

# **LAS-2 'Do you consider that the current system of legal education and training can provide the lawyers that this country needs?'**

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## Introduction

In this essay I will explore and contemplate the methods in the English Legal System and whether the current Legal Education and Training supplied to Law Students is adequate to provide this country with the lawyers that it requires. In recent years there have been many changes in the methods used to train our lawyers; this is because our nation needs a Justice system that is constantly being reviewed and bettered to ensure that our society is being benefitted.

I will be investigating whether the existing training provided to our Barristers and Solicitors is delivering the high standard of qualities that are desirable in our lawyers, they must have a vast knowledge of the current legal legislations that must constantly be updated, with also a sufficient amount of work experience and practical work. They must benefit the public being cost efficient, having good communication skills and having a dependable and reliable protection for the client against the large legal corporations. This ensures that the public get a fair representation and that there are regulations put in place so that everyone retrieves an impartial representation despite their class, income or whether the lawyer believes that their case stands.

## Criticisms of the training of Lawyers

Our Country is individual in having two types of lawyers; these are the barristers and solicitors, who are each specialised in their own individual fields of work, which therefore gives our system a larger spectrum of professionals. However to regulate and control their work they both have their own independent governing bodies; the Solicitors are controlled by the Law Society and the Barristers by the Bar Council.

The current system for the training of lawyers and solicitors are quite similar, usually the student enters the course with a Law degree; however those with a degree in another subject can take another route and do an extra year in core legal subjects, there is some criticism over this as they actually only do one year of formal law, compared to the first three years which the graduates take in the degree. In practice a considerably high 25% of solicitors will not have taken a law degree but entered through the one year course, the CPE, Common Professional Examination. Many question how a one year course can substitute a full Law degree and how the graduates can obtain the full legal knowledge needed to become a successful lawyer within this short amount of time and whether the students understand fully the background of the Law degree, or whether they learn just the items necessary to pass the exam. Another problem which occurs with the training process of solicitors is the financial issues, in most cases the students will have to pay for the course and support themselves throughout; this will cause a high per cent of students in debt when they have finished the course. In addition they would have to have paid for their university fees along with the LPC (Legal Practice Course) which cost around £7000 (in 2010). If the student has already received a degree, however not in Law and they decide to take the CPE they will also have to pay for this. This may prevent many bright and talented students obtaining a degree if they are from poorer

backgrounds and their families cannot pay the fees. And as a higher per cent of the students would arrive out of their training with huge debts as in recent years the university fees have been dramatically increased, many universities have started offering a practical based and law qualification combined degree, this will ensure that the student is receiving all the qualifications and knowledge however they will also be working part time gaining experience as well as being able to pay off the university debt. The students who will take the CPE can select the longer two year course in which they will be gaining practical experience as well as working part time to ease their financial condition. Another problem that potential solicitors face is that once they have passed the Legal Practice Course, due to over-supply, many applicants cannot get places in a training course.

### Training of Lawyers

#### Fusion

There have been increased calls for a common training syllabus to be put in place, however despite all the recommendations the training is still separate, many believe that the fusion of both professions would be a positive, as in the medical career where the doctor at the end of the 6 years training can specialize in different fields. The positive sides of a potential fusion of both solicitors and barristers are thought to be efficient for the client as the costs would be reduced as only one professional is used, not both individual fees for the solicitor and barrister. More continuity as the same person would deal with the one case; this will benefit the client as they do not need to deal with many different people that will be confusing and they know that the one person is dealing with their case and committing fully to it and that the lawyer will know all the details of what happened in court and not another person's interpretation of what occurred. And also less duplication of paperwork as it wouldn't be necessary for a solicitor to prepare the case then to pass it onto the barrister to present. Since the 1970's the Ormrod Committee who are in charge of investigating about all the legal professions, were in favour of a common education for a potential lawyers, also the Lord Chancellor's 'Advisory committee on Legal Education' in 1994 recommended a similar notion, which would see the two professions having joint training; all those qualifying would then work for six months to a year at a solicitors firm or at the Bar. However despite these recommendations the training and work remains separate as the negatives of the fusions were seen to outweigh the positives; the specialist skill of advocacy would be lost as all solicitors are only giving rights of advocacy in the Magistrates Courts and their right of audience in court is very limited. However one of the tasks of the barristers is to speak in court so they specialize thoroughly in this aspect. A loss of independence of the Bar would also be produced and the lack of advice from specialist barristers would be lost, as they study specific areas of law related to their future profession during their early training on the Bar Professional Training Course. The barrister is used in the case as a second opinion so therefore fewer objections in consideration to the cases, as one lawyer would not usually see alternative points of view. Finally the loss of 'Cab Rank' which was designed to benefit the public, this meant that barristers who are free cannot turn down a case if it is on the area of law they operate in, even if they believe the case will not stand in court; this ensures that everyone is represented fairly. However these terms do not apply if a client directly approaches a barrister, then they can turn down a case if they believe that the case will involve investigation or support they cannot supply.

#### Solicitors

As this essay has already explored our country has two types of lawyers, this is a distinct characteristic of our Legal System, this gives our country a wider spectrum of professionals that all specialize in their own fields, which is an advantage and gives us many people to assist us in the rarer serious cases. The Legal System consists of both Solicitors and Barristers, they both work in their individual fields and their training is different. To enter the Law Profession usually most students enter with a Law degree obtained at university, however as already explained some students enter through a CPE. After passing then if you are training to become a solicitor you go on to take the Legal Practice Course and is very practical based after plenty of adaptations of the course leading it to be more based on management and keeping accounts. Once they have completed this LPC the trainees are still not fully qualified solicitors, first they must obtain a training contract with a solicitors firm which will last two years. They will be learning the essential general practice skills that they will be able to use when qualified and they will be paid at a lower rate; they will do their own independent work supervised by a qualified solicitor. This work experience can also be carried out at other legal organisations such as the Crown Prosecution Service. In addition based on the skills the LPC the trainees have to complete a 20 day Professional Skills Course. Then they will be admitted as a solicitor by the Law Society onto the roll. However after qualifying all solicitors have to attend education courses to ensure that they are up to date on the current legal legislations.

These are all very positive aspects on the training of Solicitors, they have to go through years of training, they have training in all aspect of law, at university they explore the theory of law and once they have a law degree they put all this training in practice along with learning loads of other skills which are essential to their work to be effective. I believe that the public will benefit from this method of training as the lawyers are getting trained in both aspect of the work they will be doing, and they are getting supervised during their 2 year training however they are working independently, this will prepare them for work in a similar, if not the same Solicitor's Firm. However I believe that to acquire all the skills and knowledge to work as a solicitor that this training period isn't long enough, the educational, vocational and professional stages of this course should all be lengthen to ensure that the standards of lawyers is higher.

Once a solicitor is put on the Roll by the Law Society they will usually work in a private practice in a Solicitors firm, however other job placements are available for newly-qualified solicitors, they should of already decided where they are thinking of working due to the 2 years training, whether in a solicitors firm, the Crown Prosecution or other legal or governmental departments. And this will affect the work that they do. Usually solicitors will practice advising clients in a Solicitor Firm, and on a vast range of topics, these will include consumer and family problems and also housing and business matter. Some solicitors will spend much of their time interviewing and negotiating for clients and also doing a lot of paperwork including writing letters on the clients' behalf, drafting legal documents such as leases, contracts and wills. They might also deal with the legal side of housing, the buying and selling of properties which is called conveyancing.

### Barristers

A large per cent of Barristers start with a law degree but the CPE is also available for graduates in other degrees however a small number of students qualify for it. Once the students have obtain one of these they then will go onto take the Bar Professional Training Course, on this course they will study case preparation and legal research, written skills, opinion writing which involves giving their

opinion as they usually give a second opinion on cases. Drafting documents such as claim forms and conference skills, negotiation and advocacy will all be studied also. Students then have the chance to study more in depth the area of law they want to specialize in, such as civil litigation, criminal litigation and the law of evidence. All students must join one of the 4 inns that are all based around the London area either the Inner Temple, Middle Temple, the Grey's Inn or the Lincoln's Inn. Once the trainee has completed the BPTC then they begin Pupillage, which is similar to the 2 year contract training that the trainee solicitors complete. They focus on the actual work a barrister does after shadow a barrister and observe the work what they do. They are paid a smaller wage than a qualified barrister would be by the chamber they are assigned to, however this will significantly help them to pay off any university fees and feel like they are getting the closest work experience they can. After completing their pupillage the Barrister is fully qualified and works self-employed, but from a set of chambers. Most chambers are fairly small and consist of 15-20 barristers; however for newly-qualified barrister many find difficulties in finding a tendency in a chamber. However many will 'squat' according to *'The English Legal System'* for 3 months unofficially as a tenant before receiving a place. It used to be that all Barristers had to work from a Chamber however the rules have been relaxed therefore making it acceptable to work from home, however it is viewed to build a successful practice in the career that a Barrister must obtain a seat in a chamber. The work that a barrister will do is most advocacy (speaking in court) although there are many lawyers that specialize in tax and company law; these will hardly ever appear in court however they will do mostly paperwork including drafting documents for court, giving advice and second opinions on cases. I believe that the training that Barristers are retrieving is good; they are also giving training in both the educational and practical side of law to ensure that they hold both the sets of skills required to function successfully as a Barrister. They have similar methods of training as the solicitors do however one criticism of their training is that they are only taught advocacy in the latter stages of their training after their university course. In most lawyers the biggest percentage of their work is speaking in court, and this advocacy is only taught to them in the BVC, some argue that as this is the biggest skill needed in their profession and although the barrister may have all the confidence in their knowledge of the legal research for the case, actually speaking and presenting it in court is a whole other skill and experience which needs to be mastered to become a successful lawyer. However the arguments against this is that if they are taught Advocacy in University, for students who do not want to become a lawyer then this skill is wasted, also for students for are training to become solicitors as their rights of audience are very limited and they can only speaking in the inferior Courts.

### Accessibility to the public

As our Nation is increasing in the diversity of races, cultures and classes, the legal profession is failing to do adapt to our changing country, which is leading the Legal system to be out of touch with the real world. An important quality to have as a lawyer is to be accessible to the public, which allows the public to be confident with their lawyer and how they will handle their case. I would guess that the 'stern, middle aged, middle class man' image of a lawyer would come into the minds of most people when you mention the word lawyer. I believe many would find it intimidating discussing their private lives and problems with a lawyer, especially women and ethnic minorities as there is fewer numbers of lawyers which are women or come from Em backgrounds. Also they would believe that the lawyers cannot fully empathise their case as most lawyers would be from similar background,

middle class, well educated and financially stable; this could lead to some prejudgments of some people depending on the cases which are brought forward.

### Women and Ethnic Minorities in the Legal Profession

Women are forming an increasing number of entrants of the profession, there is a greater number of women in both professions than there used to be; twenty years ago there was a very low number of women lawyers compared to the percentages today. They make up half the new entrants to the Bar and Law Society, 31% of members of The Bar and 42% of solicitors are women. An increased number of women are now studying law, however despite this there are very few women in the higher levels of the profession and most women tend to hold the lower positions such as assistant solicitors or junior partners. For those few women in the higher positions they are earning considerably less than their male equivalents, up to £15,000 less a year than a male in the same position. This is incredibly prejudiced and there is no explanation for this huge pay difference.

Ethnic minorities are beginning to be more fairly represented in the legal profession than they used to, within the last few years the number of entrants who are from ethnic minorities has noticeably increase. 22.6% of solicitors and 15% of barristers were from ethnic minority backgrounds.

Although the legal profession is slowly becoming more diverse there are still issues to tackle, only 12% of the Queen's Council is devised from women and those from ethnic minorities find it substantially harder to obtain a place on the QC. However this reflects that most women and EM are fairly new to the legal profession and therefore as ten years in practice has to be gained to be accepted into the QC, this could explain the reasons for the diminished numbers of women and ethnic minorities included.

### Conclusion

Referring back to the aim of this essay to investigate and consider whether the current existing Legal System in England is supplying our country with the lawyers that it requires, after researching further and considering all the methods that are supplied to our Law Students I believe that the current Legal System of training and education is not adequate enough to supply our country with lawyers that will be beneficial to the public. The reasons for believing this is that the training period overall for lawyers is too short for the student to acquire the knowledge and practice needed especially for the students who entered the CPE, who only receive one year's core legal education. Also the training costs are significantly high, which only allow certain members of the society to afford the training although there are many potentially successful legal minds who cannot simply afford the fees, this lends evidence to the perceived conception of the legal profession consisting of mostly white, middle class males. Lawyers need to be more accessible to the public and if the whole legal profession is consisting of this perception then it will be corrupt and out of touch with our real society which is made up from many different races, classes and cultures. Although the Legal profession is becoming more diverse I believe that it will take further adaptations to ensure that the public is being benefitted fully from our lawyers.

## *Essay Plan*

### Introduction

- What the essay is going to explore
- Qualities that are desirable in lawyers, legal knowledge, practical skills, cost-effectiveness, protection and abilities to use their skills to benefit everyone in the society fairly

### Criticism of the training of Lawyers

- The Bar Council and Law Society
- Briefly describe the current training
- Criticisms

### Fusion

- Fusion and joint Training
- Positive Points
  - Reduced costs
  - Less Duplication of paperwork
  - More continuity
- Negative Points
  - Loss of speciality, independence of the Bar
  - Loss of specialist skills of advocacy- describe
  - Loss of second opinion
  - Loss of Cab Rank, importance and explain the Cab Rule
- What lawyers are; barristers and solicitors
- Brief summary of the training and legal education of lawyers and their work

### Training of Lawyers

- Solicitors, basic training
- Barristers, basic training

### Accessibility to the Public

- 'White, Middle Aged, Middle Class'

### Women and Ethnic Minorities in the Legal Profession

- Women
- Ethnic minorities

### Conclusion