

5.0 Survey - findings and implications

The analysis of the data is in tables 1 to 6 that can be viewed in detail in the appendix. The main issues and their implications are discussed under the following sub-titles.

5.1. Globalization–its effect on advertisement and marketing

5.1.1 Globalization –its effects on the legal profession

The analysis of the findings is in Table 2A and 3A in the appendix. The main findings are:

100% agreed that	Globalization has increased competition for work among lawyers
96% agreed that	More legal work would be sent offshore with globalization.
94% agreed that	Domestic laws are forced to comply with global and regional laws
98% agreed that	Local lawyers would have to compete with foreign lawyers for domestic legal work in the future
96% agreed that	The volume of off-shore work would exceed the volume of local work in the future

Findings

Malaysian lawyers are fully aware of the implications of globalization. They acknowledge the fact that the creation of domestically made laws would be reduced in favour of adopting more regional and global laws. This would affect both small and big legal firms.

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The findings support the views of H.W.Arthurs and R.Kreklewich (1996) who said that more and more global and regional laws are now being produced and increasingly being incorporated into domestic laws. Lawyers nowadays need to be competent in global and regional laws. The implications of the findings are also in accordance with the ABA Report (2001) that there is a need to diversify into new areas of knowledge for them to remain relevant.

5.1.2 Information technology –its importance

The full data is in Table 3B in the appendix.

100% of all of the respondents agreed that:

1. Information technology is a very important tool of the profession.
2. Information technocrats play a very important part in the development of legal firms.
3. Lawyers need to be competent in information technology to succeed in legal practice.

Findings

The response of Malaysian lawyers to the adoption of information technology has been very positive. This shift is a reflection of the changing times with the internet becoming the main tool of the profession, as discussed earlier in this paper.

The lawyers accept the fact that they are in the information business, especially with various initiatives by the government and businesses, to move their activities to the electronic medium or risk being left behind.

The implication is that, the Malaysian Bar Council, as the regulator of the legal profession, should take the lead in promoting the use of information technology by lawyers as is done by the Law Society of Upper Canada.

5.1.3 Advertisements- the issues for the legal profession

The full data is in table 2A, 2B and 2C in the appendix. The main findings are as follows:

100% of the respondents held the view that	The rules on advertisement are not liberal enough to promote competitiveness
90% of the respondents held this view that	Lawyers are not happy with the advertisement rules of the profession
100% held the view that	Internet advertisements should be allowed without restrictions
77 % held the view that	Advertisements would improve the public image of the profession
70 % of the respondents held the view that	Advertisements would improve legal firm's accountability and transparency.
100 % agreed that	Communication with clients would be improved

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Findings

Lawyers acknowledge that in today's environment the practice of law is not only a profession, but also a business. This corresponds with the view expressed by J.J. Spigelman (2000). Advertisement helps lawyers to compete in the open market with other legal service providers who freely use the internet to advertise their services. Venturing into foreign markets and accepting work from overseas would be better facilitated. The influence of middlemen on legal firms would be reduced. As J.Parker

McCarthy (2000) commented, clients would be shopping around for legal services and this would improve the services of legal firms and they would become more cost-effective and efficient. Legal firms would also be forced to be more accountable and transparent and more technologically-orientated in facing competition. Advertisements have a positive effect on consumers.

The Bar Council needs to assist lawyers to promote their competitiveness by relaxing the rules on legal advertisement. The impact of advertisement would promote lawyers' welfare and also increase consumer awareness with time, as in the USA and in Canada.

5. 1.4 Legal marketing-it's implications:

The full data is in table 2D in the appendix. The main findings are:

79 % held the view that	Legal firms should set up specialized marketing departments
80 % held the view that	Lawyers should head the marketing department.

Findings

Legal firms' practice models need to have a business-like structure with a specialized marketing department to promote their services. With a lawyer heading the marketing department, the values of the legal profession would continue to remain protected as the lawyer as head of the department would be responsible for the conduct of the marketing department.

The legal profession would also be transforming itself into a modern profession similar to that in the USA and Canada where legal firms have their own marketing departments. Legal firms would become more specialized with the use of professional marketers to lobby for work. Public interest remains protected while the image of the profession would improve.

5.2 The view about joining MDP's

On the issues relating to MDP's, the complete data is in Tables 1 A, 1B and 2 C in the appendix. The main summary of the views is shown in the table below:-

79% held the view that	The practice of law is no longer attractive and many are leaving the profession.
.40 % held the view that	Legal profession would be threatened if lawyers joined MDP's.
38 % held the view that	Legal profession would not be threatened if lawyers joined MDP's.
83 % held the view that	Lawyers should be allowed to join MDP's.
100 % of the respondents who practiced criminal law held the view that	Lawyers should not be allowed to join MDP's.
58 % held the view that	Lawyers would loose their independence on joining MDP's.
50 % held the view that	Lawyers would continue to uphold the professional values if they joined MDP's.
80 % held the view that	Lawyers would be transformed into businessmen on joining MDP's.
96 % held the view that	Lawyers' competency depended on the practice model adopted.

5.2.1. Findings –effect on lawyers

40 % of the respondents held the view that the future of the legal profession would not be threatened if lawyers joined MDP's as against 38% who held the opposing view.

Because of the small difference between the opposing views there is a need for a further research on this issue. 83 % of the respondents are, however, of the view that lawyers should be allowed to join MDP's. But 100 % of the lawyers interviewed, whose domain is in the practice of criminal law, took the opposite view. However, these criminal lawyers who were interviewed only formed 13 % of all the respondents interviewed. The implication is that, joining MDP's is favoured by the majority of the respondents except for lawyers who specialize in the branch of criminal law. Criminal lawyers generally do not deal with clients needing multi-discipline services. 58 % held the view that lawyers would not lose their independence if they joined MDP's. It is thus not difficult to assume that lawyers are capable of retaining their independence and need no regulatory assistance for this from the Bar Council. Some of the respondents commented that because of the nature of the lawyers' work to protect public rights and interests, they would not be easily intimidated to surrender their rights to act independently even if they were allowed to join MDP's.

5.2.2 Findings - on the legal profession

The conflict of views is very close as to whether lawyers would lose their professionalism if they joined MDP's. 50 % of the respondents held the view that lawyers would not lose their professionalism, with 40% holding the opposite view while the rest took a neutral stand on this.

80% of the lawyers held the view that lawyers would be transformed into businessmen. Some of the respondents observed that the profession is already a business with lawyers competing for work. This has however, not affected the core values of the profession.

Thus, according to some of the respondents, allowing lawyers to join MDP's is not going to affect the legal profession's core values since the lawyers would continue to be subjected to the rules of the profession.

According to Mario Monti (2003), France, Germany, and Italy are among the nations that allow lawyers to join MDP's. This has resulted in a check and balance system imposed by lawyers on members of MDP's and this has led to the development of good governance among the members of MDP's. This is evidenced by the fact that in countries where lawyers are allowed to join MDP's no major business corporation failures like the cases of Enron and World Dot Com. have taken place.

5.2.3. Findings - on competitiveness

There is a high degree of discontentment among lawyers with 79 % of the respondents holding the view that the practice of law is no longer attractive, with many leaving legal practice to venture into other areas of law. 96% of the respondents held the view that the competency of the legal business depends on the practice structure of the legal firm. A few respondents even commented that joining MDP's would improve the competency of lawyers because lawyers would be working in a Multi-Discipline environment and could thus serve clients better. Many held the view that MDP is a good practice model for lawyers.

5.3 New legal practice models –the findings

Table 5 A and B in the appendix contains the full data of the findings on this issue. Many of the respondents supported a number of practice models. The main findings are tabulated below.

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90% held the view that	Forming alliance with foreign legal firms was good for legal firms
84% held the view that	Setting up Limited Liability Partnership was a good practice model
69% held the view that	Limited Law Corporations was also good practice model
80 % held the view that	MDP's with lawyers as a partner was good practice model
82 % held the view that	Lawyers forming alliance with MDP's was also a good practice model

The findings are

The importance of new business models are recognized as an important part of reforming the legal profession. Lawyers are eager to form alliance with foreign legal firms to market their services and to get assistance in the form of sharing resources, knowledge, and clients. 90 % of the respondents supported this model. While a formal alliance would create a formal relationship, this could lead to administrative problems as to how the alliance is to be administered. There are also problems of conflict of rules between the different legal professions of the world. This would create problems between the networking partners. For example, legal marketing and contingency fees are allowed in the USA but prohibited in Malaysia. Thus, further research needs to be done on the suitability of networking for lawyers.

Again, forming a formal alliance with MDP's also raises similar issues as networking among lawyers from different jurisdictions. There is a conflict of rules between the different professions that would have to be overcome first.

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The issue of allowing lawyers to join MDP's as a partner has already been discussed above. It appears that lawyers favour joining MDP's. Allowing lawyers to work with MDP's in an informal alliance would not create any administrative or professional problems as the legal firm continues to exist as a separate entity only sharing resources, knowledge, and the Multi Discipline practice environment. This benefits both the client and lawyer alike.

69 % of the respondents supported the adoption of Limited Liability Corporation (LLC) model. Here, again, there are different LLC model as adopted by New South Wales and by Singapore. Which model would be more suitable, needs to be researched further.

The limited liability partnership incorporated model (LLP), as introduced by UK, is very popular with the respondents. 84 % of the respondents support this model. This model that was first introduced in the UK is a popular model and is being adopted by many jurisdictions. It is also a good model for the Malaysian lawyers since the personal liability of lawyers in contract and tort for clients is retained while all other liabilities are taken care of by the LLP itself which has its own legal capacity. Its activities are covered by insurance to protect clients' interests. It allows lawyers to regulate their own activities by way of contract within the LLP, while capital for the needs of the LLP to venturing overseas and to improve their infrastructure is raised in the name of the LLP itself. This model protects both the client's interests and the lawyer's welfare.

5.4 Restructuring legal education –the findings

Table 4C and table 6 in the appendix contain the full data of the survey done on this.

The main findings are:

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.100% held the view that.	Legal education in Malaysia is limited to teaching of traditional laws
92 % held the view that	That is no statutory provision to compel lawyers to upgrade their skills and knowledge
100 % held the view that	Lawyers need to specialize in new areas of the law to improve the demand for their services.

Findings

Legal education has not changed with the changing needs of the society. This is one of the main causes of the problems faced by the legal profession. There is a need for improved coordination between the legal profession and the law schools on new areas of laws that need to be introduced to law students.

The study also showed that regulations may have to be introduced to compel lawyers to diversify and to upgrade their knowledge and skills periodically. The future of the lawyers would be better if they diversified into new areas of practice.

With the adoption of information technology for administrative purposes and with new practice models surfacing for the practice of law, there is a need for further research on the best way to train lawyers to manage a modern legal business.

5.5. Implications of the findings to the research questions

The findings obtained from this study are very relevant to the actual problems. They have far reaching implications for both the legal profession and the nation as a whole. No single precedent from foreign jurisdictions can be fully imported as no two nations are the same. Thus this section is about understanding of the specific implications that has emerged from the findings in respect of the Malaysian legal profession for each of the

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research questions. The main reason for understanding the implications is to decide how best to transform the Malaysian legal profession into a modern one. The implications of the findings of the study herein are now discussed.

Research Question 1

Can Malaysian lawyers be prevented from joining Multi-Discipline Practice in order to protect the core values of the legal profession?

With 83 % of the respondents holding the view that lawyers should be allowed to join MDP's, the future of the Malaysian legal profession depends not only in promoting the interests of clients, but also promoting the welfare of lawyers alike. According to Laurel Terry (1999), if the welfare of lawyers is neglected, this could lead to creating two sets of lawyers - one led by the legal profession and the other by MDP's. For example, Derwood Corporation in the USA has more than 5000 lawyers who do not belong to any Bar Association.

The issue to be considered is - what type of structure would be most suitable for lawyers to form with MDP's. Till now the Bar Council has only been approving the traditional business models like partnership and sole proprietorship. Lawyers' relationship with MDP's has not emerged as a serious issue yet. However, Cyrus Das (2001), a past chairman of the Bar Council, has said that although the Malaysian Legal Profession Act 1976 is silent on whether lawyers can join MDP's, lawyers are prevented from joining MDP's by virtue of the rule prohibiting lawyers from sharing fees with third parties. Although this may be the case, the Bar Council is not in a position to stop lawyers from forming an informal alliance with MDP's, as this does not involve any sharing of fees.

In Singapore, lawyers are allowed to form a formal alliance with MDP's on a non-fee sharing basis and with the lawyers retaining their separate practices. With this the Singapore Law Society is then able to monitor the activities of the lawyers in their alliance with MDP's. This leads to greater transparency and accountability in the

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activities of the lawyers while they continue to benefit by working in a Multi-Discipline environment, sharing both resources and knowledge.

The global trend however, appears to allow lawyers to join MDP's as partners as is recommended in the UK. The UK Law Society Report 2002 states that there is no evidence to suggest that the core values of the legal profession would be compromised if lawyers joined MDP's. The Australian Law Council Report 2000 is among the many other Law association reports that have recommended that lawyers be allowed to join MDP's as partners.

The Malaysian Bar Council is, however, still uncertain about the effect of lawyers joining MDP's . With this uncertainty, the best strategy would be to allow lawyers to form a formal alliance with MDP's as is done in Singapore. All the benefits of being in a multi-discipline environment could then be realised with the legal firm continuing to operate as a separate entity.

Research Question 2

What needs to be done to the rules of the legal profession on advertisement and legal marketing so as to enhance and promote the legal services locally and globally?

Legal marketing in Malaysia is prohibited as lawyers are not allowed to solicit for work, while legal advertisements are strictly regulated by the Legal Profession (Publicity) Rules 2001. Web site advertisement in the Internet has to adhere to a fixed format as to contents and appearance.

The application of this policy, however, is in conflict with the needs of the present-day legal practice. 100% of the respondents interviewed wanted greater freedom to advertise their services in the Internet. 90% of the respondents are not happy with the rules of the profession on advertisement while 79% wants to be allowed to set up their own legal

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marketing departments to get rid of middlemen. The Bar Council, however, fears that relaxing the rules pertaining to the advertisement and marketing of legal services would lead to an abuse of the advertisement and marketing process by lawyers.

But to promote legal services globally, the legal profession needs to adopt an aggressive marketing and advertisement policy. This involves adopting some degree of risk. Even if the rules of the profession were to be liberalized completely to allow lawyers to freely advertise and market their services, any misconduct by a lawyer still remains actionable under the general provisions of the rules of ethics. However, according to J. Parker McCarthy (2000), the policy is to adopt a model that would protect the interest of consumers while promoting the welfare of lawyers. Thus, if consumers are able to assess the quality and cost of legal services like in the U.S.A. and Canada, then, liberalizing the rules on legal advertisement and marketing would not be a problem. However, such consumer awareness is limited to clients with knowledge of the law relating to their needs. Such clients are normally institutional clients such as banks and international trading bodies which require legal services assistance in their international currency trading activities, and in foreign legal issues.

The Malaysian legal profession needs to identify the branches of the law where the rules on advertisement and marketing can be fully liberalized and where advertisements and marketing need to be regulated to protect clients. A blanket restriction against all advertisement and marketing in all branches of the law would limit the local lawyers' ability to compete on an equal footing against foreign lawyers who are allowed to advertise and market their services liberally in selected branches of the law.

Research Question No. 3

What structural reforms have to be made to the legal profession's business models so that local lawyers can compete on an equal footing with foreign lawyers?

Except for the formal restrictions on lawyers joining MDP's, it appears that the Bar Council is willing to promote other forms of new practice models provided there are justifications for the same. According to Cyrus V Das (2002), a past chairman of the Bar Council, the traditional practice models of sole proprietorship and partnership provide limited scope for expansion into the globalize world.

84 % of the respondents are of the view that limited liability partnership (LLP) as practised in the UK, is a good practice model for adoption by the Malaysian Legal Profession because lawyers would be able to regulate their activities within the LLP by contract, as and when needed, and without being restricted by the fixed structural form as that practised in Singapore and in New South Wales Legal Corporation models. Moreover, the LLP model provides less administrative problems and greater flexibility for lawyers wanting to venture into any jurisdiction. LLP model also allows lawyers to raise capital in the open market under the corporation's name, thus reducing the level of risk on the practitioners personally. Thus the LLP practice model would enable lawyers to compete more effectively in the open market.

Research questions No. 4 and 5

a) Research question no. 4 : "What new branches of the law should lawyers specialize in to enhance their future"?

b) Research question no. 5 : "What has to be done to upgrade legal education for future lawyers to remain competitive"?

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Both these research questions are linked to each other. The practice of law is a knowledge-based service. The policy of the Malaysian Bar Council, like any other Bar Associations, is to upgrade the knowledge of lawyers and to improve the quality of their services. While specialization would improve competency, diversification into new branches of the law would provide a better future for lawyers.

With globalization, legal education needs to place more emphasis on global, regional, and international institutional laws and laws relating to global and regional activities among nations. Further, there is a need to make the study of law a post graduate course in law schools. Lawyers would then not only be multi-disciplined, but would also be in a more effective position to contribute to the growing regulatory needs of specific industries related to their basic course of study in the University. Such lawyers would be better positioned to develop international regulations that would contribute to the growth of specific industries, as observed by Mark Levin (2000).

Finally, there is a need for a closer co-ordination between the legal profession and the law schools for the overall development of law and to fulfil the needs of the legal profession. With legal firms growing into multi-national legal corporations and taking on the form of an industrial structural, lawyers need to specialize in other disciplines such as office management, legal research and legal drafting (Avrom Sherr 2002). Thus, law schools need to train lawyers in many skills and knowledge for the future lawyers to remain relevant and needed.

Research question 6

To what extent has globalization and information technology affected the competitiveness of the Malaysian legal profession?

All the respondents agreed that globalization has affected the Malaysian legal profession, and this has resulted in a need to restructure practice models, diversify into new areas of

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practice, improve the structure of legal education, liberalize the rules of the profession, and most important of all, to adopt information technology as a tool of the profession to remain relevant and competitive in the new world order.

Robert M Abbey (1995) observed that information technology is a catalyst for the globalization process. With the fast transformation of most activities into the electronic media, information technology has affected the Malaysian legal profession at all levels, and the competency of lawyers in the future depends on their efficiency in the use of information technology. .

5.6. The overall implications

With the legal service developing into an open service, the lawyers' monopoly of legal services is gradually being eroded. This study has shown the need to adopt a more business-like approach while retaining the professional values. Lawyers must be competitive at all times. They need to be flexible to venture into new jurisdictions and to new areas of practice according to the changing needs of the market forces. New strategies like specialization and adopting new marketing models and information technology tools are increasingly important to promote legal competency but they should be adopted without disrupting the core values of the profession.

6.0 Conclusion

6.1 Limitation of the study

Due to constraints in time, this study was limited to 52 respondents and confined to the states of Penang, Kedah and Perlis. A bigger and wider sample of respondents **may** have produced better results. There is no known local study available for a comparison to be made but the validity of the findings was established through expert opinion of legal practitioners who conducted a face validity exercise. The findings seem to correspond

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with similar studies conducted in other jurisdictions and this provides the necessary credibility to the findings of the study herein. However the reliability of the study could have been further improved through the use of a test-retest approach although the findings that have emerged from this study correspond to the inferences obtained from other jurisdictions.

6.2 Summary of the relevant issues that has emerged from this study

Research Questions	Findings from the Research questions	Implications of the findings	Proposals for reform
1.Can lawyers be prevented from joining MDP's	The findings show that the majority of the lawyers support the view that they be allowed to join MDP's.	Two set of lawyers may emerge if lawyers are prevented from joining MDP's. One led by the legal profession with its strict rules The other led by MDP's. This is a threat to the future solidarity of the profession.	Lawyers should be allowed to join formal alliances with MDP's. Their activities can then be monitored. Public interests would remain protected. The welfare of lawyers and of the profession would also be enhanced.
2. What need to be done to the rules of advertisement and marketing to enhance competitiveness?	The findings show support for complete liberalization of the rules.	This may adversely affect public interest due to the lack of public awareness of the legal issues involved.	Rules on advertisement be liberalized in certain branches of the law to support clients who are fully aware of the law and of the issues involved.
3. What new practice models can be adopted to improve the lawyer's competitiveness?	The findings show support for the adoption of the LLP corporate model practised in UK	LLP model protects consumers' rights. It also promotes the welfare of lawyers. Lawyers are given the necessary flexibility to regulate their own activities within the LLP while continuing to enjoying the benefits of a corporate body.	The LLP model be adopted. Lawyers can raise capital in the name of the corporation. Lawyers can also adopt corporate form of management and undertake greater risk ventures overseas without fear.
4. What new branches of the law would provide a good future?	The findings indicate that the practice of law dealing with regional and global activities provides a better future.	Practice of law associated with global and regional activities is less competitive and more rewarding.	Lawyers should be encouraged to practise law concerned with global and regional activities.
5.What has to be done to restructure legal education	New emerging branches of the law ought to be taught in law schools	Legal education needs to be restructured to suit the changing needs of society.	Law schools need to emphasise more on regional and global laws.

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6.How has IT affected the legal profession	IT is now an important tool of the profession.	To remain relevant lawyers need to be competent in IT.	IT education is to be made compulsory for all law students and lawyers.
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The key significant finding is that Malaysian lawyers are well informed about the trends affecting their profession. Globalization is here to stay and legal services would continue to develop into an open service. Future of lawyers depends on their competitiveness. Ability of lawyers to keep pace with the changing needs and demands of the market forces depends on liberalizing the rules of the profession, making it more flexible to venture into new areas of legal practice. Rigid rules of the profession and the traditional monopoly of the legal services once enjoyed by lawyers have resulted in complacency among lawyers.

Lawyers have developed a fixed mind with set traditions and precedents and have opposed change. Malaysian lawyers need to change their professional outlook to be geared towards regional and global changing needs to promote the welfare of lawyers and also of the nation.

6.3 The effect on policy, theory and on practice.

With globalization and regionalism paving the way for vast economic growth there is a need to redefine the policy of Malaysian legal profession. This would enable Malaysian lawyers to serve domestic needs as well as, the growing needs of global and regional markets

In theory this change in the policy may cause short term negative effect with the doors of the profession being opened for foreign legal service providers with greater skills and knowledge to compete with local lawyers.

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However in practice over mid term and long term there would be a positive fertilization of knowledge and skills from the foreign legal service providers. This would enable Malaysian lawyers to develop the necessary ability to meet the regional and global needs of the market forces thus benefiting both the profession and the nation.

As Michael Porter (1998) observed, no business can wait in the sideline for the outcome of the globalization process. “Every successful business will need to develop strategies to compete and prosper within their respective industry. The same holds true for the practice of law. Not only must the legal industry remain attractive and profitable, but the firms within it must, if they are to remain successful, adopt competitive strategies vis-à-vis their competitors. Competition is the very core of the success or failure of the firm.”

6.4 Avenue for further research.

Constant research is thus needed to upgrade the services of lawyers to keep pace with the changing needs of society. This study has shown that at the moment further studies are needed in the following areas:

1. How best can information technology be introduced into the legal practice as a tool of the profession without disrupting the present working environment of legal firms? This is to improve the efficiency of legal firms.
2. Research needs to be done as to what branches of the law can the rules of advertisement and marketing be fully liberalized? This is to improve the sale of legal services without sacrificing the protection of the client’s interest against fraudulent and misleading advertisement and marketing activities by legal firms...
3. What conditions need to be satisfied before allowing lawyers to join MDP’s as partners?
4. Which Legal Corporation model is preferred by Malaysian lawyers - the model adopted by Singapore or that of New South Wales, Australia? The aim of additional research is to provide further alternative legal corporation models for

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Malaysian lawyers apart from the LLP model of UK that has been recommended in this study.

5. How could legal education be reformed to train future lawyers to provide global legal services? Legal education is the very basis of knowledge for the legal profession. The laws dealing with global and regional activities need to be taught in the local University so that new lawyers can diversify into new areas and remain relevant.

Although Herbert M. Kritzer (1999) believes that globalization would bring about the demise of the legal profession, the trends have shown that lawyers are accustomed to face challenges daily and can stand up to the changing trends affecting their profession. J.J. Spigelman (2000) observed that lawyers and the legal professions are not 'lemons' who can be side-tracked by the forces of globalization. The challenges posed by globalization are being met with reforms. According to one observer if the legal profession which is involved in regulating all human activities cannot survive the threats posed by globalization, then, no other profession could survive the emerging new world order.

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