

## DEVELOPING LEGAL EDUCATION IN THE COMMONWEALTH: SOME CURRENT ISSUES

Paper by the Commonwealth Secretariat

### INTRODUCTION

1. In his inaugural address, the then President of the Commonwealth Legal Education Association (The Association) Professor N.R. Menon of the National Law School of India University drew attention to the need to make legal education in the Commonwealth socially relevant and professionally useful and for law schools and vocational training providers to prepare themselves for the demands of the profession in the context of the information revolution and other global challenges. He also drew attention to the need for a fresh look at law curricula and teaching methods and to support continuing legal education and distance learning programmes.
2. Against this background, this paper will:
  - provide an overview of legal education in the Commonwealth;
  - consider how the Commonwealth might better support the delivery of high-quality legal education that meets the needs of all member states and supports the basic principles of the Commonwealth;
  - consider how the Commonwealth might contribute to encouraging research and publishing, especially on legal issues of particular importance to Commonwealth member states;
  - consider ways in which Commonwealth law schools and law students might assist law ministries on law reform issues and in the provision of legal services.

### LEGAL EDUCATION IN THE COMMONWEALTH: THE CURRENT POSITION

3. The majority of Commonwealth member states have established law programmes so that today there are in excess of 400 law schools and other institutions providing legal education in the Commonwealth.<sup>1</sup> The continued popularity of legal studies means that there are thousands of students studying law at any one time.
4. The variety of such programmes indicates the range of needs that must be addressed. These include:
  - undergraduate law programmes;
  - postgraduate law programmes;
  - inter-disciplinary programmes (such as a Law and Business Studies joint degree);
  - non-law programmes that require students to take some law courses (e.g. accountancy courses);
  - professional legal training programmes;
  - continuing legal education programmes for legal practitioners;
  - specialist law training programmes for public officials; and
  - judicial studies.

---

<sup>1</sup> Full details of Commonwealth law schools can be found in the *CLEA Directory of Commonwealth Law Schools* (edited by John Hatchard), copies of which will be available at the Law Ministers Meeting.

### ***Current constraints on the provision of legal education***

5. Law schools in the Commonwealth vary considerably in resources, staffing and facilities. Even so, most are faced with at least some of the following constraints:

- cost of legal education;
- limited numbers of places available to study law (this may apply at undergraduate and/or professional legal training levels);
- resource constraints;
- staffing constraints;
- teacher retention;
- lack of local legal materials;
- lack of access to electronic resources; and
- outdated law curricula.

### **DEVELOPING STRATEGIES FOR STRENGTHENING LEGAL EDUCATION**

6. When considering the development of strategies to strengthen legal education, there are also several other issues to consider.

- Access to electronic resources is still limited in many law schools, thus the use of more “traditional” teaching methods must also be explored.
- Significant numbers of law graduates do not enter the legal profession. How can (or should) law programmes cater for such persons?
- Should/can law programmes be developed to address those who may wish to enter the government legal service? (e.g. by providing training in areas that directly address the needs of government legal advisors, such as international criminal matters).

#### **A. Exploring additional methods for delivering high quality legal education**

7. Given the above, Law Ministers may wish to consider alternative methods for delivering high quality legal education. These include:

- ***Examining alternatives to full-time law programmes:*** for example, the use of evening and part-time law courses as well as reducing the length of law programmes through extending the number of teaching weeks in a year.
- ***Development of distance learning programmes:*** there are a number of possibilities, including:
- ***Supported open learning programmes:*** for example, the Open University Centre for Law (UK) offers a full LLB degree through “supported open learning”: i.e. students study in their own time using (hard copy) course materials, working on course activities and writing tutor-marked assignments. They are supported by a tutor based in their area who holds regular face-to-face tutorials with students and regionally-based student services staff as well as enjoying access to an on-line law library. The popularity of such a programme is illustrated by the fact that the OU law degree is now the largest taught law undergraduate programme in the UK. The development of similar law programmes is also being examined in India amongst other countries.
- ***Electronic/paperless courses:*** such courses are resource intensive in that computer access and broadband connection is essential, but if these resources are to hand, the law teachers do

not even have to be in the same country. Internet video links allow for an interactive session across thousands of kilometres.

- **Offering short intensive courses:** this approach offers the prospect of legal academics and practitioners from other institutions (not necessarily located in that jurisdiction) providing short courses at alternative law schools. Running intensives in different Commonwealth countries can help forge closer links between academics, and provide students with access to different courses and exposure to different styles and experiences in teaching and research.

This already happens in, for example, Australia. Here lecturers run courses in other law schools, because it is not feasible (for a number of reasons, only one of which is financial) for a particular law school to run that course. The resulting courses are usually intensives – run over a week or two weeks, with assessment some time later.

Such courses could also be provided as part of continuing legal education for members of the legal profession and judges/magistrates.

#### **B. Establishing new law schools and expanding access to law studies**

8. An additional issue is the development of new law schools. At present, there are several Commonwealth jurisdictions that have no law school: for example, The Gambia.

9. Further the issue of access to law studies for females and members of minority groups might also be considered, as well as possible ways of dealing with any disadvantages. For example, the Akitsiraq Law School (Canadian Arctic) offers an LLB degree for Inuit students only, in collaboration with the University of Victoria.

#### **C. Ensuring adequate access to legal information**

10. Making appropriate legal resources available to legal educators remains a priority. Two aspects are particularly relevant:

- Firstly, access to electronic legal resources. Today a wealth of legal materials is available free of charge on the Internet, for example, through the World Legal Information Institute (WorldLII) and related web sites. Some material relating to law in the Commonwealth is also available on the CLEA website ([www.cleaonline.org](http://www.cleaonline.org)).
- Secondly, some Commonwealth states suffer from an absence of publications on local laws. One way to address this problem is through the print on demand programme of the CLEA. This offers the possibility of producing law books and materials on any subject cheaply and speedily with the print run being as large or small as demand requires. Additional copies can be ordered as and when required. The challenge is to examine ways of ensuring adequate access to materials for all Commonwealth law schools and legal practitioners.

#### **D. Curriculum development**

11. The rapidly developing legal landscape in the Commonwealth (and beyond) is well illustrated by the range of cutting-edge issues for discussion at successive Meetings of Commonwealth Law Ministers.

12. Law schools need to respond to these changes by developing new courses/modules and/or revising existing courses to reflect:

- the importance of Commonwealth jurisprudence;
- the need to equip students, both in their academic and vocational law studies, to meet the demands on the 21st Century lawyer;
- the fact that significant numbers of law graduates do not enter the profession;
- the growing importance of continuing legal education to assist members of the profession develop their knowledge and skills.

13. In practice, staffing and resource constraints and difficulties in gaining access to appropriate materials often make this exercise problematic. Some work has already been undertaken to address this situation. For example the Association is developing a curriculum development project designed to assist Commonwealth legal educators in updating existing law courses and in developing new ones.

14. To date a model human rights curriculum for the Commonwealth has been developed which has been adapted for use by both law schools and a range of other institutions: most recently for a number of tertiary institutions in India.

15. The Association has also worked with the Criminal Law Unit (CLU) of the Commonwealth Secretariat to develop a course for use in law schools and professional training institutions on transnational crime. Further, in partnership with the CLU, the Association has held four regional “training the trainer” workshops on the transnational crime course for Commonwealth law teachers. Subject to funding, it is hoped to expand this course to include further topics such as money laundering and anti-terrorism laws. The Secretariat also intends to develop new courses, including Environmental Justice, an Introduction to Islamic Law, and Land and Development.

16. In order to ensure that they meet the needs of law teachers in different regions of the Commonwealth, it is suggested that the development of the curricula be drawn up by an expert group broadly representative of the Commonwealth and that regional workshops be held along the lines of those mentioned above.

17. Another initiative is the recently established Public Integrity Education Network whose basic objective is to develop and facilitate the introduction of effective, policy-oriented training and teaching programmes on corruption control and organisational integrity at universities around the world. In this regard Law Ministers may also find the project proposal attached as an **Annex** to this paper of interest.

#### ***E. Professional legal training***

18. Whilst many of the issues raised in this paper also relate to professional legal training, there are other specific issues that might be discussed. These include:

- organisation of professional legal training: e.g. the benefits or otherwise of an integrated law programme (i.e. combining the academic and practical stages); who should be responsible for providing professional legal training? (This is currently an issue of particular concern in England and Wales.);
- facilitating access to such programmes: for example, Cameroon annually produces a large number of law graduates but only a very small percentage are able to gain entry into the professional legal training programme.

19. A comparative study of professional legal training in the Commonwealth might assist member states to review their existing arrangements.

## SUPPORTING LAW STUDENTS

20. Given the significant number of young people studying law, it is important to provide them with opportunities both to develop an interest in the Commonwealth and to meet fellow students from other jurisdictions.
21. Two opportunities offered by the CLEA provide useful examples.
- Developing Student Chapters on a regional basis. This has started in the South Asia region where law students from Bangladesh, India, Pakistan, and Sri Lanka have held two conferences on law and legal education in the region.
  - Commonwealth Law Moot. This is held biennially with the last three competitions being held in Colombo, Melbourne and London. A South Asia CLEA Moot competition is also organised regularly. The competition is particularly noteworthy in that it brings together teams of law students from around the Commonwealth to deal with a problem of particular contemporary importance to Commonwealth states.
22. Law Ministers may wish to express support for these strategies and consider how they might be further developed.

## CONTRIBUTION OF LAW SCHOOLS AND LAW STUDENTS TO LAW REFORM AND THE DEVELOPMENT OF LEGAL SERVICES

23. There is a range of opportunities that law schools and law students offer here. These include:
- *Provision of legal advice and support for legal aid:* for example, through the development of university and community legal aid clinics.
  - *Law student participation in volunteer schemes:* for example, the Pro Bono Students of Canada programme matches volunteer law students with government agencies, tribunals, courts, national and local public interest organisations and lawyers doing *pro bono* work.

This is a potentially very worthwhile exercise at a number of levels. The students learn about the workings of government in a practical sense; they are a well-educated resource; and such internships provide excellent employment opportunities post-graduation. They are also less resource intensive as far as academic supervision and time are concerned.

- *Developing links between law school and law reform agencies:* such links already exist between local law schools and the Alberta Law Reform Institute, Tasmanian Law Commission, British Columbia Law Reform Commission and Uniform Law Commission respectively.
- *Assisting government ministries with legal research and advice.*
- *Developing courses for public officials:* for example, providing specialist courses on recent legal developments in the Commonwealth.

### ***Building Strategic Partnerships***

24. The contribution that other agencies might make towards the development of high quality legal education should be examined. It may be useful to consider the possibilities offered by building strategic partnerships between governments, law schools, business and industry.

25. This is an area that has not been adequately explored and Law Ministers may wish to consider the feasibility of developing such partnerships.

## CONCLUSION

26. The provision of high-quality legal education is a pre-requisite to high-quality legal practitioners, judges, magistrates and government law officers. However, in examining ways of developing legal education it is essential to recognise that although many Commonwealth law schools face common problems, there is a wide diversity of needs and concerns that must be addressed.

27. This paper has sought to raise a series of issues and challenges for Law Ministers with a view to assisting them in considering and developing policy on how the Commonwealth might contribute to the delivery of high-quality legal education which takes into account the diversity of member states and the establishment of strategic partnerships.

28. Law Ministers may wish to consider how the CLEA can work with the Secretariat to promote and develop the issues outlined in this paper, including:

- assisting member countries who wish to develop their own law schools;
- developing new ways of delivering legal education including long distance learning and short term intensive courses;
- ensuring access to adequate legal information across Commonwealth law schools;
- supporting curriculum development, including identifying further areas and topics for development and assisting in the revision, development and updating of the law curriculum to ensure it remains relevant to the needs of all member states;
- developing links between governments, law schools, business and industry.

## CURRICULUM DEVELOPMENT IN COMMONWEALTH LAW SCHOOLS

A project proposal by the Commonwealth Legal Education Association

### *Objective of the project*

There are well over 400 law schools in the Commonwealth with a total law student population running into many thousands. Most Commonwealth law schools have much in common:

- the legal system being studied is based on the common law and Commonwealth countries have adopted common approaches to tackling constitutional and legal problems;
- they teach in a common language; and
- the "core subjects" in the law curriculum are very similar.

Many also face a common challenge: to develop new law courses/modules and/or to revise existing courses to reflect:

- the importance of Commonwealth jurisprudence;
- the need to equip students, both in academic and vocational legal studies, to meet the demands on the 21st Century lawyer;
- the growing importance of continuing legal education.

However, many Commonwealth law teachers experience difficulties meeting this challenge, not least because of time constraints that preclude the development of new courses, lack of research opportunities and the inaccessibility of relevant materials.

The objective of this project is to assist in the development of legal education in the Commonwealth by:

- identifying and developing new courses/modules relevant to Commonwealth law schools and lawyers;
- supporting Commonwealth law teachers in the updating of existing law courses;
- providing mechanisms for the regular updating of materials;
- organising regular regional "training the trainer" programmes and refresher courses for law teachers;
- encouraging legal research.

### *Scope of the project*

#### 1. Developing New Law Courses/Modules

The Association has compiled a provisional list of subject areas where assistance with course/module development is particularly appropriate. This is based on the views from Commonwealth law teachers and areas of particular interest to Commonwealth Law Ministers.

- Human Rights for the Commonwealth
- Transnational Crime
- Environmental Justice
- An Introduction to Islamic Law

- Medical Law
- International Trade Law
- Law and Technology
- Intellectual Property
- Land and Development

To date, work has commenced on the human rights and transnational crime courses. Some preliminary work has been done on Environmental Justice and Introduction to Islamic Law courses.

### **Human Rights for the Commonwealth**

In 1998 the Association was commissioned by the Commonwealth Secretariat, Human Rights Unit to develop a model human rights curriculum for Commonwealth law schools and for others interested in offering a course on human rights law to their undergraduate students. The model pays particular attention to, and includes a significant amount of material on, the contribution made by the Commonwealth and Commonwealth countries to the protection and promotion of human rights. It also pays particular attention to the problems of small Commonwealth states.

It was made available in both hard copy and electronically. In recognition of the fact that it is difficult to fit new courses into an already crowded law programme, the course was designed to be flexible enough to enable law teachers to "pick and choose" particular aspects for use in existing courses.

The course proved of considerable interest and encouraged and enabled a number of Commonwealth law schools to introduce a human rights course into their undergraduate studies.

In 2004 the course was extensively revised and updated and is now available in both hard copy and electronic format.

### **Transnational Crime**

In partnership with the Commonwealth Secretariat, Criminal Law Unit, the Association has organised four regional "training the trainer" sessions for law teachers in the area of international co-operation in criminal matters (extradition, mutual assistance and proceeds of crime). These were held for law teachers in the Caribbean; West Africa; East and Southern Africa; and the Pacific and Australasia.

The course will also be offered to law teachers in South Asia and will further be developed to include key topics such as money laundering and anti-terrorism laws.

### **Environmental Justice**

Dr Ros Macdonald of the Queensland University of Technology will oversee the development of this course.

### **An Introduction to Islamic Law**

The development of this course will be overseen by Professor Ibrahim Na'iyā Sada, of the Centre for Islamic Studies, University of Ibadan, Nigeria.

### **Target audience**

The courses/modules will be aimed at:

- law undergraduates;
- law postgraduates;
- law students attending the vocational stage of their legal training; and
- non-law students wishing to undertake specific law courses.

The courses will also enable law schools to mount effective and useful programmes on continuing legal education for legal practitioners.

## **2. Developing and Updating Existing Law Courses**

In many Commonwealth law schools, the task of updating existing law courses to take into account both Commonwealth-wide and regional developments and jurisprudence remains problematic. Once again, this is due particularly to time constraints on the part of law teachers and their lack of access to appropriate materials.

To address this difficulty, the project will assist law teachers by providing updated materials on key areas. These will include:

- Criminal law, e.g.
- computer related crime;
- legal responses to terrorism;
- tackling corruption;
- evidence e.g. electronic evidence;
- constitutional law;
- administrative law;
- obligations e.g. impact of e-commerce.

## **3. Updating the materials**

A key aspect of the project is to keep the courses and materials updated. This will be done by disseminating information obtained from, amongst other sources, the CLEA's extensive network of Commonwealth law teachers.

The materials will be disseminated both electronically and through hard copy using existing CLEA and Commonwealth channels (see below).

## **4. Holding regional training workshops**

Support for the use of the new courses/modules will be provided by way of regional training workshops for law teachers. This will be based on the successful model developed for the Transnational Crime course noted earlier.

These will be organised through the CLEA Chapters and Committees.

## **5. Encouraging legal research**

It is hoped that the assistance provided to law teachers will enable/encourage more of them to undertake significant research on topics related to law in the Commonwealth. The CLEA's *Journal of Commonwealth Law and Legal Education* will provide one suitable publishing outlet.

### **Methodology**

- The CLEA will oversee the development/updating of the courses/modules, utilising its extensive links around the Commonwealth.

- The courses/modules and related materials will be developed by teams of experts from around the Commonwealth.
- The materials will be developed to address regional issues and concerns, as well as the concerns of small Commonwealth states.
- For each new course, a meeting of experts from around the Commonwealth will be convened to finalise the notes and materials.
- Each new course/module will include appropriate reference materials.
- Where appropriate, the Association will organise regional "training the trainer" sessions for law teachers on the new courses as well as on "new Commonwealth trends and developments" in relation to existing law courses.
- The CLEA will provide a regular update of materials.
- The new courses will also be made available for students to study in an on-line distance learning environment (see below).

### *Delivery of the courses/modules*

Given the variation in the availability of, and accessibility to, electronic materials in Commonwealth law schools, the mode of delivery will be undertaken in a variety of ways.

- provision of hard copy;
- CDs;
- through the web site of the CLEA;
- delivery via an on-line distance learning environment.

Some courses/modules will be carried out by the CLEA in partnership with the School of Legal Studies, University of Wolverhampton (SLS) through the Wolverhampton Online Learning Framework (WOLF). This is a purpose-built computer-based learning environment developed to enable law students to access course notes, related resources and support materials quickly and easily.

Law schools will be able to have their students register for and undertake a course/module on-line with the assessment either being undertaken locally or marked and moderated by examiners selected by the SLS in partnership with the CLEA. This will also help address the acute shortage of law teachers in some universities.

### *Updating of the materials*

A key part of the project is to regularly update the courses/modules and materials. This will be undertaken in the following ways:

- (i) electronically via the web site of the CLEA;
- (ii) providing updates by way of CD Roms;
- (iii) providing updates by means of hard copy.

To facilitate the process, the Association proposes to make use of three existing publications:

- (i) *Commonwealth Legal Education*: This Newsletter is published three times a year by the CLEA and is sent to all known Commonwealth law schools and law libraries.
- (ii) *Journal of Commonwealth Law and Legal Education*: This is the CLEA's own journal and is published twice a year. It is designed to provide Commonwealth law academics with a ready vehicle for publishing their research.

- (iii) *Commonwealth Law Bulletin (CLB)*: The CLB is a potentially invaluable resource for this project as it carries a range of materials and information on law in the Commonwealth. Its format might be revisited with a view to enhancing its usefulness as a resource tool.

**Other issues**

- (i) *Potential problems of incorporating the new courses/modules into the existing law curriculum*: It is recognised that undergraduate and vocational law programmes are often already overloaded. The new courses/modules will be designed to be as flexible as possible, so that, where necessary, key parts can be included in an existing course(s).

The courses/modules can also be included as part of a postgraduate or law diploma programme or for continuing legal education courses.

- (ii) *Other initiatives*: A considerable amount of legal material is already available on the Internet, for example through the World Legal Information Institute and its related institutes. However, there is currently no systematic programme designed to provide the sort of assistance to Commonwealth law schools envisaged by this project.