

Commonwealth Legal Education

Newsletter of the Commonwealth
Legal Education Association

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Legal Education Association**

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EDITORIAL

by the Editor of the Newsletter¹

There is especial emphasis in this issue of the CLEA *Newsletter* upon the law and legal education in South Africa and a particular emphasis upon two forthcoming CLEA events, both of which take place in South Africa in April 2013: the **Commonwealth Legal Education Association (CLEA) conference** and the **Commonwealth Moot**.

The **CLEA Conference** is entitled 'Legal Education and Regional Cooperation in the Commonwealth and other Common Law Jurisdictions' and will be held in Durban, South Africa at The School of Law, University of Kwazulu-Natal between 13 and 14 April 2013. Prospective conference delegates and participants are also invited to join a three-day safari to the world famous Hluhluwe-Imfolozi Game Reserve where the white rhinoceros was saved from extinction. The safari will take place before the conference. In his pre-conference publicity piece, Professor David McQuoid-Mason, CLEA President, provides further information about the themes of the conference and makes a call for papers, the deadline for which is 30 November 2012.

Following this, Dr Joe Silva tells us about the history of the **Commonwealth Moot** and he looks forward to the next Moot competition. The Commonwealth Moot is an initiative of two Commonwealth legal associations, the Commonwealth Legal Education Association (CLEA) and the Commonwealth Lawyers Association (CLA), and it began in 1983. The 13th Commonwealth Moot will be held in Cape Town, South Africa, from 14 April to 18 April 2013, in conjunction with the 18th Commonwealth Law Conference (CLC).

For those who do not know a great deal about CLEA's journal, **The Journal of Commonwealth Law and Legal Education**, we have an informative piece about the history and remit of the journal from its editor, Dr Marc Cornock. You will see that Marc describes the variety and richness of journal content and encourages you to make submissions to the journal.

¹ Keren Bright, The Open University Law School, Walton Hall, Milton Keynes, MK7 6AA, England. Email: k.e.bright@open.ac.uk.

Members of the Open University Law School peer review and edit *The Journal of Commonwealth Law and Legal Education*. Please see: www.open.ac.uk/business-school/law/journal-commonwealth-law-and-legal-education.

In **CLEA People** you will find the biographies of our newly-appointed joint general secretaries, Patricia McKellar and Michael Bromby. Here they also 'set out their stalls' in terms of their priorities over the coming year. They both bring considerable experience of teaching and learning in law (including e-learning), experience of legal education associations and organising legal education conferences. Patricia in the course of her employment, travels widely for London University and visits many Commonwealth Law Schools. Michael does the same within the United Kingdom educational environment. Both look forward to meeting the challenges of their new roles and to advancing the CLEA.

In the final section of this newsletter, **Commonwealth News**, we have printed the response of three Commonwealth legal associations to the Commonwealth consultation on the proposal for a **Commonwealth Charter**. These associations are CLEA, the Commonwealth Lawyers Association (CLA) and the Commonwealth Magistrates' and Judges' Association (CMJA).

The regional focus in this edition of the CLEA newsletter has been upon **South Africa** as part of the build up to the CLEA conference and Commonwealth Moot taking place there in April 2013. There are precepts to be reflected upon by all concerned with the separation of the powers, the rule of law and the importance of dissent in both Professor David McQuoid-Mason's report on the lecture by Professor Pierre de Vos and in 'The Society of Law Teachers of Southern Africa' conference report of Patricia McKellar (see particularly her concluding paragraph to this piece). Recent editions of the newsletter have focussed upon Rwanda, Sri Lanka, Canada and Australia. If you would like the focus to be on your CLEA region in the next edition of this Newsletter, please feel encouraged to contact the Editor, Keren Bright, at k.e.bright@open.ac.uk.

Visit our new website at www.clea-web.com

THE COMMONWEALTH LEGAL EDUCATION ASSOCIATION 2013 CONFERENCE

‘LEGAL EDUCATION AND REGIONAL COOPERATION IN THE COMMONWEALTH AND OTHER COMMON LAW JURISDICTIONS’

at the School of Law, University of Kwazulu-Natal, Durban

13 and 14 April 2013

CALL FOR PAPERS

The Commonwealth Legal Education Association invites law teachers and practitioners from around the Commonwealth and other common law jurisdictions to submit abstracts of papers (of not more than 300 words) for this exciting conference. Abstracts should be submitted by not later than 30 November 2012, and acceptances will be indicated within three weeks of receipt. More information will be available on the conference website: www.clea-web.com.

The conference will be preceded by a three day safari to the world famous Hluhluwe-Imfolozi Game Reserve where the white rhinoceros was saved from extinction. Potential participants should indicate if they are interested in the pre-conference safari programme.

THEMES OF THE CONFERENCE

The conference will comprise a series of workshops which will include, but are not restricted to, the following themes:

1. *Legal Education and Regional Cooperation in the Commonwealth and other common law countries*

This theme will enable participants to share their experiences in, or future hopes for, regional cooperation in legal education in the Commonwealth and other common law countries.

2. *Legal Education (including clinical legal education) in the Commonwealth and other common law countries*

This theme is a general topic that will enable participants to discuss a broad range of contemporary legal education issues in the Commonwealth and other common law countries.

3. *Encouraging human rights teaching in the Commonwealth and other common law countries*

This will enable participants to reflect on the model CLEA Human Rights Curriculum for the Commonwealth and how it can be used in both Commonwealth and other common law country law schools.

4. *Preventing corruption and the misuse of public office: How can law teachers assist in fighting the scourge of corruption in the Commonwealth and other common law countries?*

This theme will encourage law teachers to reflect on how the CLEA model curriculum on Transnational Crime can be used in Commonwealth and other common law country law schools.

5. *Islamic law in the curricula of Commonwealth and other common law country law schools*

This theme will allow law teachers involved in Islamic Law courses in law schools in the Commonwealth and other common law countries to discuss their curricula.

If you wish to present a paper at the 2013 CLEA Conference in Durban, please send your abstract of not less than 300 words to Professor David McQuoid-Mason at: david.mcquoid.mcquoid.mason@gmail.com or before 30 November 2012.

If you want to know anything about the logistics concerning the conference, please contact Melanie at: redy.shashnie@gmail.com.

Please indicate if you would like to attend both the conference and the pre-conference safari.

THE 13TH COMMONWEALTH MOOT, CAPE TOWN, SOUTH AFRICA

Dr Joe Silva²

The 13th Commonwealth Moot will be held in Cape Town, South Africa, from 14 April to 18 April 2013, in conjunction with the 18th Commonwealth Law Conference (CLC).

The Commonwealth Moot is an initiative of the Commonwealth Legal Education Association (CLEA) and the Commonwealth Lawyers Association (CLA). It is an 'invitation-only' Moot, being limited to representatives from regions of the Commonwealth only. The regions, for the this purpose, are: North America, United Kingdom, the Caribbean, South Asia (India), South Asia (Pakistan, Bangladesh and Sri Lanka), South East Asia, West Africa, East Africa, Southern Africa, Australasia (Australia and New Zealand send separate teams), and the South Pacific.

This competition has evolved into a highly prestigious event as the teams that represent these respective regions have, more often than not, won their regional competitions as well. The Commonwealth Moot has generally been held concurrently with the Commonwealth Law Conference (CLC). In 2001, however, it was held separately from CLC since the CLC itself was postponed because of issues in Zimbabwe. Instead, the CLEA held its own conference in Colombo, Sri Lanka, along with the Commonwealth Moot.

The Commonwealth Foundation and the Commonwealth Lawyers' Association will endeavour to provide funds to assist teams from the developing Commonwealth countries with travel costs, and provide accommodation free of cost to all the teams during the period in which the moot is held.

It has been the tradition that wherever the competition is held, the local law society plays a major role in organising the venues, the judges, the accommodation and transport for the visiting teams so that the entire competition runs smoothly. A significant feature of the Commonwealth Moot has been the willingness of members of the Commonwealth Lawyers Association and associated organisations, who attend the Commonwealth Law Conference, to readily forgo their valuable time

² Commonwealth Moot Coordinator; Vice President, CLEA. Email: cleamoot2013@hotmail.co.uk.

to judge the moots of the competition. This willingness shown by the senior members of the Commonwealth Bar and the Judiciary sets the Commonwealth Moot apart from other moots. There are very few international mooting competitions in which the bench judging the finals, more often than not, consists of Chief Justices from countries, provinces and states across the Commonwealth.

The teams that represent the regions are nominated by the CLEA representatives, who base their nominations on the results of the continental, regional or national moot competitions involving Commonwealth countries in their regions. The mooting teams for each region are selected as follows:

Australia and New Zealand: the highest placed teams from each country in the Australian Law Students Association Moot

South Pacific: the highest placed team from either University of PNG or University of the South Pacific in the Pan-Pacific Moot

West Africa, Southern Africa and East Africa: the highest placed Commonwealth member country team from each of these regions as decided by the All Africa Human Rights Moot Court Competition

Canada: the winner of the Gale Cup Moot

United Kingdom: the winner of the English Speaking Union's National Mooting Competition

The Caribbean: a composite team from the representative law schools nominated by CLEA representative

South Asia (India): the winners of the national competition conducted by the CLEA Indian Chapter

South Asia (Pakistan, Sri Lanka Bangladesh): the winners of the regional competition conducted by the Regional Chapter

South East Asia (Malaysia and Singapore): a team nominated by the regional representative

The mooting teams compete for the 'Commonwealth Shield' (formerly known as the 'Turnbull Shield') and the winning nations from the inception of the Commonwealth Moot in 1983 are listed on it as follows:

1983 (in Hong Kong)	Australia
1986 (in Jamaica)	United Kingdom
1990 (in New Zealand)	United Kingdom
1993 (in Cyprus)	Canada
1996 (in Canada)	Australia
1999 (in Malaysia)	South Africa
2001 (in Sri Lanka)	United Kingdom
2003 (in Australia)	United Kingdom
2005 (in United Kingdom)	Canada
2007 (in Kenya)	Australia
2009 (in Hong Kong)	South Africa
2011 (in India)	Sri Lanka

The closing date for the nominations to be received by the Commonwealth Moot Coordinator is 31 January 2013. Email: cleamoot2013@hotmail.co.uk

CLEA JOURNAL

What is *The Journal of Commonwealth Law and Legal Education*?

Dr Marc Cornock³

The Journal of Commonwealth Law and Legal Education is an international peer reviewed journal focusing on law and legal education within Commonwealth countries. From its inception the responsibilities for its editing and administration have lain with The Open University Law School in the United Kingdom.

The inaugural issue of the journal was published in October 2001, and October 2011 saw the publication of the issue that marked our tenth anniversary, just as the Commonwealth Legal Education Association (CLEA) celebrated its 49th anniversary. To celebrate both these anniversaries, The School of Law at The Open University announced that *The Journal of Commonwealth Law and Legal Education* would be published as a 'free to access' online journal, available from the tenth anniversary issue (volume 8 issue 1).

The journal remains the official journal of the CLEA. Both the CLEA and the journal have many values and principles in common, including disseminating information regarding legal education and promoting debate that informs and encourages principles and policies relating to the law and systems of law within Commonwealth countries.

In recognising this partnership, the journal's aim remains the same as that of its inaugural edition 11 years ago: to encourage the sharing of best practice in legal education across the member states of the Commonwealth. It also seeks to promote the sharing of scholarship, legal research, points of view and innovation in legal education.

As a federation of many different jurisdictions, all of which share a common legal heritage, the Commonwealth represents a body of legal thinking that affects the daily lives of more people than are affected by any other legal system or network of legal systems. Legal educators, scholars, and

³ Lead Editor of *The Journal of Commonwealth Law and Legal Education*, The Open University Law School, The United Kingdom.

practitioners within the Commonwealth have a great deal to learn from one another. In ordinary language, a 'commonwealth' is a system involving the sharing of riches or resources. The purpose of the journal continues to be to create a commonwealth of knowledge, analysis and reflection on any legal matters or themes that have relevance to legal practice, legal policy and legal scholarship in Commonwealth jurisdictions.

The journal continues to feature informative, challenging and enlightening articles that will be as varied and diverse in terms of their subject matter as they will be in regards of the profession and location of their authors. The high standard and academic rigour of articles, case commentaries, book reviews, as well as proceedings from Commonwealth meetings, is maintained, as is the applicability and significance of the journal's contents.

The Journal of Commonwealth Law and Legal Education welcomes a range of contributions. Short opinion or experience-based articles are as welcome as longer more detailed contributions. Pieces of an innovative, imaginative or unconventional nature are considered as valuable as traditional academic articles. We are also pleased to accept book reviews and commentaries on legal cases. All accepted contributions are published free of charge.

We are committed to representing contributions from those in Commonwealth jurisdictions which have traditionally been under-represented in journals of legal practice and scholarship. Those who consider themselves as primarily teachers of law, those who are primarily researchers or scholars, and those whose main work is in legal practice or judicial responsibilities are all equally welcome. We value the richness and stimulation of diversity. The journal encourages new writers and provides a peer review process that supports writers with their contributions.

All articles published in *The Journal of Commonwealth Law and Legal Education* undergo peer review and editorial screening.

The Journal of Commonwealth Law and Legal Education will continue to be published twice a year in spring and autumn, edited by members of staff of The School of Law at The Open University in the United Kingdom.

We are pleased to accepted contributions to the journal at the following e-mail address:

JCLLE@open.ac.uk.

Online issues of *The Journal of Commonwealth Law and Legal Education* along with information on the journal's aims, and instructions for authors, are available at: <http://www8.open.ac.uk/business-school/law/journal-commonwealth-law-and-legal-education>.

Visit our new website at www.clea-web.com

CLEA Project Update

The Cybercrime Group

Associate Professor Clare Chambers⁴

Commonwealth Heads of Government at their meeting in Perth, Australia in October 2011 reiterated their commitment to improve international security by improving legislation and capacity in tackling cybercrime and other cyber space security threats, including through the Commonwealth Internet Governance Forum's (CIGF) Cybercrime Initiative. The Cybercrime Working Group was formed in 2011 and has met twice since then. The group is looking at different Commonwealth countries' cybercrime legislation and examining whether the draft model law on cybercrime 2001 requires updating and whether Commonwealth countries need assistance with incorporating the model law into their domestic legislation. The report is due to be presented to the Law Ministers in 2014.

CLEA: SOUTH AFRICA

Commonwealth Lecture Series to celebrate the

40th Anniversary of CLEA

'When judges are compelled to 'interfere' in government policy: Reconceptualising the separation of powers doctrine'

Professor David McQuoid-Mason⁵

Professor Pierre de Vos, Claude Leon Foundation Chair in Constitutional Governance and Deputy Dean, Department of Public Law, University of Cape Town, gave the first of the Commonwealth Lecture series to celebrate the 40th Anniversary of the CLEA at the Society of Law

⁴ University of the West of England, Bristol, England.

⁵ Centre for Socio-Legal Studies, University of KwaZulu-Natal, Durban, South Africa.

Teachers of Southern Africa (SLTSA) Conference at the Nelson Mandela Metropolitan University in Port Elizabeth, South Africa.

Professor de Vos began his lecture by referring to the recent statements by President Jacob Zuma and Mr Gwede Mntashe, the Secretary-General of the ruling African National Congress party, that the role of the unelected judiciary was not to undermine the policies of the democratically elected government, and that the judiciary was being used by the opposition parties to obstruct the goals of national democratic revolution in the country. 'Interference' by the courts in government policy was seen as undermining the separation of powers doctrine.

Professor de Vos gave an historical overview of similar comments about the role of the courts in the United States as far back as the time of Thomas Jefferson and later during Franklin D Roosevelt's 'New Deal' legislation. Professor de Vos then went on to point out that former Chief Justice Sandile Ngcobo of the South African Constitutional Court had dealt with the issue very neatly when he pointed out that what the separation of powers actually involved was a 'dialogue' between the different branches of government. For instance, when the South African government was ordered by the Constitutional Court to provide ARVs⁶ to HIV positive pregnant mothers and their new born babies, it was the beginning of a dialogue requiring the government to change its policy regarding the roll out of ARVs. He conceded, however, that sometimes the courts leave no room for dialogue, for example, where they order a municipality to provide water to a poor community within 72 hours, or a department of education is ordered to deliver school text books by the 15th of the month.

Professor de Vos pointed out that although South Africa has regular free and fair elections, at present it is a one party dominant democracy. Things may change in the future but now the only real check on the dominant party's exercise of power is through protest action by communities or the courts. The courts need to remain active in order to provide a safety valve against civil unrest by assisting communities to hold the government accountable. If the political landscape changes and the country is no longer a one party dominant democracy, the courts may become less active in policy matters. Thus it is not always wrong or right for the courts to interfere with government policy – it depends on the circumstances. For example, it would be wrong for the courts to prevent reform and transformation to protect the interests of a powerful minority. However, it would be right for them to encourage reform and transformation to protect the interests of a disempowered

⁶ That is, anti-retrovirals used in the treatment of HIV/AIDS.

marginalised majority. In the latter case, it would also be in the interests of the government to welcome such conduct by the courts because it would provide a safeguard against civil unrest.

On the question of judicial activism, Professor de Vos mentioned that such activism is important for the interpretation and development of the common law in accordance with the values of the Constitution required by section 39 of the Constitution. The teaching of private law in the universities often deals with the Constitution as an afterthought. For instance, students are not taught how the Constitution can be used to develop the common law of contract. Constitutional law is taught in a separate compartment rather than in the other courses. Section 39 of the Constitution should be the starting point for all law courses and not just added at the end. One of the tasks of judicial activism is to develop the common law.

After Professor de Vos's lecture, a lively debate ensued about how far the courts should involve themselves in policy and political matters. It was suggested several times from the floor that the courts should always steer clear of politics. Professor de Vos replied that whether we liked it or not, the decisions of the courts were always political and had political consequences. He concluded by reminding the audience about the importance of the courts providing a safety valve when communities felt disaffected from the government.

The Society of Law Teachers of Southern Africa (SLTSA) Conference at the Nelson Mandela Metropolitan University, Port Elizabeth, South Africa

Patricia McKellar⁷



The South African Law Teachers Conference was held at the Nelson Mandela Metropolitan University (NMMU), which has 25,000 students and is a

⁷ Associate Director, Undergraduate Laws Programme, University of London, England.

leading institution in Environmental Law in South Africa. Foreign students make up about 8 per cent of the student body and the African students come from 34 different countries on the continent. The Law Department, which has over 1,000 students, welcomed the 250 delegates to the conference with almost all South African Universities represented. The conference was opened by Professor Derrick Swartz, the Vice Chancellor, before the five parallel sessions started. Themes ranged from Criminal and Procedural Law, Banking and Finance Law, Customary law, Legal Philosophy, International Law as well as Legal Education and Clinical Legal Education. With each of the four days starting at 8.00 am, there was plenty to choose from by delegates eager gain a deeper knowledge of their subject and to learn more about the way their subject is taught in other places. Here is just a flavour of some of the sessions contained in those four days.

Papers in the Legal Philosophy session contained interesting submissions on 'Enhancing the Development of African Jurisprudence' and 'The Values Underpinning African Jurisprudence'. Papers served to show how South Africa (like many African countries) is coming to terms with the concept of its legal systems being rooted in different, and sometimes conflicting, cultures. South Africa has the added difficulty of emerging comparatively recently, in terms of evolution of legal systems, from the apartheid regime. But there were clearly initiatives being suggested to undertake research in these areas which may bring some form of new understanding.

Skills acquisition is an important part of any LLB and so it proved with the South African one. In a paper on the semiotics of non-verbal communications in the legal arena, it was submitted that as teachers we focus more on knowledge than on skills and, in particular, not enough time is spent in imparting communication skills. We make use of non-verbal communication without knowing, but an awareness of them can help us better understand ourselves and others. Semiotics studies 'signs' which assist with the construction of meaning and allow us to 'look beneath the surface'. The talk explained a range of 'signs' and how these may be interpreted by the lawyer (for example, how to shake hands and how to detect when someone is lying). Discussion after the paper centred how to deal with teaching non-verbal communication across diverse cultures and the difficulty of encouraging staff to engage with this form of teaching.

The Legal Education theme was well attended which provided excellent discussion after each paper. Colleagues from de Wits University gave a well-delivered paper on the embedding of legal skills within the curriculum. Rather than restricting the acquisition of skills to one separate course, they have integrated specific skills teaching into particular modules throughout the degree (eg Family

Law: finding, reading and writing; Contract: legal problem solving; Civil Procedure: drafting). The authors presented findings relating to the Family law course where they had produced a range of activities for students on where to find the law, how to read legal sources and how to present written legal information. Their study suggested that students' confidence levels had been significantly raised on completion of the course: a good indicator of the success of the initiative. A certain amount of lecturer resistance in this type of exercise is inevitable and the authors had gone a long way to ensure 'buy in' from the staff with a programme of training and staff development.

Other legal education papers illustrated how lecturers were embracing technology-enhanced learning with the use of short video clips in lectures to stimulate engagement as well as producing podcasts. One lecturer explained how she tapped into modern culture by asking students to write, record and film a rap song on Contract, part of which she played during the session. My session was on the use of e-readers in the distance learning University of London LLB. The paper discussed a project which followed 100 students in Singapore, Kenya, Germany and the UK who were given e-readers loaded with the Study materials and core text books in a specifically adapted electronic format. The initial findings revealed that students valued the portability and convenience of the e-reader, although there were drawbacks relating to functionality.



Professor David McQuoid-Mason, President of the CLEA, ran sessions on Clinical Legal Education, including Street law workshops. His emphasis on empowering communities is a potent message and one which has resonance throughout the developed as well as developing worlds. In addition, David ran a most engaging session on using Franz Kafka's *The Trial* as a teaching tool to enable law



students to consider whether a person's due process rights have been violated by the law enforcement authorities. Having reduced the book to a three act play, he instructs students to take the parts of the accused and the protagonists in a process which has no authority and ultimately results in imposition of the death penalty on someone who does not even know his

charge. This session involved the participants acting out the parts as directed by David and

discussing the relevant issues and considering rights that had been violated or respected. A most thought provoking session and one which I'm sure will be replicated in similar forms across South African Universities.

The Conference was an opportunity for law teachers in South Africa to share practice and discuss current legal issues in a collegiate and friendly environment. To witness this as an outsider was instructive and thought provoking. It was clear there is much collaboration and co-ordination among the various institutions in South Africa. In 1997 Professor David McQuoid-Mason, the then President of the Society of Law Teachers of South Africa, appeared before the Truth and Reconciliation Committee to apologise for the failure of many of the country's law faculties to take a stand against apartheid and the gross violations of human rights in South Africa, and gave an undertaking that they would not fail in the future. It is clear that these departments have left the past behind them and are forging a new and cooperative path which it is hoped will produce outstanding teachers and thoughtful and diligent students across the racial divide.

CLEA: MALAYSIA

There are now a number of relatively new universities and other institutions in Malaysia which offer law degrees. These include INTI International University (which is located across central, north and east Malaysia and is part of Laureate International Universities, the world's largest operator of private universities); Taylor's University (a private university in Subang Jaya,⁸ Selangor,⁹ Malaysia¹⁰ and a member of Taylor's Education Group¹¹); Pusat Teknologi dan Pengurusan Lanjutan (PTPL) Colleges; KDU University College; and University Sultan Zainal Abidin (uniSZA).

CLEA: ENGLAND & WALES

Legal Education and Training Review

LETR is a joint project of the Solicitors Regulation Authority (SRA), the Bar Standards Board (BSB) and ILEX Professional Standards (IPS). It constitutes a fundamental, evidence-based review of education

⁸ http://en.wikipedia.org/wiki/Subang_Jaya.

⁹ <http://en.wikipedia.org/wiki/Selangor>.

¹⁰ <http://en.wikipedia.org/wiki/Malaysia>.

¹¹ http://www.taylors.edu.my/en/home?bypass_mobile=0.

and training requirements across regulated and non-regulated legal services in England and Wales. The legal services sector is experiencing an unprecedented degree of change. LETR is required to ensure that the future system of legal education and training will be effective and efficient in preparing legal service providers to meet the needs of consumers. The work of the Review is evidence-based and transparent, with discussion papers, briefing papers, headline findings and other forms of evidence being posted on the Review site at <http://letr.org.uk> (see under the Publications tab).

The Review Team (Professors Julian Webb (lead), Jane Ching, Avrom Sherr and Paul Maharg) liaises with a Consultation Steering Panel that advises the Team and helps to disseminate findings to the wider legal communities in England and Wales. The Panel is co-chaired by Dame Janet Gaymer and Sir Mark Potter.

Phase 1 of the Review was a literature review that took account of some of the international literatures in common law jurisdictions globally. Phases 2 and 3 involved the Team in a contextual analysis of the field (identifying the knowledge, skills and attributes currently required in the legal services sector) and in analysis of workforce development (identifying potential future structure change and its implications for future education and training needs).

Final recommendations will be made in December 2012. It will be for each regulator subsequently to set out a process for addressing recommendations in the report, and to consult formally on any proposed changes.

Seminar series: Purpose of and Emotion in Legal Education

Dr Umut Turksen (Bristol Law School, UWE) has started a new staff development seminar series entitled 'Purpose of and Emotion in Legal Education'. The first seminar, which focused on 'What do law students care about? And why should we care?', took place at the University of the West of England on 20 September 2012. The next seminar will take place on 7 February 2013 and is entitled 'Students' values and their reflection in law curriculum'. If you would like more information, or take part in or host one of these seminars, please contact Dr Umut Turksen by email:

Umut2.Turksen@uwe.ac.uk

CLEA PEOPLE

New joint General Secretaries for CLEA

Michael Bromby, Glasgow Caledonian University, Scotland

Patricia McKellar, University of London, England

In September 2012 the Executive of CLEA appointed Michael and Patricia as joint General Secretaries for the association with immediate effect.

Michael is a reader in the law department at Glasgow Caledonian University. He is presently seconded to The Higher Education Academy in York, as the Discipline Lead for Law. This is a national role in the United Kingdom and requires the co-ordination of funding opportunities, resource development, events and seminars for legal education. Michael undertakes visits to UK law schools to promote good practice in learning and teaching, issues regular newsletters and updates from the HEA, and supports academics undertaking project work. Michael is an ex officio member of the Committee of Heads of University Law Schools and Association of Law Teachers executive committee, an active member of BILETA and a member of the Society of Legal Scholars, attending most of the legal academic conferences in the UK.

Patricia is Associate Director for the Undergraduate Laws programme at the University of London. She drives the development and implementation of the learning, teaching and assessment strategy specifically in relation to the embedding of e-learning technologies and the development of an interactive learning environment. Her role requires her to visit many legal education institutions worldwide, but primarily in Commonwealth countries, and to have a global perspective on legal education. She also liaises with foreign legal regulatory authorities and government departments in connection with the delivery of legal education and capacity building. Prior to working at the University of London, Patricia was the Senior Learning & Teaching Advisor for the UK Centre for Legal Education (UKCLE) where her remit was to support and develop teaching and learning projects in legal education across the UK. This encompassed identifying, managing, advising on and mentoring projects funded by the Centre and other funding bodies (mainly JISC and HEFCE) and working with

colleagues throughout the UK in developing project ideas. Patricia has been a member of BILETA Exec and the Secretariat for over ten years.

Michael and Patricia have worked extensively together over a number of years as academics at Glasgow Caledonian University, members of the BILETA executive and at the UKCLE in Warwick. They have both co-ordinated numerous conferences, workshops and events; and have excellent links with universities, law schools and professional bodies alike. Michael will focus on strengthening UK links and Patricia will concentrate on international engagement, facilitated by their job descriptions with their current employers. This will be invaluable to widening academic participation in CLEA conferences and events, and increasing awareness of the association. Both are experienced academics with expertise in running an academic association, knowing how to ensure a successful conference and maintaining good links and reputations with other bodies as required.

Their priorities for the coming year include:

- Promoting the association throughout the UK and the Commonwealth: this will be attained through current professional activities and active networking and dissemination strategies.
- Managing the CLEA Learning & Teaching projects: both Michael and Patricia have extensive project management experience in the legal education field in large and small projects alike and including where the project team is geographically dispersed, which provides additional challenges. Both have facilitated dissemination of project results to key stakeholders and to the wider education community.
- Supporting the biennial conference: both have good links with South African law schools (Patricia presented a paper at the South African Law Teachers Conference in July 2012) and knowledge of international conference organisation.
- Developing the website: Michael has already begun this process, and Patricia has experience of maintaining an online presence which would aim to promote engagement and facilitate a community of practice around the association's activities.
- Creating an email distribution list for the association and for the executive committee: JISCmail has already been explored for this purpose.
- Increasing the readership of the newsletter: through all of the above activities and making regular contributions to both the newsletter and the website.

Patricia is based in London but travels widely throughout the Commonwealth. Michael regularly travels from Scotland for other meetings, so both are well placed for promoting the association and

attending CLEA meetings. They can be contacted at: m.bromby@gcu.ac.uk and patricia.mckellar@london.ac.uk.



Michael Bromby and Patricia McKellar, Joint General Secretaries of CLEA.

COMMONWEALTH NEWS

Commonwealth Charter

Set out below is the joint CLEA/CLA/CMJA response to the Commonwealth consultation on the proposal for a Commonwealth Charter. A draft Commonwealth Charter reflecting the concerns contained in the response was annexed to it, but is not included here. The Charter proposal was reported to have been endorsed by Commonwealth Foreign Ministers at their September 2012 meeting in New York, but the approved text was not available when this CLEA newsletter went to press. The approved text of the Commonwealth Charter will be published in a subsequent edition of this CLEA Newsletter.

**A Peoples’ Charter for the Commonwealth: A Submission by the
Commonwealth Lawyers Association (CLA)
Commonwealth Legal Education Association (CLEA)
Commonwealth Magistrates’ and Judges’ Association (CMJA)**

The Commonwealth Lawyers Association (CLA), the Commonwealth Legal Education Association (CLEA) and the Commonwealth Magistrates’ and Judges’ Association (CMJA) note the Report of the Eminent Persons Group (EPG) to Commonwealth Heads of Government in Perth in October 2011.¹² The Associations have considered the recommendation by the EPG that there should be a ‘People’s Charter’ and that *‘such a Charter would establish a Commonwealth “spirit” – one that is shared by the people of the Commonwealth and their governments, and that would institute firmly the concept of a Commonwealth whose collective purpose is driven by the aspirations of its people.’*

Whilst in principle, the idea of a Charter to support the Commonwealth fundamental values of democracy, good governance, human rights and the rule of law is welcomed by the Associations; it is our submission that the Draft Charter included in the EPG report is confusing. The following issues require particular attention:

1. The Draft Charter speaks of the People of the Commonwealth. It is usual to refer to the ‘Peoples of the Commonwealth’ in order to reflect the breadth and diversity of the groups from which we draw our strength.
2. It is unclear from the Draft Charter as to who would endorse it. Would it be the ‘Peoples of the Commonwealth’ or the Heads of Government on behalf of the Peoples as the United Nations Charter does?
3. The Draft Charter sets out aspirations. It is our view that there should be a clear set of pledges to which the Peoples and/or Heads of Government of the Commonwealth commit themselves.

¹² ‘A Commonwealth of the People Time for Urgent Reform’ The Report of the Eminent Persons Group to Commonwealth Heads of Government Perth, October 2011.

4. The Draft Charter should include an introductory paragraph outlining the existing commitment to the core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness.
5. All Commonwealth countries have already agreed to the UN Charter and the Draft Charter should include a reference to this without repeating the same.
6. Commonwealth Heads of Government, representing their Peoples, have already provided the basis of a Charter in the form of the *Trinidad and Tobago Affirmation of Commonwealth Values and Principles* (the Affirmation). In the view of the Associations, the Affirmation provides an ideal basis for the Charter and need only be adapted slightly in order to achieve the objectives as identified by the EPG.
7. The Preamble of the Draft Charter focuses too much on the historical past of the Commonwealth and is not reflective of the modern Commonwealth as a dynamic and forward looking international organisation.
8. The Draft Charter lacks coherence and clarity and a number of articles are both misleading and open to misinterpretation. The document should be shorter and more concise.
9. The Draft Charter needs to be restructured and should contain clear sections linking issues and articles that belong together. It is our submission that the following headers might be used:
 - International Peace and Security
 - Democracy, Good Governance and the Rule of Law
 - Tolerance, Respect & Understanding
 - Human Rights
 - Sustainable Development
 - Climate Change and Environmental Action
 - Civil Society
10. The Draft Charter omits some important rights that have been agreed as part of the Commonwealth fundamental values, such as the right to freedom of expression and the right to freedom of information.

11. The Draft Charter omits any reference to the media except in article 12 which refers to the media of communication. What is meant by this phrase is unclear. The Affirmation and the Commonwealth (Latimer House) Principles on the Three Branches of Government both recognise the importance of a free and vibrant media and have previously been agreed by Heads of Government. It is not clear why these were omitted.
12. Although the Harare Declaration refers to gender equality, there are several forms of historic and other discrimination which also need to be addressed in the Commonwealth. Referring only to those that appear in the UN Charter is an oversight and not reflective of the modern world in which we live.
13. The Draft Charter does not make any reference to local government and the important role it plays in ensuring democracy. No reference is made to the Aberdeen Principles on Good Practice for Local Democracy and Good Governance which have also been endorsed by Heads of Government.
14. The Draft Charter should include a list of all relevant Commonwealth Declarations for reference purposes.
15. As the Draft Charter is one for the Peoples and/or Heads of Government Charter, it is unclear why references to the role of the Commonwealth Secretariat in relation to capacity building and technical assistance have been included.
16. The Associations have set out a revised Draft Charter for consideration below. (Annex 1)

In our considered view, the adoption of the Draft Charter in its current form, and without serious redrafting, does little to 'add' to the Commonwealth's fundamental values and, ultimately, may even alienate the Peoples of the Commonwealth in whose name the document is intended.

Commonwealth Lawyers Association (CLA)
Commonwealth Legal Education Association (CLEA)
Commonwealth Magistrates' and Judges' Association (CMJA)

27 March 2012

About the Commonwealth Legal Education Association

The CLEA fosters and promotes high standards of legal education in the Commonwealth. Founded in 1971, it is a Commonwealth-wide body with regional Chapters and Committees in South Asia, Southern Africa, West Africa, the Caribbean and the UK.

Membership is open to individuals, schools of law and other institutions concerned with legal education and research.

The Association's Programme of Action is based on the need to make legal education socially relevant and professionally useful, particularly through:

- the development of law curricula and teaching methodology;
- assisting law schools to prepare themselves for the demands of the profession in the context of the information revolution and other global challenges; and
- supporting continuing legal education and distance learning programmes.

Publications and research

- Journal of Commonwealth Law and Legal Education is published twice a year and contains news and views about law and legal education developments in the Commonwealth.
- A variety of books on law and legal education in the Commonwealth is also published.

The Association's website provides access to a wide range of

Commonwealth legal materials, model curricula and some publications.

Conferences

The Association organises regular international and regional conferences and seminars. Recently, it has organised/co-sponsored conferences on topics such as law and development, human rights and just and honest government, as well as on legal education. Venues have included Australia, Nigeria, Cayman Islands, UK, Jamaica, Sri Lanka, Malaysia, South Africa, Canada, Kenya and Hong Kong.

Commonwealth Law Lecture Series

This is a unique series that takes place on a Commonwealth-wide basis. Lectures are given by leading legal academics and judges.

Curriculum development

The Association is committed to developing new curricula that reflect both the importance of Commonwealth jurisprudence and the need for law schools in the Commonwealth (and beyond) to equip their students to meet the demands of the 21st century lawyer. Subjects include:

- human rights for the Commonwealth;
- transnational crime/anti-terrorism law;
- environmental justice (in preparation);
- international trade law (in preparation).

Strengthening law schools

- Providing training and materials for the teaching of a transnational crime course.
- Assisting in the distribution of law books to Commonwealth law schools.
- Establishing the Commonwealth Legal Education Research Centre in Cameroon.

Strengthening the Harare Commonwealth Principles

The Association works with the Commonwealth and three other Commonwealth professional organisations: the Commonwealth Magistrates' and Judges' Association, the Commonwealth Lawyers' Association and the Commonwealth Parliamentary Association, on the development of the Latimer House Guidelines for the Commonwealth.

The Association supports the work of the Commonwealth Human Rights Initiative.

Activities for law students

The Commonwealth Moot Competition is held biennially, with the last three competitions being held in United Kingdom, Kenya and Hong Kong. The Commonwealth Students' Essay Competition is also held biennially

For further information on the work of the Association and details of membership, please contact:

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www.clea-web.com

Visit our new website at www.clea-web.com

Benefits of CLEA Membership

The benefits of a one-year institutional subscription include:

- Copy of the CLEA's *Journal of Commonwealth Law and Legal Education*
- Copy of the CLEA's Newsletter, *Commonwealth Legal Education*
- Priority booking for all CLEA events

The benefits of a three-year institutional subscription include:

- Those for a one-year subscription plus.
- Significant discount of membership rate.
- Significant discount on all CLEA publications.

MEMBERSHIP APPLICATION FORM

Please tick

- Individual membership (one year) (US\$80; £50)
- Individual membership (three years) (US\$190; £120)
- Institutional membership (one year) (US\$240; £150)
- Institutional membership (three years) (US\$600; £400)

Please print

Title: First name: Surname:

Institution:

Address:
.....
.....
.....

Country:.....

e-mail: Fax:

Signature: Date:

Please make cheques payable to CLEA and return the completed form and cheque to:
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