

# **The Chief Justice of Ontario's Symposium on Lifelong Learning in Professionalism**

The following are condensed notes from the Symposium on Lifelong Learning in Professionalism which took place at the University of Toronto on February the 20, 2009. The Symposium consisted of three panels of distinguished members of the legal field who gave speeches on the changing developments in legal professionalism and the continuing need for lifelong learning. The Symposium concluded with the Goodman Lecture, delivered by Justice Stephen Goudge. For access to the full Symposium, please go to: <http://www.clp.utoronto.ca/events/cjo.htm>

**This is a summary of the Introduction and Session One.**

## **Welcome and Introduction**

Chief Justice Warren Winkler:

- Professionalism is the oxygen of the justice system. Without it we are at risk of losing status. Without it we will be like other providers of services — like car salespeople. Legal ethics and professionalism should be part of every law school curriculum.

## **Session One: What is lifelong learning and why is it needed?**

To see the full version of this session see:

<http://mediacast.ic.utoronto.ca/20090220-CLP-1/index.htm>

## **Professor Alice Woolley:**

- First, when we talk about professionalism there is a strong tendency to talk about ethics as the virtue of lawyers. There's a tendency to focus on conduct. When we focus on conduct we associate it with behaviour and connect it with character. For example, if someone lies, we assume that they are a liar and will lie to me. We therefore match character with their conduct in the future. The problem with that presumption is that there is evidence that character cannot show how people will act.
- Instead, we need to focus on what situation people are in and predict how they will act in that particular situation, instead of focusing on what type of people they are. (Example: students are told that they will have to make a presentation in a class in a certain amount of time. Some were told that they had a lot of time before they had to begin; others were told they had a short amount of time before they had to begin. Those in more of a hurry did not stop as often to help someone in distress).
- People in better moods are more likely to help others.
- Milgram experiment: if you put someone in a room who says "I'm not doing it" compliance levels drop drastically. If you put someone in room who says, "I love shocking people," compliance goes way up.
- We should not be concerned with the moral value of lawyers' souls, but we *are* concerned with their obligations to their clients. We should be focused on what they do, not who they are.

- So we should be educating people on how to act, not on improving their character.
- Second, if you don't put any content around legal education, you are not likely to have a positive impact on lawyers' conduct.
- Ethical misconduct does not generally arise from ignorance; it's usually because lawyers are disorganized, or undisciplined.

**Professor Richard Devlin** (presentation created in partnership with **Professor Jocelyn Downie**):

- There should be mandatory legal ethics courses for passing the bar.
- We are a learned profession but need to become a learning profession.
- There is a resistance to the idea of lifelong learning.
- 1) Why take a lifelong learning approach?:
  - a) Personhood and identity-assumption is that the human being is dynamic, flexible and capable of self-actualization. But self is imbedded by political and social forces. Lifelong learning is one key aspect of the self. Key point is that with lifelong learning we aim towards capability — it's more holistic and focuses on identity and potential.
  - Focusing on competency is the current focus with lifelong learning. Instead, it needs to be on capacity.
  - b) Changing society and the legal field: not sufficient to be a learned profession — need to be learning profession. Need to change and expand with changing times.
  - c) Lifelong learning is both a private and public good. First, it is good to increase skills of skilled workforce (economic). Second, lifelong learning makes a more inclusive society (inclusive). Third, lifelong learning increases personal development (individual).
  - d) Judicial bar should also be involved with lifelong learning.
- 2) We need to move away from teaching and focus on learning: new systems of education and learning with a focus on situated learning. We need to learn how to learn.
- Need to focus on emotional intelligence, critical thinking, and generative learning (learning that enhances capability to create).
- Traditionally we have thought of legal education as a sole effort, but lifelong learning theorists are focused more on communities of learning. The legal profession is a community of learning. Multiple communities of legal professions (urban, rural lawyers, corporate, public lawyers, etc). Lifelong learning challenges the individualistic focus on learning which has been the historical focus on legal learning.
- We should strive to work on our capacity, not just our capabilities.

**Alan Treleaven:**

- In B.C. there is mandatory reporting of continuing legal education (but not mandatory continuing legal education — only the reporting is mandatory).
- In B.C. there is now mandatory two hours of professionalism education a year.
- I strongly believe in having professionalism education. It's important to create a national approach to professionalism.

**Professor Adam Dodek:**

- Questions: why should we be interested in lifelong learning? What should we be doing and how should we be doing it?
- Time to get on with it — doctors, accountants, etc., all have embraced lifelong learning. Why is the legal profession lagging behind? It's the only profession that hasn't embraced it. We're approaching the issue from the wrong perspective. Is there something that distinguishes us from other professions? Are we special?
- Why are we in this situation? I believe it is because of the historical focus on character. Character and the quest for character development has been an important focus in the legal profession. Good character is not something that can be taught, but is something lawyers have coming into the profession, or it is something they should acquire in law school or an articling program. That focus on character has been misguided — we emphasize character over competence.
- What should we be doing in lifelong learning? We should move from character to competence. We should focus on emotional intelligence, generative learning, and critical thinking. We need to be more active in lifelong learning educational process.
- We need to view lifelong learning and professionalism as a continuum that is connected and fluid. We often talk too much about what happens in law school, articling and the post-call to the bar. Instead, we need to draw upon successes and failures in the whole continuum, not at certain specific points in time.