



BUILDING AN ETHICAL LEGAL PRACTICE

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A message from the
President of the Law
Society of England
and Wales

“This is a time of change for solicitors, for their organisations, and for the country. But while solicitors can and do play the role of the trusted adviser, we can also be a force for change. The door is open, and the trail is ready to be blazed.”

I. Stephanie Boyce, President of the Law Society of England and Wales

What is Ethical Lawyering?



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Pro Bono

CSR

Human Rights and Cause Lawyering.

In-house lawyers stewarding internal ESG Net Zero Initiatives

Law Firm management stewarding internal ESG Net Zero Initiatives

All the above and far more

Ethical approach should be part of day-to day matter work

What is Ethical Lawyering?

- Raises some difficult conversations in the legal context.
 - TED talk: [Dare to Disagree](#) by Margaret Heffernan.
 - For lawyers, difficult conversations are extensions of the dominant hired gun model in legal ethics, (ref: Omar Madhloom's LAP talk).
 - Practice of law can ignore the place of law in society, politics and impacts on third parties.
- What could a practical model of ethical lawyering look like?

About Surya Advisory: Vision & Mission

- Founded Surya Advisory in January 2022.
- Vision: A world in which the legal sector steers businesses towards Environmental Social and Governance (ESG) integration and a Just Transition.
- Mission:
 - Use legal expertise to integrate dialogues, methods, processes and interventions for do no harm, sustainable development, equity and positive impact into daily decision making and project level activity.
 - Use the law to trigger an ethical mindset.

About Surya Advisory: Mission & Values

- What we do:
 - Assisting with the drafting of laws, regulations, compliance policies and contract clauses.
 - Providing legal advice on frontier topics in climate change, energy justice and land rights.
 - Conducting evidence based legal research on commissioned topics.
 - Convening educational sessions and convening stakeholders: we love having difficult conversations!
 - Mentoring junior lawyers: creating the next generation.
 - Engaging with like minded lawyers in a collaborative and non-competitive manner.
 - Encouraging stakeholders to focus on issues which impact their work, whether they know it or not.
- Current projects focus on equity grounded climate finance, energy justice and land rights.
- Legal supporters to companies, finance, governments, NGOs and trade associations. Work with philanthropic donors and curated action research projects within leading universities.

Legal principles underpinning Surya Advisory

- Our work is guided and embedded within regulatory guidance and hard legal principles. This provides our scientific grounding and unique, non-conventional additionality.
- **1. Legal Principles**
 - 'do no harm' principle under the UNGPs –global society expectations/not CSR/ increasingly reflected in national laws and distinct from state obligations.
 - equity and common but differentiated responsibilities under the UNFCCC;
 - Fundamental principles under SDGs and SDG agenda: equality, equity, inclusion, rights, laws and strong institutions – all rule of law principles. We interpret SDGs as expressions of the rule of law.

Regulatory guidelines underpinning Surya Advisory

- **2. Regulatory Guidelines**

- Aligned with climate related regulatory resolutions and SRA principles on the role of lawyers as advocates for the rule of law and justice.

- 2021, Law Society of England & Wales [Resolution on Climate Change](#): Educating lawyers on how to provide legal services in a way that accounts for the climate crisis, in line with professional duties.
- 2020, [International Bar Association](#) Climate Statement.
- American Model Rules of Professional Conduct.
“Lawyers shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client’s situation.”

Regulatory
guidelines informing
Surya’s work

Difficult
conversations – we
need them to grow

- When lawyers state that climate change-related risks and opportunities exist, they have a duty to educate their clients about them.
- Best interests of client to educate them about climate risks and **legal frameworks pertaining to climate and ESG.**
- Lawyers have discretion to interpret what elements constitute their clients 'best interests'. Short term and long term.

Expansive and transformative legal reform as part of lawyers' duties

- Within these resolutions - a call for a legal transformation in values and practice.
- Revisit & reframe legal reasoning that has informed laws and contracts and continues to inform climate focused contracts towards more equity centered legal reasoning.
- If not: greenwash, purpose washing, human rights violations and a failed 'just transition'.
- Reputational damage for clients and legal advisors.
- We have the legal and regulatory framework....let's align our legal practice to it...

Promising developments

- Chancery Lane Project : model clauses so every contract is climate aligned.
- Lawyers for Net Zero: in house counsel work from inside to persuade net zero outcomes.
- Room for improvement on equality and anti-poverty dimensions of ESG legal work.
- Universal, basic human rights still considered too political or too external for legal advisers.
- Many clients want to understand long-term consequences of today's actions.

Examples

- Just transition legal 'layers' in Finance, Corporate and Energy.
- Impacts of contract clauses on human rights, government ability to legislate or SMEs to compete.
- Impacts of blended finance and PPPs on energy justice and human rights.
- Impacts of development projects on land rights (hard, perennial problem that we must help fix).
- Drafting model clauses for insertion into energy contracts in LDCs.
- Producing legal advice notes and reports for government entities and NGOs.
- Advising trade associations.
- Working with philanthropy and academic partners on legal aspects of climate finance instruments.
- Equity based legal & compliance frameworks for channeling direct finance towards indigenous led projects.

THANK YOU FOR LISTENING

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