

# Appendix III

## **The practical steps to help the poor, vulnerable and marginalised**

Practical steps for action by law schools and others in the legal profession in helping poor, vulnerable and marginalised people achieve basic human rights and equal access to justice under the rule of law.

### *Poverty, injustice, inequality, and law*

1. The IBA can and should build on its public stand on poverty's implication in various essential domains of law and justice, by explicitly endorsing the individual and collective responsibility of its members to contribute meaningfully to the end of poverty, inequality and injustice.
2. The IBA should require lawyers to declare an admission oath to address poverty and associated inequalities and injustices in order to become a member of the IBA.
3. The IBA should fund a research project to define the appropriate accountability mechanisms of law schools' (and other branches of the legal profession) systemic impacts on alleviating poverty.
4. The IBA should expressly include a commitment to alleviating poverty, inequality and injustice as part of its mission statement.
5. The IBA should include in its practical guidelines to lawyers the impact that certain areas of law have in exacerbating global poverty. This could be achieved in a similar way to the IBA's approach to recognising the impact that particular areas of law may have on human rights.
6. The IBA can and should solidify the connection between these concerns by explicitly recommending that such a poverty-sensitive focus and priority for legal and justice education and training is incorporated in requirements for the accreditation of law schools, admission of lawyers to legal practice, and ongoing entitlement to continue working as a lawyer in all areas of the legal profession.

### *The role of law schools in combatting poverty, injustice, and inequality*

7. Law schools across the globe must do more than most of them currently do to address poverty and associated factors directly in their core mission of research, education and engagement with the legal profession and the outside world.

### *Systemic considerations*

8. Law schools must embrace new ways of thinking about their place in contemporary governance, regulation and responsibility, and take active steps to embed them in the design, operations and evaluation of law schools by the various audiences who regulate or need them.

### *Law schools taking individual and collective action on poverty*

9. Law schools can create social entrepreneurship clinics, working together with social enterprises, business advisers, philanthropic bodies and poor communities to develop sustainable businesses that address community needs.

### *Recasting lawyerly responsibility to combat poverty under the rule of law*

10. A balanced approach to education, research, and engagement by law schools must encompass a broader horizon of poverty-sensitive concerns, as part of meeting a law school's university mission, membership of the legal profession and socio-ethical responsibility.

### *Societal standing and expectations*

11. Law schools should have a core mission of educating and training the next generation of legal and professional leaders with orientations, knowledge, and skills to do their part in ending poverty, injustice and inequality worldwide.
12. Institutional, governmental and philanthropic funding of law schools should be made conditional on prioritising poverty, injustice and inequality as core areas of academic focus.
13. The global legal profession should address ethics enhancement proactively for individual lawyers by recurring assessments of legal practitioners for their socio-ethical sophistication and integrity. This must be reinforced by requirements for admission to practice and law school accreditation.
14. The IBA and its member bar associations and law societies can encourage member law firms to move beyond a constrained focus on lawyerly work as work consisting of billable client work, business development and pro bono work, and to view relationships with law schools in various avenues of poverty-ending work as part of a richer account of lawyerly work in fidelity to access to justice and the rule of law.
15. Law schools and individual legal academics should participate in multi-stakeholder coalitions that develop or monitor standards from within and beyond the global legal profession, focusing on lawyerly action or inaction in meeting such standards.

16. Individual academics ought to make public submissions and other contributions to the public goods of policy-making, law-making and law reform that highlight poverty insights and solutions.

### *Jurisdictional regulation and accreditation*

17. Governments must use sectoral policy settings, regulatory controls and funding arrangements with universities and law schools to achieve societal outcomes that contribute meaningfully to addressing poverty, injustice and inequality. These may include funding preconditions, public research priorities, social compacts with universities, legislated mandates for universities and government incentives for student equity and diversity.
18. A public agency or department of state might politically and financially support a legal academic focus on poverty in various ways, such as contributing funding to a relevant research centre or project that accords with publicly stated access to justice priorities, providing some publicly funded legal aid to a free legal clinic associated with a law school, or reframing incentives for law firm eligibility for government tenders and panels based on pro bono measures to encourage poverty-ending collaborations with law schools and others.
19. Associations of law schools must incorporate standards, expectations and measures relating to the social consciousness of students and academics and a commitment to values such as socio-economic equality, universal human rights, access to justice, ethical lawyering and the rule of law as a basic accreditation requirement for member law schools.
20. Law schools and their national and international associations need to develop self-assessment criteria and other tools to assist in demonstrating successful orientation and delivery of justice education for accreditation and other purposes. This must include templates for assessing matters, such as the adequacy of teaching of legal ethics and social responsibility, clinical and pro bono programmes, orientation and selection of academic staff and governance arrangements supportive of justice education.
21. The laws and court rules of a jurisdiction should provide for rights of appearance for appropriately supervised clinical students to assist self-represented clients who cannot afford a lawyer and who also do not qualify for publicly funded legal aid.
22. Where the interest on client funds held on trust by law firms for settlements and other purposes is officially quarantined and payable into a fund for public purposes with client consent, those purposes ought to be framed to include clinical and related support for people who cannot afford legal representation, through a combination of legal aid agencies, community legal centres and associated law school clinics.

### *Professional admission and employment*

23. Admitting authorities must make a designated amount of poverty-related practical legal experience at university (eg, clinics, voluntary work or internships) or beyond (eg, practical legal training) an essential precondition for a law graduate being admitted to practise as a lawyer.
24. Accreditation authorities must develop and implement regulatory mandates to make a designated amount of poverty-related practical legal experience at university (eg, clinics, voluntary work or internships) an essential precondition for law school accreditation.
25. An individual law school ought, as a matter of choice and competitive differentiation, make it compulsory for students to complete a designated amount of study or work related to poverty, injustice and inequality as a condition of graduating with their law degree.
26. State or national associations of law schools must set their own accrediting requirements to include a poverty-related focus. This can be achieved in a variety of ways, including: staff orientations and capabilities, coverage of substantive areas of law, socio-ethical training of lawyers, clinical legal programmes, community outreach for law schools and demonstrated knowledge of lawyerly roles in poverty-alleviation.
27. For duly admitted lawyers, ongoing demonstrated understanding and experience after admission to legal practice in poverty-relevant law and work should be made a condition for individual lawyers of continuing to hold relevant accreditation as a legal practitioner, with individual law firms, law schools and bar associations and other professional bodies providing such continuing legal education and training.
28. Law firms can reinforce what law schools do to inculcate a lifetime professional commitment by aspiring lawyers to access to justice and the rule of law, by making career advancement and progression to partnership at least partially dependent on a demonstrated commitment to ending poverty, inequality and injustice in the communities served by those law firms.
29. National, regional, and local law societies and bar associations must include familiarisation with international and national standards for lawyers relating to poverty, inequality, and injustice – including relevant IBA standards – as a part of their continuing professional development programmes for their members.
30. Individual law firms must incorporate pro bono legal service generally or other poverty-alleviating community work in expectations or opportunities for their law graduates and other employees. This might occur through employment requirements, employee volunteering programmes, client-related secondments (including with legal clinics) and support for further education and training.

31. Law firms and other professional services firms should also include poverty-relevant education and training for both staff and clients as part of in-house continuing professional development programmes. This might also align with organisational benefits in meeting individual and organisational continuing professional development requirements, firm-organised pro bono activities, partnering with client and community organisations and general lawyerly awareness-raising and social consciousness.
32. Bar associations and law societies must waive fees for professional accreditation and membership for retired or other lawyers who only or mainly undertake pro bono legal work.
33. Bar associations and law societies must develop codes of conduct and other professional standards that reinforce poverty-alleviating employment initiatives.
34. Governments must include eligibility criteria for law firms to tender and serve on panels for delivery of governmental legal services that promote lawyerly commitment to the public interests in addressing poverty, injustice and inequality. Those criteria can cover a spectrum from conventional pro bono and legal aid contributions to meaningful and innovative engagement in work that assists governments in alleviating poverty, inequality and injustice.

### *Organisational partnering and collaboration*

35. Law schools should develop or join partnering, sponsorship, philanthropic, and other collaborative arrangements to address poverty locally, nationally and globally, in fulfilment of the educational, research and external engagement activities of the legal academy.
36. Multi-stakeholder initiatives aimed at improving access to justice can attract state support and include representatives from various branches of the legal profession, thereby encouraging and facilitating the involvement of law schools and their constituencies in such initiatives.
37. A law school and its legal clinics ought to work hand in hand with the judiciary, legal profession, other community legal centres and community bodies to provide free legal information, advice and representation locally, bolstered by relationships between those parties that facilitate student court appearances, professional supervision and volunteering of expertise.
38. Beyond court-focused legal and information services, law schools and legal units across the public, private and NGO sectors should collaborate in the form of placements (including student internships, externships and voluntary work), clinics and partnered projects with a focus on providing support and services to people subjected to poverty, inequality and injustice.

39. The legal academy and other branches of the legal profession have crucial networking, collaborative, and influencing roles to play, alone or with others from multiple disciplinary and professional backgrounds beyond law, in the public reason, advocacy and thought leadership which influences policy-development, law-making and law reform to poverty-ending effect.
40. Governments, business and academics have roles to play in joining together to help the world to achieve results under the UN Sustainable Development Goals in both developed and developing countries. This can be through research, consultancy, and monitoring projects that flow from the innovative use of market mechanisms such as social bonds to achieve improvements in the conditions and opportunities for poor communities, aligned with goals and indicators under the UN Sustainable Development Goals.
41. Legal academics and students should join and contribute to a range of collaborative initiatives with others in the legal profession to achieve better equality and justice for society's most impoverished and disadvantaged members. Such activities can include professional body memberships, collaborative public submissions and NGO placements or secondments.

#### *Institutional strategy and planning*

42. Universities and other branches of the legal profession must ensure that they meaningfully support and do not take for granted the largely unfunded and impossible-to-fund academic research involved in research, advocacy and 'watchdog' activities that contribute to the public goods of law-making, law reform and legal policy development, with the empowerment of poor people and the ending of poverty as their objective.
43. Law schools must mainstream a focus on poverty holistically in their law school missions, strategies and course curricula requirements. This holistic approach can be embedded within experiential learning and volunteering opportunities, year-by-year knowledge and skills training, required graduate attributes, formative and summative assessment requirements, student research topic options, academic research projects and cross-disciplinary collaborations, academic workforce capability profiling and development, organisational and institutional (eg, university-to-university) partnering initiatives, sponsorship and philanthropic proposals and clinical legal education.

#### *Academic orientation and capability*

44. Law school management should equip the legal academy with the right balance of staff to substantially contribute to poverty and related issues of inequality and injustice. In practice, this translates into strategies and actions on workforce profiling and planning, academic workforce retention and recruitment, academic development

and career progression, institutional employment categories and roles, and two-way secondment and lateral career-change opportunities.

45. Law schools ought to attract and retain world-class academic experts in areas of poverty, injustice, and inequality through prestigious named professorial chairs, senior professorial and adjunct positions, research centres and programme areas, academic fellowships and visiting positions, and PhD scholarships.
46. Academics must teach fundamental legal skills to first-year law students more broadly to include orientations about access to justice and the broader socio-ethical dimensions of law (eg, basic legal problem-solving approaches that structure students' understanding through step-by-step templates).
47. Law schools should balance their overall academic workforce profiles to select and train academic staff with attributes that go beyond intellectual capacity and technical proficiency in particular disciplinary fields of knowledge, to include interest and proficiency in broader matters such as justice education and the socio-ethical roles and responsibilities of lawyers, reinforced by personal track records of pro bono activity.

#### *Legal scholarship and advocacy*

48. Public, professional, community and university mechanisms ought to be aligned to elevate attention to poverty and galvanise impactful research to bring it to an end, through mechanisms such as funded academic and PhD-based poverty research projects, sponsored professorial chairs, legal clinics dedicated to public interest research and advocacy on poverty and by encouraging cross-institutional networks of research excellence that make poverty research a key pillar of associated research and educational programmes.
49. Community legal centres and clinical programmes associated with law schools should engage in research-based advocacy in the interests of their poor, vulnerable and disadvantaged clients, including public submissions and reports to inform future policy and laws.
50. Law societies and bar associations must contribute to the public interest through their committees and members engaging in public submissions and advocacy to expose gaps and offer solutions on law's treatment of poverty, inequality, and injustice. Legal academics, students and alumni can become involved through such mechanisms in supporting and achieving those aims.

#### *Legal engagement and impact*

51. Law schools and their constituencies should translate their research-based expertise into meaningful mass action at scale on poverty, injustice, and inequality through

participation in national and global multi-stakeholder coalitions and standard-setting initiatives (eg, IBA and UN standards), either directly as participants within networks engaged in developing such initiatives, or indirectly through creating individual and collaborative research projects focused on them.

52. Law schools must collaborate with other organisations from the legal profession and elsewhere across public, private and community sectors in both developed and developing economies to combat poverty, injustice, and inequality, especially in pursuit of a number of the UN Sustainable Development Goals.
53. Legal clinics associated with law schools should conduct strategic litigation in attempts to compel remedial climate action, sometimes joining forces with relevant research centres and external partners, to advance the cause of poor communities and countries who are severely affected by climate inaction from government and industry.

### *Legal education and ethics*

54. Law schools can and should expose law students to a wide range of careers and work-situated roles in those careers that involve doing something about poverty, as citizens, legal practitioners, community leaders, institutional advocates and partners in poverty-ending initiatives.
55. Law schools must expose law students to the structural inequalities and injustices that exacerbate poverty in foundation-year programmes about legal and justice systems, reinforced by capstone programmes in later years of study.
56. Law schools must include poverty-sensitive coverage and work-situated roles in study of substantive areas of law (eg, the non-neutral design and impact of taxation, property, corporate and criminal laws on poor people).
57. Law schools should introduce students to the panoply of 'hard law', 'soft law' and other regulatory mechanisms and standard-setting initiatives in the 21st century that relate to connections between law, poverty and both pro bono and client-related work.
58. Law schools must design and promote specific subjects with poverty, inequality, injustice and law as their direct focus.
59. Law schools should provide work-integrated, co-curricular and extra-curricular student experiences that demonstrate the realities and needs of marginalised and poor communities. This can involve partnership opportunities to empower those communities through legal clinics, placements, voluntary work, partnering programmes, sponsored or philanthropic initiatives, case studies, personal story-telling or otherwise.



60. Law schools must expose students to simulated conflicts between consequentialist, Kantian, virtue-based and Confucian approaches to resolving arguments around policy priorities in transactional law, and as between the interests of capital and human rights, with the intention of developing a habituated lawyer conscience around alleviating poverty, inequality and injustice.
61. Law schools must regularly self-assess whether their own teaching programmes are delivering a balanced education on lawyerly ethics and social responsibility, having regard to a range of measurable criteria.
62. Whilst no single law school is simultaneously expert and experienced in all of the dimensions of legal theory, substantive law, clinical legal education, legal practice, personal qualities, cross-disciplinarity and socio-ethical awareness that are desirable in an academy of world-class legal educators as a whole, law schools can approach these targets by selecting for as many of these skills and attributes as possible in all new teaching staff.
63. A new level of consciousness needs to be reached in law schools' workforce profiling and recruitment planning, to prioritise selection of new academic staff with demonstrable socio-ethical awareness and capability to deliver justice education.
64. Law schools and universities should promote equal access to tertiary education by removing barriers to access and providing scholarships and other support targeting worthy candidates from poor local and overseas communities.

### *Legal clinics and placements*

65. Diverse and innovative clinical legal education programmes, supported by reflective mentoring of all students, focused supervision and relevant assessment, are capable of turning around otherwise positivist, passive, and transactional 'technician' attitudes to law, and replacing them with an active determination to provide justice to those in poverty.
66. Legal and multi-disciplinary clinics can incorporate poverty-sensitivity directly or indirectly, and from a variety of work-situated standpoints across sectors and jurisdictions, such as specialised clinics tackling sexual assault, family violence, human rights, trade justice and capital punishment.