

Why Ghana's plans to reform its legal profession are flawed

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29 Oct 2019

The way Ghana produces lawyers is in a [confused](#) state. And it's beginning to be felt in the legal profession in general.



Image: The Supreme Court of Ghana has made ruling on legal education reform. Wikimedia Commons

The fact that the government has introduced a new bill aimed at reforming the framework on legal education – and the profession – should therefore be welcome news. But the proposed Legal Profession (Amendment) Bill 2018 doesn't address all the gaps. And it has serious flaws.

The General Legal Council, the body mandated to supervise the education of lawyers and to uphold standards of professional conduct and discipline, has tried to address some of the gaps in the bill by introducing some amendments. These aim to make changes to the requirements for pupillage and renewal of licences for lawyers, quotas for entrance examination and the establishment of the independent examination committee. The proposed changes also include provisions for disciplining legal practitioners.

In my view, the proposed amendments will simply make a bad situation worse. Fixing legal education in Ghana requires a more comprehensive amendment to the 1960 legislation. This requires a more comprehensive overhaul of the Legal Profession Act, 1960 to accommodate emerging trends in legal practice and education.

An outdated system

Since independence, only one institution has been responsible for the professional training of lawyers in Ghana – the Ghana School of Law. It admits graduates from the faculties of law for a two-year period. It teaches what have been described as “professional courses”. These include subjects such as civil procedure, criminal procedure and law of evidence.

Until 2003, the University of Ghana was the only academic institution offering the Bachelor of Law degree. But now there are over 14 institutions churning out thousands of law graduates. As a result, thousands of LLB graduates compete every year for limited places at the Ghana School of Law.

Overwhelmed with the numbers, the school introduced a competitive examination to select candidates for admission seven years ago. Its legal underpinning has been challenged in Ghana's Supreme Court.

In addition, the General Legal Council has introduced several changes to the professional training of law students. These have included how long students need to study, curriculum content and the actual examination taken.

The bill that has been tabled was drawn up to resolve these issues by amending the country's existing legislation.

The proposed amendments to the bill can be summarised under three themes: requirements for pupillage and renewal of legal licences; entrance examination quotas; and the establishment of the independent examination committee.

Pupillage: The amendment proposes pupillage be extended from six months to 12 months. The reason for this is laudable. The idea is to offer adequate training in lawyers' chambers. But it's an old-fashioned idea that reduces the work of the legal practitioner to "chambers", thus excluding the law departments of corporations and university faculties of law. Furthermore, the term "chambers" is not defined in the law.

Any amendments to the rules of pupillage must consider not only duration but also place of performance. This will solve the problem of packing pupils into the few active and functioning chambers and reducing them to "suitcase pullers" and "file carriers".

Annual renewal of a solicitor's licence: One new requirement is that lawyers must undertake 12 hours of continuing legal education programmes and provide legal aid service. These activities are great ideas, but they shouldn't be made conditions precedent for the renewal of a solicitor's licence. This is because the scope of these programmes is not defined by the bill.

Entrance exams: This amendment includes proposals for quotas, entrance examinations and the establishment of an independent examination committee.

The proposal is that quotas be allocated by the General Legal Council to universities. In my view, this is needless meddling in the affairs of faculties of law. This is because there is no uniform provision for the allocation between public and private schools.

In addition, the system of running a professional law programme outside the faculties of law is unsustainable. This is because the distinction between procedural law and substantive law is artificial. Procedural law comprises the rules by which a court hears and determines what happens in civil, lawsuit, criminal or administrative proceedings. Substantive law refers to the actual claim and defence, whose validity is tested through the procedures of procedural law.

It is more advantageous to the teaching of the law for students to learn the substance and procedure together. The various

faculties of law have the personnel and the space to run the professional law courses effectively. This will help erase the misplaced distinction between “practice” and “academia”.

Linked to all this is the imposition of an entrance examination and interview processes. Because only one institution is accredited for the professional certification, it has created a slew of issues. These include a backlog of thousands of applicants, allegations of examination leakages and the use of protocol admissions.

Decentralise professional training

One suggestion would be that the General Legal Council, which administers legal education, pilot the devolution of the professional law courses to the faculties of law. The modalities could be worked out with the universities.

If the legal council and parliament insist that the current approach to training lawyers is the best one, then some key issues need to be addressed first:

The current composition of the independent examination board will have to change. It can't continue to have only judges and practitioners serving on it. It needs past deans and directors of legal education and seasoned academics from the various law faculties whose expertise in administering legal education could be valuable.

Under the proposed provisions, the General Legal Council has the authority to direct the office of the judicial secretary to strike lawyers off the roll without holding a disciplinary inquiry. That means suspending the practice licence of the lawyer. This flouts the legal principle that no person should be judged without a fair hearing.

Ghana doesn't need a grafting of these proposed amendments onto the 1960 legislation. What the country requires is comprehensive reform of the profession and the administration of legal education.

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