

A2J Conference

March 23, 2017

Conference Minutes

PANEL 1: On the Future of Articling

Panelist One- Christiane Saad

- French LPP program called PPD
- LPP provides a great rotation and gives opportunity/exposure to wide variety of areas of law
- Public Perception of public is it's a second class program
- The PPD program offers legal services and access to justice in French. Ontario needs French speaking competent lawyers and PPD is training candidates to do this, and giving opportunity for candidates to get into community.
- Program has 3 pillars:
 - Community development and involvement. PPD is governed by a Board of experienced lawyers who give insight on community needs
 - Respect for language rights, minority rights,
 - Accountable to community, PPD is involved in community projects
- Issue of paid/unpaid positions: Almost all positions in PPD program are paid
- LSUC is starting to think in the right direction by focusing on how to train French speaking lawyers
- Not all articling positions are made equal. LSUC should look into having standardized competencies common for all licensing candidates that answer to needs and challenges of the profession – especially in the next three years when future of LPP is being discussed – as program may not survive
- PPD is quite different than the LPP. PPD doesn't have virtual law firm. It's more face to face with professors and uses legal technologies. Training at PPD is more on a personal level and values networking.

Panelist 2 – Mitch Kowalski

- Articling was a good idea in past when there were fewer students and fewer positions.
- Like all good ideas, doesn't stay stagnant
- LSUC has been looking since the 1970's into articling and lawyer entry training models
- Many benchers articulated in 70's and 80's and so do not know what the reality of articling is now.

- Need to re-examine what is the purpose of articling. Why are doing this? This question and response can guide us to determining the proper road ahead.
- Law schools are not teaching practical legal skills. There is an experiential component that has to be learned by law candidates. Should that experiential training be a barrier to entering the profession? No.
- Barrier should be law school or some other point. LSUC should be clear as to where that barrier is in the process.
- If experiential training is going to be part of the licensing process, how best to provide the training?
 - Consistent geographically- must be consistent across province
 - Articling is not like that currently, the skills and experience is not consistent geographically
 - Consistent approach: Experiential training should be accessible.
 - The lack of experiential training opportunities in Ontario is leading to Ontario law school grads spreading across the province in search of articles.
 - Can't have a system where there is an experiential program but without doing it you are barred from profession.
 - Consistent evaluation of experiential component
- Only way to meet these three criteria is to have a program like the LPP. Whether you put that into law school or outside is open for discussion but articling is not fit for purpose of experiential training.

Panelist Three –Renatta Austin

- Articling perhaps made sense in past when there was a limited number of law grads and market could absorb the number of candidates.
- The reality now is that one law school is incredibly expensive. Legal education is very expensive now.
- And there are supply side challenges
 - a. Law school class sizes are increasing – an ever increasing number of law school graduates
 - b. increasing number of foreign trained lawyers
 - c. increasing number of Canadian students studying abroad and then accrediting themselves in Canada.
- Articling program has not changed to suit this changing reality.
- Law schools are not providing experiential training and training now on licensing side. LSUC is outsourcing experiential training. And these private employers are gatekeepers and there is no regulation about what training is provided etc.

- Articling program design is not addressing challenges present in the current system. Not enough employers to absorb licensing candidates
- When articling taskforce was looking into how to deal with articling crisis, the taskforce looked at different models
 - a. one model was Carnegie model, which is integrating experiential learning into the law school curriculum.
 - b. LSUC chose the worst option- they created the LPP and maintained the articling program- it's the worst option because instead of creating a standardized program, they kept what wasn't working and added something on top of it. We should have just an LPP program, one standardized program, – not necessary to have two streams.
- LPP on its own makes sense; it offers consistency and ensures people have practical skills needed as a practicing lawyer. We need that skills training across Canada.
- Skills training for a lawyer needs to happen in the law schools.
- In relation to Access to Justice:
 - a. companies don't have access to justice issues generally,
 - b. its people who have difficulty accessing legal services. Is the problem exists in people's law... law that touches on the day to day
 - c. Bankola Report: access to justice in family law proceedings- some recommendations were to introduce paralegals into family law proceedings as about 66% of family law litigants are self representatives
- We need to find solutions not only how to train candidates but also fill the access to justice void- look at what the real needs are and how to fill those voids.
- As a sole practitioner your practice is relationship based not volume based. Difficult to host an articling student when sole practitioner:
 - a. it's difficult to have a revolving door of articling students when you don't have a long term plan for them. 4 months isn't enough time to develop relationships with clients and be able to train to do good work and also build relationships with clients – not even sure 12 months is sufficient.
- There needs to be funding from different levels of government as well as the profession to develop and fund a structured and standardized experiential training program. Approach needs to be more thoughtful and structured than what's happening currently.

Group Discussion

Questions:

1. Mandatory Minimum Competencies: Do you think that LSUC is trying to create minimum competencies based from the LPP?

- LPP perspective: the program exposes students to all entry-level skills expected of a practitioner and those skills are evaluated. And then additional skills are added like French language competencies.
 - If a student is articling with a sole practitioner or a law firm, the experience from one year to the next is going to be different, as the firm will have different files and skills performed. The experience is ever changing and as such there is no consistent competency that can be built with current articling system.
2. From the discussion there seems to be two main issues: a supply issue and a lack of minimum competencies issue. Correct?
- Supply side is challenging as there are foreign and Canadian trained students in addition to Canadian law school graduates. I think having experiential training in law schools will help but not sure what to do about training foreign trained candidates.
 - Other point of view- not sure if all experiential training can be provided in law schools, perhaps with an overhaul of 3L but there still needs to be a way to evaluate the training throughout the schools.
 - Need leadership from Law Society. Are we going to put a cap on the number of people called each year? If not, then the system has to open up to everyone and have a system in place that can provide the training that is consistent. LPP type program is a good solution.
 - Outrageous that we have dual path with articling and LPP.
 - Vote in bench elections and get good leadership to address these issues.
3. Since the 1970's and 1980's – other than increase in students what has changed?
- Increase in number of students from foreign countries.
4. Where should there be the bottleneck for entry into the profession?
- Students should be told at outset (by Law Schools) that a law degree is not a guarantee of a job and a particular type of lifestyle.
 - The business of law is changing. Such that in past lawyers were gatekeepers of certain types of information but that is not the case anymore... people need lawyers differently than before
5. If experiential training is in law schools how would you train foreign trained students?
- There should be a clear disclaimer to the marketplace that going to law school is not a guarantee of job in the Ontario legal profession and guarantee of getting experiential training

- Law schools don't have skin in the game- they have no reason to limit number of students they take
6. A report conducted about the LPP noted that students who did the LPP were not passing the bar in the same ratio as students participated in the articling stream. There was a higher drop out rate with students from LPP. This is disconcerting if we are thinking of recommending an LPP program.
- Not sure there is a correlation between students who articulated and did the LPP and passing the bar- in some ways many people who write bar do so after law school and before articling while the material is fresh in mind. May not be able to compare failure rates between programs.
 - The LPP attracts NCA students and foreign trained students etc. who may not have the exposure to Ontario laws etc.
7. Is the bar exam even sufficient to evaluate student competencies?
- Its questionable if exams in and of themselves are sufficient to evaluate competencies.
 - Better to see students do something and be tested than just test on paper
 - Example is that students can fail LPP.
 - LPP does not train students to pass the bar.
 - LPP has many mature students and students who had difficulty in law school. And they may also not do well on the bar.
 - If we have dual systems we may see difference but if all students were in one program it may not be able to see the separate results vis a vis bar exams.
 - May not be good to connect the different components that evaluate experiential competencies.
8. Carnegie Model of Education- any examples of its use in Law Schools in Ontario?
- Ryerson has proposed to include experiential training components, that include LPP components
 - Bora Laskin Law school adopted the Carnegie Model.
 - Skeptical of Universities doing something for the greater good, rather than for business. Adding another law school is really adding more candidates to a saturated marketplace.
9. Do we need another law school? Why not enhance what we have to meet needs
- It's easy to ignore Lakehead- no one will get shamed by Lakehead, Ryerson may be able to shame other schools and show this is how we are doing things differently.

- We are already in free market, so anything goes, but if we add another law school do we need something different. The new school can't be another law school like York or UofT.
10. Students have to shoulder burden of cost and time etc. for LPP type training, in addition to having to get the competency training. Should the burden be shared?
- Should we mandate large law firms to take on burden of creating more articling programs? But doing so may further exasperate opportunities and competencies.
 - Comment from Audience: Why can't we create something where instead of CPD hours, a lawyer gets CPD hours for having an articling student. Response: there is a mentorship program already where a lawyer can get CPD hours.
 - If too much emphasis is placed on making large firms increase the number of students they take for articles, this may create a mismatch and students working in areas where they may not like it may be persuaded to work in those areas as their pay is increases etc, and thus making it hard for other areas of law to draw workers.

Closing Comments

1. We should step up and get involved in advocating for how we want the system to look like.
2. Stop looking at future from rear-view mirror. We need to rethink and not get stuck with nostalgia and blow up model and re do it. Dabbling makes it worse!

PANEL 2: Free Market v. Fairness of Getting A Law Job

Panelist One: Amy Jackson

- Applied for over 200 articling positions and had some interviews but no offers.
- Begrudgingly applied for LPP
- Had vastly superior experience than articling peers
- There is an access to hiring problem
- I was a minority as a white person in the LPP. Many people in the program were visible minorities, persons with disabilities, mature students. The numbers of students from these demographics showed who articling employers were hiring.
- LPP prepared me for ability to practice- in articling don't see a completed file but in LPP can see file from start to finish. And given ability to screw up.

- LPP focused on business of law, learn to run a business, reconcile accounts, develop a business plan etc
- Prepared me to be a sole practitioner
- Felt I learned enough to open my own practice
- The LPP 1st year cohort candidates had a job pool that they applied to.
- Candidates applied to jobs where they knew the type of law practiced and where placement was located.
- Candidates had to take the first job offered to them as a way of ensuring all candidates got jobs.
- As a candidate you had to be careful how you applied, as you wanted to get the type of job you wanted.
- Not all placements were paid. Some students received honorariums. But I heard that some people in house in large organizations and firms had offered placements that did not get paid
- Some students had to run part time jobs to cover costs when doing LPP.
- LPP program- what you put into program is what you get out of it. I was given a Family law file while in the LPP course and this prepared me for working with a family law lawyer.
- If you are active in getting out what you can you will succeed. The course made you have to figure out for yourself what to do on files. This made me comfortable when I did not know for sure what to do in practice but had to figure out what to do.

Panelist Two: Jessica Karam

- Completed Law School in Australia.
- Came back to in Canada to license through NCA program
- Doubly qualified, did the required Canadian courses in Australia, qualified also in Australia.
- Took 6-8 weeks to hear back after applying to NCA's – 6 to 8 week
- My Transcripts arrived four days late which delayed my ability to write exams
- With NCA- can get stuck in Limbo. Have law degree but can't do work in legal field.
- While I waited to write exams, applied to law clerking jobs, legal assistance jobs, but nothing was available, because of law degree I couldn't be a paralegal.
- Difficult to find articling. I sent out about 200 applications, across Canada, didn't hear anything so I applied for LPP.
- Was in 3rd cohort for LPP. Program did not have enough seats.
- Over 300 applicants applied for the LPP but only 50 jobs available.

- After students applied for the LPP, they had to send out resume before starting the program. There were 13 jobs for 313 candidates.
- The LPP were trying to get people to drop out because they didn't know how to place the students. They had too many students.
- Advice for a foreign trained lawyer- be tenacious and really beg and actively get people to take you.
- LPP prioritize Canadian legally trained students and they picked over a foreign trained applicant.
- Not sure that 4 months of law training with LPP is sufficient to equip people to practice in law.
- Currently, I'm articling at a firm and learning 5 areas of law. Under articles- work assessed and re-assessed and given guidance.

Panelist Three: David Ang

- Had an unorthodox way to get articling. Did a placement with a lawyer for an honourarium (got paid very little).
- I knew not to think I had a job after articles so I was conscientious about getting an experience that would give me tools to run on my own.
- I had a way different experience than articling at a firm.
- Trade off- either you get a Bay street job that pays well but doesn't give a comprehensive experience or you get a very comprehensive experience but not paid well – so you can accumulate an increased debt load

Group Discussion

Questions:

1. What are your thoughts about having minimum competencies for licensing candidates?
 - should be done during education
 - should be a standard within the practice before they allow you to enter the articling process
2. Are we comparing apples and oranges – ie articling vs. LPP? Articling provides real experiences – it is good experience to have within the 10 month period – we deal with real clients with real problems.
 - LPP does have real clients in the four month period
 - You are dealing with clients, albeit actors, they will randomly call you in the middle of the night and you are expected to respond
3. Is the cost different when you are articling versus when you are doing the LPP?

- In the LPP it depends on how seriously you take the training
 - there is another challenge, even if we are going to continue with articling, we need to standardize what is being taught
 - I ended up teaching my principal how to do a practice succession program
 - LPP probably came close to replicating legal experience. Important to work in a firm environment – so LPP gives that experience to everyone.
 - I think large portion of training can be incorporated into law school.
 - Downfall- can't extend loan for LPP portion. Don't have income for the first 4 months while doing LPP.
 - Recently the costs to article doubled- who should bear burden of cost for experiential training? Why can't the cost be added to law school?
 - Financial consideration with LPP and articling?
 - Yes- gaps in between getting accredited are key as law school tuition overseas is more than tuition for students in Canada. However, there are grants and loans available to cover some costs.
4. When you made the decision to go abroad to get a law degree how much did you know about the challenges of entering into the profession back in Canada?
- I had a colleague who had done the accreditation process here after studying law overseas so I had them to talk to.
 - Some people see it as a challenge, I saw it as a necessity
5. What are some Pre-preparations students can do to before applying for law school?
- Do an internship first and find out if you want this job/career.
 - People who have good articling jobs, get them because they have connections and know people in the law profession. Start getting connections and network early.
 - Start networking early and see if this is a job you will love. The profession is not as monetarily valuable as you think.
 - You may need to work very hard to make the big pay. There may be a compromise in other areas of your life.
 - Colleagues are a support system, while practicing and even before. Start building that network early.
 - It's sometimes a challenge to manage stress. If you don't know what you are getting involved in, get some sort of experience to know what you are getting into. See if you can manage the stress. Or want to live that way.
 - Think about what you want to do before you start off.
 - In terms of preparing, building on this conversation is useful. Ie being part of the discussion and knowing about the challenges and issues within profession.

- The private bar is not doing a sufficient job to articulate these challenges and telling others.
 - Many lawyers want to be mentors, find a mentor.
6. Is it just the whim of the free market? What would be some reasons for why both panellists applied for over 200 jobs and didn't get articles?
- International degree
 - When completed International degree, off season for deadlines for articling jobs.
 - Being overseas, the resume and cover letters were different and panellist didn't get to know what local context desires were for applications
 - Panelist was looking for something specific- small firm and more supportive- and I was more selective in my approach- perhaps that's not a great idea.
7. Are we giving too much emphasis on employers as gatekeepers. Is this good or bad?
- One panellist had resume reviewed and tons of interviews but comes down to fit and interview style and interview skills.
 - Employers seem to have a preference for young people
 - there are problems with employer being gatekeeper, employers seem to be prejudicing certain candidates such as minorities.
 - Not having standardization is creating some not fully qualified lawyers.
 - Some people willing and open to mentor may not be able to pay for articling student and vice versa.
8. What are panellist thoughts on setting up a fund to cover cost of articling in certain areas which are underfunded and cannot afford students?
- Having a levy is a great idea.
 - Putting a regressive tax on the people entering the profession rather than other members of the profession is regressive and a poor decision. Would like to see a burden shift to other members of the profession.

Closing Comments

- LPP superior, and consider LPP as an option for all students

PANEL 3: Drawing the Line between Legal Education and Legal Training

Panelist One: Michelle Cook

- Wrote a two- part article on Slaw about Ryerson Law School Proposal.
- Components of article:
 - a. Legal market is saturated.
 - b. Automation and labour shifts. Has done document reviews, base level research and noted that low -level legal work is going to be automated. Exactly the type of work that many articling students do.
 - c. Specialization will be key to overcome shifts in market.
- Ryerson proposal:
 - Ryerson proposal was technology driven
 - emphasis on expanding areas of law that are required/ Expand mandatory courses that you have to take
 - Critique: making more mandatory courses will make it more difficult for people to specialize and specializing will be key in future job market
 - Increase access to justice in curriculum
 - The mock case simulations and mock law firms incorporate in the work scenarios how to deal with access to justice issues. Such as in the role playing and group work components.
 - have legal professionals as mentor early in career- students are paired with a practitioner and professor. Must attend mandatory meetings with these mentors
 - Critique: if mentorship mandatory, may deter students from getting most out of meetings. Law school is busy without meetings that may not be best use of time.
 - Focus on group work
 - Critique: competitive environment like law school is not conducive to group work.
 - Mandatory intensive placements
 - This is a good idea- valuable experience
 - critique- if LPP having trouble finding placements- may put strain on market if intensive placement was mandatory- or may need career services does the work to find placements = easier than putting onus on students to find a placement.
 - Ryerson offering to move away from 12 week course structure.
 - Ottawa U does 1 month course in January- this model gives a break and time for students to re-energize
 - Boot camp style courses offered at other law schools.

- Ryerson proposal wants to shrink number of weeks of courses.
- Ryerson wants to have boot camps each year of law school
- Year one- boot camp on career planning and networking (good idea as networking is key in being successful at OCI's)
- 2nd year boot camp- automated review and financial planning
- 3rd year boot camp- develop cultural and emotional competencies
- Automated contract review is a good course to offer. Panelist can't find program for how to program the contract review program that I likely will have to use in near future. Good on Ryerson for recognizing this future of automation.
- Good idea- boot camp to teach the technologies and procedural knowledge in particular areas of law.

Panelist Two: Bruce Blain

- there is a disconnect between practitioner and professor/faculty – need practitioners to teach
- Law students don't get right type of learning from professors
- Faculty do not have the knowledge of practice – they research and publish
- Then up to profession to teach the practical skills
- I like some of the aspects of Ryerson proposal:
 - Mandatory courses- Harvard model? Earlier on law schools had higher number of mandatory courses- students wanted to diversify and so law schools had less mandatories but students did not know enough to be competent. It's a balance- no right answer.

Group Discussion

Questions:

1. Ryerson is integrating competencies that are not in traditional law schools. Do you think these competency trainings are better suited in law schools or more like in an LPP program?
 - it's possible in law school to incorporate these competencies (Lakehead is attempting)
 - Articling is controversial- is it even necessary? In US there isn't articling.
 - Something to be said for mentorship program. It can happen in law practice.
 - Law Schools could have an intensive course that teaches you all the practical components that you need to know to practice that area- suggesting that we could start to specialize early on in school

- Specialization is important - gain fundamental, mandatory skills in that area
2. Do you think specialization in law school can be an advantage in the profession?
 - Specialization in third year gives students some time to get idea of scope of areas of law and then student can specialize in 3L.
 - Just because a student specializes does not mean they must also then practice in that area.
 3. Why is profession enamoured by this articling model?
 - Profession has a history of one on one mentorship, comes from tradition (British model) people come out of school and find a lawyer to show them the ropes.
 - That one on one model does not work anymore, too many lawyers
 - In Alberta- the bar call is 3 or 4 people. Principle must stand up before Alberta court to vouch for the student before a judge. However, that isn't feasible in Ontario.
 - Cost of having an articling student is high- need to cover cost of space, writing off their time, phone, computer costs, salary etc.
 - Difficult to change the traditional frame of law schools as they are embedded in the broader university pedagogical framework.
 4. Some have said nothing is going to change until we change the supply chain. Thoughts?
 - Misplaced supply – we have pressure for students to go into corporate and certain types of law.
 - Some people are not adequately exposed to areas of law that may interest them. If we incorporate experiential training at law schools, we could expand the areas of law people are exposed to and may become interested in practicing and then can meet public/community needs
 - Audience point: Huge factor in every step along way- being racialized, minority in legal profession, and having to deal with specific challenges- like hard to find job, articling etc. and that there are people from those communities who may have disproportionate inability to network or know people in the legal profession- difficulty in networking.
 5. Is it an improvement if university is the gatekeeper of supply rather than employer?
 - If law schools have more direct hand, is it in some ways going to bad for the students?
 - Students at Lakehead, still have to find placements- so they are still thrown to wolves.

- If legal profession remains culturally white and male, it's still going to be a barrier for racialized and diverse folks. Culture for lawyers needs to change so that the profession can be more accessible and less toxic for racialized folks.
 - Shifting gate-keeper function away from employer- in order to get law schools to incentivize change- need to get Deans who want to make name for themselves or faculty with tenure who can rock the boat..
6. Not sure if specializing would be helpful. Since some areas are niche and all about networking to get into it. Some law practices have to also bring in files from other areas of law to supplement practice and so there is some degree of generalization necessary.
- In medical school- there is base level number of years- and then specialization is additional training.
 - In medical profession- there is a general specialization
 - Audience: I understand the need for specialization, and especially with firms breaking down to make specialized firms. But not sure if while in school to make someone specialize is necessary. Meritocracy should be the way law schools operate.
 - Panel response: Taking a specialization doesn't mean you will specialize in that area when you practice. At least learning the administrative process can be transferable.
 - Audience: Optional specialization is great but forcing the specialization on students may not have the valued outcome.
 - Let's start progressive legal pedagogical law school here.
 - Competency based medical education- new area for profession regulation- such like how much exposure has an MD had with clients like X with needs like Y?
7. Is law school sufficient to practice in the profession?
- CBA has released the Futures Paper. Only 5 pages dedicated to education. Debate was how long should law school be – 2 years? 4 years?
 - Implicit in Ryerson proposal- having access to justice in pedagogy as profession we have to be responsive to communities we serve- we are both businesses and services. Should we also inject moral education about what is access to justice?
 - Deconstructing OCI process- hidden curriculum – direct curriculum as well as hidden expectations- Structural barriers, targeting, racialization, and how people are barred and alienated from fully participating in profession.
 - We need both- legal education and legal training- as a student I want a job and want to get training to get a job- as a employer- I want to hire with limited training to provide. Will law society provide framework that will reflect changes in market?