers, we have probably taught them fundamentals of family law or whatever they are practicing and they probably having a good practice but does it stop there? Should we go beyond that? In inculcating certain ethical responsibilities in our students. Now again I would like to quote justice Sandra conner, she said law schools must instill in their students a consciousness of the moral and social responsibilities that they owe not only to their clients but to society at large and may be this is the crucial aspect of legal education that we are missing here. And as we all know we are currently at a very critical stage, we have ended a 30 year war and now its being six years since we ended and we have had a very difficult time and there have been problems which are very relevant to lawyers; constitutional amendments, threats to the judiciary , breakdown of the rule of law , violations of human rights, and I would like to say that the lawyers as a whole and the bar association we have now taken an active role in that. But I am questioning whether lawyers as a whole across the country still had that moral consciousness and felt that they had an ethical duty to fulfil their responsibilities to national development and whether we train our graduates to give them that sense of responsibility. So the question I would like to ask, though I don't have immediate answers as the law teachers in law schools how do we address this issue. I think we need to take a current review of our curriculum. Now currently we teach state law. Should we go for a more inter disciplinary basis? for example we teach criminal law but we don't teach sentencing policy and what do we have we have judges who give a spitted sentence for rape, for child abuse for child rape and they sentence people to prison for may be stealing few rupees. We are teaching constitutional law but we are not teaching political theory. We are not putting that law in context. And I think it is one aspect that we really have to look at. We also have to look at teaching more skills. I think kothalawela defense academy has revised and Peradeniya law department also is bringing adequate disciplinary focus into the law curriculum some of us are not constrained but maybe we should take a holistic issue approach to it and I would like to suggest that the council of legal education which currently alidades with Sri Lanka law college should take a more holistic issue to legal education in the country so that we can pool our recourses and have commonly look at the curriculum , the way we teach law to inculcate more professionalism in the legal profession which will contribute to national development.