The State and Future of the Legal Profession in Kenya

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I. Introduction – identifying the challenge

On 28 January 2022, Professor Willy Munywoki Mutunga delivered an inaugural lecture at the Kabarak University School of Law. The title of the inaugural lecture was In search and defence of radical legal education: A personal footnote.

In his oration, professor Mutunga included a post script titled Kabarak and its role in the search and defence of radical legal education.

I am always inspired by the piercing challenge set out in the said post-script. For full effect, I will reproduce the said post-script in extenso:

> Professor Hirji, the Tanzanian revolutionary intellectual urges us to see radical legal education as part, of our struggle to counter undereducation within the struggles to counter under-development. These are the struggles to build a society that is free, just, peaceful, gender just, non-sexist, non-ethnic, non-racist, nonmilitarist, ecologically safe, equitable and prosperous socialist society.
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> Radical legal education is anchored upon unfettered academic freedom. Both the state and the university leadership must uphold, protect, and defend academic freedom in teaching, research, and writing. Academic freedom is also about resisting any attempts to subvert the academy by any interests – internal and external. Academic freedom births the battle of ideas in the academy, a fundamental reason why universities exist…
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> Whatever the merits and demerits of this debate, one issue is clear: Education is the mother of all rights. Educational institutions are nurseries for the status quo as they are for the resistance of the status quo. I believe every law school in this country has to take a position on the issue of radical legal education. The position will be identified in the various approaches I have reflected upon in this Inaugural Lecture. Let us now turn to Kabarak. Will Kabarak be a beacon of this search and defence of radical legal education? Will it carve out its own niche as such a beacon? Will

> Kabarak be 'the Dar' of 1970s in its innovative, democratic, and creative methods? Will it be Nairobi before the reversal?
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> Will it continue the vision that Makerere supports? Will it follow Makerere by establishing another gender institute on the African continent and also a centre for human rights and social justice that are both committed to radical legal education? Will it value interdisciplinary and multi-disciplinary approaches in legal education? Will law students at Kabarak be exposed in their studies to national and global struggles to create a better planet? Will their academic and political freedoms be upheld, respected, and protected while at Kabarak? How will the contestation of ideas happen? Will Kabarak reflect intellectual leadership or intellectual hegemony? Will the law students and staff value collective intellect? Will the respect for academic freedom reign? How will Kabarak ensure that these changes take root and prosper and there are no reversals? In a nutshell there are struggles going forward that need answers. I doubt if these questions and inquiries are new at Kabarak. Let the debates continue. Let the battle of ideas continue. Let the search and defence of radical education in Kenya and the world, and, indeed, at Kabarak continue.

I am persuaded that the challenge raised in the above post-script applies to my audience in this hall just as it applies to the community at the Kabarak University School of law – the primary target of the inaugural lecture.

What is our view of the profession. We need to show our respect of the profession to others. Your entire conduct in the profession will show how you view it. There is need for putting back into the profession. You start putting back from the very beginning. The best preparation of cases will be from the very beginning. An honest submission will be there from the very beginning.

When you become very senior, you move very close to power and money. They bring pressure. Make sure that the honest submission is heavier. Examine your concept of the profession itself.

If you consider that there are important ideals in the profession that protect the country, that bring justice into people's daily dealings, can you protect those ideals with sloppy conduct? Have good habits in your entire professional engagements.

II. A Profession at the Crossroads

There was a time when being a lawyer in Kenya meant being a custodian of society's conscience. We were the voice that spoke when power grew arrogant, the translator between law and justice, the defender of the weak.

But today, as I meet young advocates and law students, I hear stories not of calling, but of survival. I meet firms hiring marketers before they hire researchers. I meet graduates who can recite historic cases but cannot navigate modern contracts.

So, I ask: what has become of the legal profession in Kenya? Are we still a profession of honour, or have we become a trade of hustle? Are we shaping justice, or merely serving briefs? Are we producing thinkers or technicians?

My reflections today are not a eulogy. They are a mirror - an invitation for us all - students, practitioners, scholars, and regulators — to gaze at our profession with honesty, and to imagine its future with conviction.

Today, I want us to reflect on five intertwined questions:

1. What is the true state of the legal profession in Kenya today?
2. What are the forces reshaping it - globally and locally?
3. How have we allowed training, research, and practice to become disjointed islands?
4. What would it take to revolutionise legal education so that it meets market and societal needs?
5. And finally, what kind of lawyer must the future demand of us?

III. The State of the Legal Profession: Growth Without Direction

Let us begin with a fact: the Kenyan legal profession has never been larger. Law faculties have multiplied across the country. We should have about 20 Law Schools now. The membership of the Law Society of Kenya (LSK) has crossed 20,000 advocates.

Yet the paradox, it would appear, is painful - more lawyers, but less justice.

Despite this growth, meaningful employment and professional fulfilment are far from guaranteed. Thousands of graduates emerge each year, yet many are underemployed or drifting into unrelated sectors. So, the state of our profession is paradoxical: we are many, but fragmented; trained, but not transformed; licensed, but not empowered.

IV. The Changing Market: Technology, Clients, and Competition

The market itself has changed faster than we have.

Technology is rewriting the rules of legal service. Courts now hear matters virtually; contracts are drafted by software; and clients consult AI tools before visiting an advocate. Globalisation and regional integration - through the EAC and AfCFTA — now mean that a client's dispute in Eldoret may have its resolution in Arusha, its transaction in Kigali, and its financing in Lagos.

Meanwhile, public trust is waning. Many Kenyans now fear legal fees more than they fear injustice. If clients fear lawyers as much as they fear the police –not to suggest that police are supposed to be feared, - our profession has lost its moral high ground.

We must therefore ask: are we still a noble profession, or have we become a service industry - one chasing briefs instead of building justice?

V. The Broken Bridge: Disconnection Between Training, Research, and Practice

I believe our crisis is not only economic - it is intellectual. We have broken the bridge between training, research, and practice.

- In universities, we teach the law as if it were static - cases, doctrines, memorised notes - instead of as a living instrument of policy, technology, and society.
- In research, we write brilliant papers that sit in journals no policymaker ever reads.
- In practice, we focus on transactions and litigation but ignore the underlying systems and ideas that shape law.

The result is tragic: we have research without relevance, practice without reflection, and teaching without transformation.

This must change. We must re-integrate these three pillars into one ecosystem — where teaching draws from research, research serves practice, and practice informs teaching.

VI. Revolutionising Legal Education: From Memory to Mastery

The Council of Legal Education (CLE), in its Strategic Plan 2023–2027, has already captured the vision: "Innovative legal professionals transforming society."

That must now become our national agenda.

We must reimagine legal education along three lines: -

1. Curriculum Reform: Teach Law in Context

   Move from subject-based teaching to problem-based learning. Teach Law and Technology, Law and Governance, Law and Business. Law students must learn data protection, environmental compliance, and cross-border commerce as naturally as they learn constitutional interpretation.

2. Pedagogical Innovation: From Lecture to Laboratory

   We must supplement or replace rote learning with simulation, clinical practice, policy labs, and community legal service. Law schools must become innovation hubs. Every student should leave with not just a transcript, but a portfolio of briefs, policy papers, and prototypes.

3. Market Integration: The Profession as a Learning Partner

   Internship should no longer be charity; it should be co-designed between firms and faculties. The Advocates Training Programme (ATP) must evolve to produce advocates with digital literacy, commercial awareness, and ethical depth; as the CLE's ongoing review seeks to achieve.

VII. Reimagining Legal Research: From Ivory Tower to Public Square Legal research in Kenya is still too inward-looking.

We publish for citations instead of impact. Yet law is not meant to be admired; it is meant to be applied.

Research must feed into public policy, legislative drafting, and judicial reform. The faculties of law should become think-tanks for ministries, Parliament, the Judiciary, and civil society.

Let us measure research impact not by how many journals cite it, but by how many laws or judgments it inspires.

We must fund joint projects between academics and practitioners. Let every

major public inquiry - from data privacy to land reform - have a university-law firm partnership at its core.

When teaching, practice, and research merge, the profession will regain its soul.

VIII. The Future of Practice: Beyond the Courtroom

The lawyer of the future will not fit neatly into the traditional robe.

Tomorrow's advocate will be:

- A technologist fluent in data and AI governance,
- A strategist capable of advising startups, multinationals, and states,
- A mediator skilled in online dispute resolution,
- A public intellectual shaping policy and civic thought.

Cross-border practice will become the norm, not the exception. The African lawyer of the future will not be defined by the limits of the Kenyan Bar, but by the scope of African integration.

And as technology automates routine work, what will remain is judgment, ethics, and wisdom — the distinctly human elements of law.

In the age of algorithms, integrity will be our last competitive advantage.

IX. A Call to Courage and Imagination

To the students: You are not just the future of the profession - you are its reformers. Do not define yourselves by unemployment; define yourselves by imagination – Just as Eliud Kipchoge says, "no human is limited."

To the practitioners: Do not only take briefs - take positions. The law is not just a tool for income, but for justice.

To the teachers: Teach law as it should be - not merely as it was written.

To the institutions: Regulate not only for compliance, but for courage. The future is not to be policed - it is to be prepared for.

X. Closing: From Survival to Significance

The tragedy of the Kenyan legal profession is not that it is overpopulated. I believe, the tragedy is that it is under-purposed.