

Can provision of legal services and legal education conflict when serving the ideal of access to justice?

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When good things conflict

- (1) Educational benefits to the student
- (2) Benefits in terms of access to justice to the client (legal service)
- (3) Defence of a robust and effective rule of law (general principle)
- (4) Opposition to policies that marginalise groups in society (client group)

Not necessarily in opposition

(1), (2), (3) & (4) may align: there is no necessary opposition, but neither is there any necessary congruence. They may or may not be opposed – the matter is contingent.

Therefore, we may want to:

- (a) Set up a priority - always put (1) before (2), and (2) before (3), and (3) before (4);
- (b) Set up a trade-off transformation - (1) is worth more than (2), but less than (2) and (3);
- (c) Set up a “depends on the circumstances” relationship - (1) is most important unless subsuming (2) would involve renegeing on the professional obligations undertaken in service of (1).

My Position (not thought through for all circumstances)

The needs and welfare of the student come first – I am engaged in an educational enterprise

See: *Uses of Values in Legal Education* (2015); *Values ethics and legal ethics: the QLD and LETR Recommendations 6, 7, 10, and 11* (2014) 48 *Law Teacher* 20-32

See: Hugh Brayne, Nigel Duncan, & Richard Grimes, *Clinical Legal Education: Active Learning in your Law School* (1998)

Two Alternative Views

Donald Nicolson, *Legal education, ethics and access to justice: forging warriors for justice in a neo-liberal world* (2015) International Journal of the Legal Profession

Stuart Scheingold and Austin Sarat, *Something to Believe In: politics, professionalism, and cause lawyering* (2004)

How Should We Try to Resolve Value Conflicts
Between Desirable Values?