

# The Preparation of Legal Professionals to Provide Voice and Power to Vulnerable Populations in Society

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**Abstract:** The foundation of public interest law is social action in which legal professionals work in service to society (Davis, 2007). The primary purpose of the study was to identify and describe characteristics of preparedness needed to educate law students for the practice of social action. While this qualitative multicase study addressed the concept of preparedness for public interest lawyers, one emerging theme was public interest lawyers dedicated to working for social justice at the individual and systemic level. The overall study was framed by the theories of learning from experience, social action, and reflection in action. The study was conducted with seven public interest lawyers working full-time for a non-profit public interest organization in the United States. Data from interviews, observations, and documents were analyzed using the constant comparative method. In this paper, a brief description is provided for the three highlighted cases. This paper presents the concept of actively educating legal professionals to work for the public interest through a dedication to policy reform; addressing inequities within the law, and community education and outreach.

**Key words:** legal education, public interest law, legal profession, learning for social action, social justice, multicase study, professional education

## 1. Introduction

In the United States, the public interest lawyers working in non-profit public interest organizations strive to confront the negative impact of power on vulnerable populations. Such lawyers have the ability to give power and voice to those in need through social action at the individual and systemic level. Using their professional position, public interest lawyers can step in and level the playing field; practicing for social action through litigation, policy reform, and community education. This paper discusses the concept of lawyers as professionals who work for social justice. This concept surfaced from data in a recent multicase study investigating public interest lawyers which illustrated lawyers contributing to social justice through their (1) impact on public policy and inequalities in the law and (2) their capacity to give power and voice to vulnerable populations (McBride, unpublished dissertation, 2015). The preparation of socially active lawyers begins with a legal education which cultivates the deeper learning in law students to foster the desire to work for social justice in society. The next section discusses the theoretical framework of the study which focused on the preparation of lawyers oriented toward social action.

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## 2. Theoretical Framework

The theories of learning and social action (Dewey, 1897, 1916) supplemented with reflection in action (Leering, 2014; Schön, 1983) were used to frame the study. This study began by viewing the current state of legal education in the United States, and how the preparation of these professionals impacts their desire to work in the public interest. Dewey (1897, 1916) believed education was life; school and community were places of preparation for the future through the educative incorporation of life experiences in learning. Therefore, in teaching students, present reality and life experiences have to be incorporated with historic knowledge (Dewey, 1897). Lawyer John Kleefeld (2003) advocated such a Deweyan change in current legal instruction, stating “the life of law has not been logic: it has been experience” (p. 254). This incorporation can lead students to deeper thinking as they are pushed to engage in critical thinking and reflection (Dewey, 1897, 1916). The engagement in deeper learning helps move the student from viewing the world through an individualistic lens to seeing issues from a more holistic, collective view (Dewey, 1897, 1916). This movement of thought empowers students with the cognitive tools, critical thinking, and reflection necessary for social action (Dewey, 1897, 1916; Schön, 1983). Education can illuminate the structure of social activity, and through this structure, students not only develop a deeper understanding of society, but also increase their own capacity to partake in society through social action (Dewey, 1897). Theory informs us of how professional students, such as lawyers, can be educated to take up the reigns of social justice. Data from the multicase study (discussed later) supported this concept through the identification of current public interest lawyers using their profession to work in the public interest.

### 2.1 Learning and Social Action

The recent studies and critiques of legal education appear to focus primarily on the inability of lawyers to critically reflect on or effectively deal with the incorporation of multiple perspectives (Carnegie Foundation, 2007; Kleefeld, 2003; Menkel-Meadow, 1988). The capacity to question one’s frame of reference can be attained through critical thinking and reflection (Dewey, 1916). Kleefeld (2003) advocated for critical thinking in law school to equip lawyers with the capacity to construct logical, coherent arguments, especially when no precedent exists, in addition to identifying inadequacies and injustices in the law. When learning law, students must be able to pull from their experiences, reflect, and apply reason and logic to a new and unfamiliar situation (Davis, 2007; Dewey, 1916; Schön, 1983; Stuckey, 2007). It is essential law students not only learn about where their profession has been, but where it is going as well as how the legal profession impacts society (Kleefeld, 2003).

Education is a conduit for moving the student into society, to unify with others (Dewey, 1897). As the student becomes critically aware and moves past pre-conceived perceptions, he or she will begin to “emerge from his [sic] original narrowness of action and feeling, and to conceive of himself [sic] from the standpoint of the welfare of the group to which he [sic] belongs” (Dewey, 1897, p. 4). Education does not occur in a void; the social component cannot be removed from education (Dewey, 1897). The student must engage in continual interpretation to understand social situations within the context of both the individual and society (Dewey, 1897). Without the social element, there is a loss of educative value; “the individual who is educated is a social individual, and that society is an organic union of individuals” (Dewey, 1897, p. 4). What the theory of learning (Dewey, 1897, 1916) is telling us is that legal education can produce socially-active graduates that focus on more than just historic case studies and facts. The historic context serves as a platform for the student to build upon, with the current social reality integrated into the discussion. The lawyering profession is historically based on the ideal of

serving for the good of the community as a whole (Davis, 2007; Kleefeld, 2003). Legal education can prompt a deeper learning, where the individual is moved from a single perspective to one which considers the need of the collective (Kleefeld, 2003; Dewey, 1897) in which the professionals work for social justice.

## 2.2 Reflection in Action

Schön's (1983) idea of reflection in practice weaves the foundations of Dewey's (1897, 1916) theories together in the context of professional education. Schön (1983) explored the state of professional fields — he felt they no longer functioned for social action and devotion to societal needs. The profession of law was created to serve the citizens and uphold the justice and values of society (Colby & Sullivan, 2008; Schön, 1983). The evolving state of the world, combined with the appeal of capitalism, has greatly changed society, people, and the professions (Colby & Sullivan, 2008; Schön, 1983). Professional education in the United States, however, has remained entrenched in tradition, failing to confront the challenges and societal forces of today (Colby & Sullivan, 2008).

Schön (1983) reiterated Dewey's (1897, 1916) ideals of critical thinking and reflection, expressing that the ability of the professional to engage in deeper thinking from a more diverse perspective can increase the professional's service to society. Michele Leering (2014), a lawyer for community advocacy in Canada, believed the lawyering profession has reached a "critical juncture" in which reflection in action has become a much needed core professional competency (p. 83). Building from the literature of Schön, Leering (2014) engaged in an action research study to better understand the nature of reflection in action for law students, faculty and lawyers which helped identify reflection in action as specifically linked to the legal profession. Leering's (2014) research included exploration of the capacity of reflection to increase students' awareness of social justice. Knowledge is moved beyond basic conditioning by working through problems using reflection in action, critical thinking, and reflection; these in turn can be fostered within spaces of learning (Dewey, 1916; Leering, 2014; Schön, 1983). Legal pedagogy that embraces reflection in action is quintessential:

...for building professional expertise, for nurturing a strong professional commitment to access to justice and ethical action, for encouraging self-directed and lifelong learning, for its potential to support interdisciplinary approaches to the practice of law and for fostering collaborative and innovative approaches to the challenges facing the legal profession. (Leering, 2014, p. 84)

These spaces encourage students to use both education and experience in order to work through complex issues, with or without historical context. Such intentional learning allows students to gain a capacity for critical thinking and reflection in everyday situations, and understand the influence power has upon them and their environment (Dewey, 1916; Foucault, 1980; Leering, 2014; Schön, 1983). Students can then transfer these skills into their professional lives, engaging in spaces of critical thinking, reflection, and discussion at the systems level for more engaged and socially-conscious action. The defining attributes of the public interest lawyer are described as moral and social commitment, and professionals have the opportunity to be moral agents (Colby & Sullivan, 2008; Sarat & Scheingold, 2004; Sullivan, 2013). As such, lawyers working in public service can make a vital contribution to the social environment and a healthy society by serving the collective need through social action (Colby & Sullivan, 2008; Dewey, 1897; Sarat & Scheingold, 2004; Sullivan, 2013).

Dewey (1897, 1916) and Schön (1983) advocated the importance of deeper thinking by students. Their theories allow for a clearer understanding about what intentional educative conditions can help better prepare law students for socially active public interest practice (Davis, 2007; Leering, 2014). Spaces of co-constructed

learning between the teacher and student stimulate critical thinking and reflection in students which brings with it the engagement for social action (Dewey, 1897, 1916; Schön, 1983). The capacity for deeper thinking assists the student in moving from an individualistic perspective to one in which the student can hold multiple perspectives and engage in social action through consideration of the collective (Dewey, 1897, 1916; Schön, 1983).

Professional fields have opportunities to support an environment of social consciousness and social action in students, their graduates, and the communities they serve (Davis, 2007; Kleefeld, 2003; Leering, 2014; Schön, 1983; Sullivan, 2013). Law practice was grounded in service to the community (Colby & Sullivan, 2008; Sullivan, 2013), and professional fields, such as law, must once again assume their responsibility of service to the community through the roles of social action, social justice, and social consciousness (Davis, 2007; Sullivan, 2013). The classroom is an environment with the capacity to foster a move from the individual perspective to the socially-conscious perspective for society (Davis, 2007; Dewey, 1897, 1916; Smith, 2010). The perfect pedagogical method or combination of methods that serves to educate socially conscious lawyers remains elusive. However, the need persists to foster the skills for a future generation of lawyers ready to tackle social justice issues, and this is a charge placed upon the shoulders of law schools.

Through the creation of intentional spaces for deeper learning as described by Dewey's (1916) theory of learning from experience, legal education may be in a better position to foster law students' critical thinking and reflection, which can lead to growth in a student's level of social consciousness (Davis, 2007). Schön (1983) and Leering (2014) found the theory of reflective inquiry promoted the capacity for critical thinking and reflection in professionals. In return, these lawyers are more equipped to intertwine historic theory and experience for deeper thinking in the moment. Immersion into these intentional educative spaces of critical thinking and reflection also supports the student's movement from an individual perspective to the collective perspective — a movement toward social action (Davis, 2007; Dewey, 1897). The next section discusses data from a multicasestudy illustrating how legal professionals are currently working for social justice in their community.

### **3. A Multicasestudy of Public Interest Lawyers**

A qualitative multicasestudy (Stake, 1995) of 7 cases was conducted to identify and describe characteristics of preparedness that grow the capacity for lawyers to practice in the arena of public interest law. Each case utilized semi-structured interviews and observations of a public interest lawyer working for a non-profit public interest organization in the United States. Looking across the cases, all participants expressed a deep passion for helping vulnerable populations. This passion was expressed as giving citizens in need a voice and power to fight against systemic discrimination. Due to nascent resources, these lawyers are unable to help every client in need; thus, they endeavor to engage vulnerable populations through community outreach where the lawyers can educate and provide the necessary tools for citizens to help themselves. The overarching goal of all participants focused on searching for larger impact cases to effect social action at the system level or data patterns which may be indicative of a larger systemic issue. Three of the cases passionately illustrated a devotion of the participants to social justice as well as discussed how the participants view themselves as contributing to societal needs. These three cases are briefly described below. All participants and organizations have been assigned pseudonyms.

#### **3.1 Case One: Ali**

Ali had been out of law school for five years and worked for NPO 1 as a full time public interest lawyer. NPO 1 was a non-profit public interest organization that sought to serve vulnerable populations through legal

representation and legal advice in the hope that these citizens could overcome the obstacles preventing them from meeting the basic needs in life (NPO 1 website, 2015). Ali began the interview by speaking about an innate desire oriented toward social action before entering law school. She felt her movement toward social action really began in undergraduate school. She told me about a class in which they were learning about transgender rights. One of the class projects required an interview with a transgendered person. Ali's interview was with a person who had been fired from their job because of gender identity, in which they discussed his emotional and legal battle. She recalled speaking to him about why he was fired, how he felt, and how it had impacted his life. This interview was moving for Ali as she developed a deeper respect for others. This was her first realization that lawyering is "not just working in a building to make lots of money and a sitting at a computer"; lawyers can really help people. So, Ali began to nurture this emerging desire to help people.

Ali accepted cases with immediate impacts upon a person's or family's needs. Additionally, she stressed how much she wanted to represent everyone at a hearing but could not take every case. "It is so disappointing when you cannot help everyone who reaches out to us, so in those cases we try to help the individual by educating them on how to help themselves, it doesn't seem like much but 20 minutes with someone can help them and makes a difference in their lives" (Ali, interview data, 2015). She described some of her cases, explaining they tended to involve divorce or temporary protective orders to protect the mother and the children, or cases of child abuse where the client was seeking protection. Ali expressed how sensitive and emotional these cases could be, especially with children involved. "You also help people who face some inequality, some type of discrimination, and if it is a result of a law or policy, you hope your case can not only correct it for your client, but correct it so no one else is impacted in the same way" (Ali, interview data, 2015). She expanded her outreach into the community by serving as the co-chair of the county task force. The group met quarterly to discuss community issues. The task force compiled statistics to track how many people were affected. It was another way Ali found to extend her ability to help others.

### **3.2 Case two: Cindy**

Cindy was raised in a social-justice-oriented family, which developed her desire for social action. "My mother worked in non-profit, and so I sort of always had the idea that it would be good [to have a job] that was contributing to the public good and not just working for anyone but a non-profit. So, it was a natural progression from my family growing up" (Cindy, interview data, 2015). She expressed no doubts about her choice of lawyering field, and her great passion for helping vulnerable populations was clearly evident. She practiced public interest law to give power to those without it. Interestingly, Cindy did not really label herself as an agent of social action; she stated, "it's not necessarily saving the world...but I feel like we're always giving people the same kind of chances that everyone should have" (Cindy, interview data, 2015).

### **3.3 Case Three: Kristin**

Growing up in a privilege household, Kristin was unaware of the difficulties and hardship others faced. Her undergraduate education served as an "eye opener". It initiated a shift in her habits of mind from an individualistic perspective, focused on her own needs, to viewing the world as a whole and seeing the needs of others. "I don't know that I knew it a hundred percent like in high school, for instance, but...by the time the end of college I knew I wanted to do something that I felt like would help people in a very real and obvious way. And that's what I was thinking when I went to law school much to my father's dismay" (Kristin, interview data, 2015). Kristin earned a Bachelor's degree in sociology, and she described the undergraduate coursework as teaching her to view

the world as a whole. She found it “kind of eye-opening for someone who grew up pretty privileged, which I did” (Kristin, interview data, 2015). At the time Kristin began law school, she felt confident she wanted to pursue a public interest oriented lawyering position.

Still unsure what public service and social action really involved, Kristin began law school and intentionally sought experiences to help her define future goals. She just picked a clinic and enrolled in it. Her first clinic was focused on criminal law. While Kristin enjoyed helping others, she was not quite sure if she enjoyed the criminal aspect of lawyering. The next aspect of law Kristin explored was capital assistance. She worked with an organization that provided representation to people on death row. This placement was more focused on appellate work. Kristin realized two things: first, she liked work that was more varied; and second, it was difficult working for clients already on death row and knowing you were their last line of defense. During Kristin’s third year of law school, she accepted externships with two non-profit public interest organizations. She realized she enjoyed both clinical law and direct service to clients. Within the clinical and internships spaces, Kristin’s shift in perspective grew in capacity; she became passionate about human interaction and helping give others a voice and power to overcome obstacles. This shift led to pursuit of a career in a legal aid office post-graduation providing direct client services.

#### **4. A Predisposition toward Social Action**

The public interest lawyers in this study communicated a desire for social action to help vulnerable populations. The case interviews and observations illustrated the participants as reflecting on past and present experiences associated with issues such as inequality, oppression, and discrimination in society. Five of the participants discussed a strong desire to work for social action, which was a contributing factor in deciding to choose law as a career. The other two participants spoke about real-life practice experiences during law school, which fostered the desire to work in service for social action. Across the cases, the participants spoke about their aspiration to help individuals fight observed cases of inequality in society as the pursuit of social action is grounded in individual freedom (Dewey, 1916). The lawyer’s role in the pursuit for individual social action was described by the participants as giving power and voice to the individual who had none. Ali defined public interest lawyering as “working for social action as you give power back to people who feel like they have no power. With our assistance clients without power might actually be seen. Even better, they can be heard”. Ali acknowledged the feelings of powerlessness in her clients. Observing her clients struggle in a system in which they wanted to be heard, Ali found she was immersing deeper into the service for social action:

It has broaden[ed] my perspective [to] be aware that no one individual’s needs are above the needs of anyone else. People have a right to have access to the same rights and benefits as everyone else in society. Public interest lawyers should help individuals whose rights are violated. I feel like we are contributing to something bigger than ourselves... you hope your case can not only correct [inequality] for your client, but correct it so no one else is impacted in the same way...I think I'm giving back through my job. I do so to help other people. (Ali, interview data, 2015)

In this quote, Ali described her and others’ work in public interest law as ensuring the people in vulnerable populations get the same opportunities and rights as others in society. They see their work through social action as allowing them to give back to society. When speaking to Cindy, it was interesting to realize she did not label herself an agent of social action. Rather, she defined her job as leveling the playing field for her clients,

eliminating the imbalance of power in the case.

I really think it of it as evening the playing field. We're not necessarily going to win every case. We're going to get cases that aren't very good cases but I feel like regardless of the facts in the case, coming into a courtroom with an attorney representing them or even an attorney having given them advice and trying to help give them a better chance than if they would've just come in to court on their own trying to fix a bad situation. So, it's not necessarily saving the world and every case isn't perfect but I feel like we're always giving people the same kind of chances that everyone should have. (Cindy, interview data, 2015)

Cindy acknowledged in this reflection she may not win every case; however, she believed through providing legal representation, the opposing party does not benefit from a disproportion of power in the situation. Cindy stated that she enacts her desire to help vulnerable populations through the equalization of power. Her clients typically have no money or power; Cindy's representation provides the client with these so they have a fairer and equal opportunity against the opposing party. She expressed:

I think often there are cases where the other parties tried to take advantage of the client and know that client is vulnerable. I think sometimes the other party goes into these cases very explicitly knowing that there is a power and balance [discrepancy] and thinking that they will get their way. And it is kind of satisfying in those cases to come into court or to a mediation have them actually have a meaningful fight ahead of them which they didn't expect. I want them to understand that there is a just legal system and that they're not just going to get the easy outcome that they want, that it has to be a fair fight. A lot of time the money and power become a dynamic for those things, for domestic violence or control, and so you'll have someone who thinks they can still control it. (Cindy, interview data, 2015)

In this reflection, Cindy expressed how she helped equalize the power within a situation so her client had a fair fight. Meanwhile, she hoped the opposing party would come to the realization they cannot just win through suppression of an individual.

The public interest lawyers brought forth their desire to fight suppression through the practice for social action at an individual, and sometimes systemic, level. The orientation toward social action occurred at different times within the participants' life, but this orientation was recognized by all of the participants by the time they graduated law school. Prior to law school graduation, each participant had either experienced working with vulnerable populations or viewed inequalities in society through personal experiences. They acted on this internal desire by choosing a position as public interest lawyer in an effort to promote social action for individuals from vulnerable populations. Kristin described how she viewed herself as working for social action by describing her clientele. She explained how vulnerable populations tend to be overlooked in society and unsure how to navigate the legal system. Kristin shared that she relates to these clients by giving them recognition and power through her legal representation.

Most of my clients have been poor their entire life, they've been in the system their entire lives and so they're very used to being overlooked, or they have to yell until they get what they want, but for most of them it is just being overlooked. They're very confused by the legal system which isn't surprising because most people who aren't well versed in it are confused by it, but these people are confused by legal systems are not very highly educated which is going to obviously affect how they interact with the legal system and their ability to get help from people who know how to navigate it. But some of it I see as giving help back to those people who often times don't feel like they have that much power in their lives. Most of them aren't highly educated, they definitely don't have high powered jobs, they feel like things are just thrown at them all the time and this is just another hurdle and they don't know what they're going to do. (Kristin, interview data, 2015)

In this instance, Kristin reflected in our conversation that she saw herself as the “gateway” for her clients to have an advocate, as well as to gain access to a system that they feel shut out from due to poverty, lack of education, and access. The empathy she felt for their plight is evident in the following illustration, where she exhibited an understanding and respect for the emotional and physical place in which the client is situated. She continued:

And sometimes it’s just the littlest thing, like I spend twenty minutes on the phone with someone explaining how the process of a case looks and what is going to work and then they feel a lot less scared, like now they know what they’re going to do and they know they have to move out by a certain time and it’s going to be hard but they know what they need to do. And so sometimes it doesn’t take as much effort like for individuals like us, the attorneys, and the paralegals and such, but it makes a big difference in people’s life on the individual level. So, I think most of what I do is focusing on the individual level so that these people can either help themselves or we can help them have better lives in general. I think we do a lot of good just in day to day interactions with people. (Kristin, interview data, 2015)

Kristin shared how as little as 20 minutes of her time can have a huge impact on a person in need, as the clients are typically scared and unsure of how to handle their current situation. The participants recognized sometimes a small amount of time and effort on their part could translate into a much larger impact upon someone’s life. All described how their actions, whether on a small or large scale, can contribute to the social action for an individual. This predisposition toward social action within the participants was perceived to be continually growing as they engaged in professional practice. Moreover, each individual act of social action has the potential to impact other vulnerable populations in similar situations. Thus, the participants have the opportunity to see their acts for social action carry forward for positive impacts at a larger, systemic level in society.

### **5. Significance: The Social Action-oriented Law Student**

While the participants portrayed a pre-disposition toward social action, the heightened awareness of social consciousness through experience from learning increased their awareness of and desire for social action through their practice of public interest law (Davis, 2007; Dewey, 1916). The participants exemplified reflecting on their past and current experiences to hold a desire for social action as they discussed how experiences in public service broadened their perspective to see and empathize with the plight of others in society (Davis, 2007; Dewey, 1917; Kleefeld, 2003). The public interest lawyers brought this predisposition for social action forward from law school and continued to foster it through their practice for social action at the individual, and sometimes systemic, level (Kleefeld, 2003; Davis, 2007; Dewey, 1897).

These public interest lawyers aspired to give power and voice to vulnerable populations. They also watched for the “impact cases” that had the potential to affect a larger population in the hope they might initiate a systemic change for the oppressed or victimized population. As noted in the literature, the profession of law was created to serve the citizens and uphold the justice and values of society (Colby & Sullivan, 2008; Schön, 1983). Colby and Sullivan (2008) described professional education in the United States as entrenched in tradition, failing to confront the challenges and societal forces of today, yet, these public interest lawyers proved otherwise. They presented an unrelenting practice to fight societal challenges on a daily basis. Moreover, the participants painted a picture of professional education with the curricular structures available to encourage movement in perspective and espouse the rights and needs of vulnerable populations through real-life practice opportunities.



## 6. Conclusion

This qualitative multicase study positioned itself as an exploration into this area, uncovering several areas for future research. First, the participants deeply loved their jobs and focused on helping those in need. Interestingly, they did not necessarily view themselves as working for or as an agent of social action. This was not a defining label for them, as participants hesitated to name themselves as agents working for social action. Rather, they continued to reiterate how they just desired to help individuals in vulnerable populations and, perhaps, perpetuate systemic change to benefit a larger population in society. A future study investigating how law students and lawyers actually define social action would be interesting and informative. It would contribute to the literature through a discussion of what social action actually means within the lawyering field, as well as contribute to how law schools can foster law students' movement toward social justice.

This study contributed to the gap in the literature by identifying and describing the characteristics of preparedness for public interest lawyers to increase their capacity for social action. By doing so, the study contributed to the theories of adult learning and social action (Davis, 2007; Dewey, 1897, 1916) through the expressed connection of these theories to legal education and preparing lawyers to work for the public interest. Moreover, this study had added to social action theory (Dewey, 1897), by examining public interest lawyers and how they view themselves as contributing to, and cultivating, social action.

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