A CLEA view from Hong Kong

2009 Conference Report from Michael Bromby
Glasgow Caledonian University, Scotland, UK

The Commonwealth Legal Education Association's conference takes place every two years, and this year CLEA was in Hong Kong at the City University. The weather wasn't particularly clear, but the conference certainly was! The Dean of the Law School opened with a quote that 'to educate a student is to educate an individual; educate a teacher and you educate a community'. The Chief Judge of the High Court (Justice Geoffrey Ma) then spoke about how a legal education should be akin to the 'pursuit of the unattainable' in the sense that when the law is not clear, predictable or easily applied, then a lawyer should have a guiding instinct. The source of his presentation arises from a House of Lords judgment by Lord Goff in Spiliada Maritime Corporation v. Cansulex Ltd:

> ''[J]urists are pilgrims with us on the endless road to *unattainable* perfection; and we have it on the excellent authority of Geoffrey Chaucer that conversations among pilgrims can be most rewarding".

Following my own presentation about online learning in a commonwealth context, I was pleased and surprised to see a Second Life presentation from Angel Adrian (Bournemouth) and Clare Chambers (UWE). They have been using virtual worlds to support their teaching and label their students as the X-Box generation – a term subsequently adopted by the conference whole-heartedly as much interest was sparked in the field of alternative delivery methods. The attributes (which I failed to note all) of this x-box generation include arrogance, competitiveness, and other qualities not necessarily seen in abundance for previous generations.

Michael Furmston (Singapore Management Univ) presented 'some problems with assessment' and brought up the topic of cricket (again, a recurrent conference theme!) players, chess masters, American presidents and judges – the reason being, how can we rate their skills and can we apply such a method to students?

Categorisation is a rather easy task – most academics can quite easily spot an essay worth a first, 2.1, 2.2 and a third. Many will also be able to say whether an essay is a good or weak example of each category, but when we take a greater number of categories (i.e. 1 to 100) it is less of an easy task. Whilst Michael was speaking, I was reminded of a SWAP workshop last year run by the HEA with Richard Kimbell (see a previous blog post) who discussed a comparative pairs methodology. Indeed, Michael went on to discuss a similar method being used to grade American presidents – Lincoln came top of the list consistently in a variety of different polls. However, Washington and G. Roosevelt varied as to whether they came second or third. A comparative pairs methodology would give more than just an ordinal ranking – it would indicate just how far ahead Lincoln is above the contestants for second and third place, who are almost on a par. The best, and the worse US Supreme Court Justices were easily identified by a team of voters with knowledge of the legal system

– the ones in the middle were less easily and more inconsistently delineated by individuals. For those who need to know, the top cricketer was consistently named as Donald Bradman.

The take-home message, I suppose, is does it matter that the standard in one year is different to the next? Or, whether one university differs to another or even subjects differ in standards? If it does matter – what can we do, and what are we doing about it?

Swethaa Ballakrishnen (Harvard) offered some interesting points from her research into the evolution of South Asian legal education. The relatively recent National Law Schools (5 year degrees with highly competitive entry) are embarking on a reversal of previously defective rote learning and weak legal education. Swethaa noted that pre-independence, many lawyers educated in India were taught by professors educated in Britain, and indeed, many post independence statesmen held law degrees, although may not have practiced. Arguably unfair, this new five year degree does promote a competitive edge for candidates early in their educational career. It creates an elite degree, which is perhaps warranted in a legal system that offers automatic entry to the bar once qualified: there is no differentiation between solicitors/lawyers and advocates/barristers. The presentation also covered issues regarding the syllabus; it appears that it is not perhaps what law to teach, but rather teaching law differently that is required.

Michael Sayers, the secretary-general of the Commonwealth Association of Law Reform Agencies (www.calras.org) spoke about the work of this association in over sixty different jurisdictions. Current broad topics being addressed or reviewed across the Commonwealth include issues relating to science and technology, climate and ecology, and aging. Many other types of reviews exist of course, but these appear to be a global trend. Michael suggested that academics not only fit the bill for potential law commissioners, but they are equally well equipped in relation to four other 'C's:

> Consultees – this is relatively common, especially for green papers. Positive (as opposed to just negative) comments are equally desirable and of use to commissions, yet often forgotten about.
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> Communicators – academics are, apparently, good at getting the point across. I'm pleased that commissions think so! They naturally do so in both teaching and research.
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> Consultants – often commissions are in need of either paid or unpaid specialist input. Academics may often have the time and resources to assist, and this form of external engagement is of benefit to the law schools and universities in general.
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> Commitment – teaching a curriculum keeps an academic up-to-date.

This presentation reminded me of someone's suggestion (my apologies for forgetting who!) at a UKCLE event. Michael asked at the start of his presentation, who had responded to various types of consultation documents as an academic. I recall a suggestion that current consultations (or even old ones) could be used as a class

exercise to draft a response: it could even (and perhaps should) be sent as a response. The only draw-back is that I doubt, even with sixty jurisdictions, that there would be a convenient consultation every semester A to coincide with land law (for example). Indeed, older ones could be used repeatedly and might even be worth assessing, but a constitutional law module could make use of any consultation in terms of process and the right to respond etc. Student law societies could even do so outwith the curriculum.

My final review is a presentation from Selina Goulbourne (Holborn College) who spoke about a review of Islamic law teaching in conjunction with the UKCLE (see link and also here). As with Swethaa's presentation, Selina criticised the use of rote learning as it does not encourage the student to see the law in context, or perhaps fully understand the principles of the law. Selina is looking at undergraduate and professional education and making comparative analysis of jurisdictions with and without an Islamic tradition. Also mentioned was the potential difficulty with the translation of Arabic texts in non-Arabic speaking states such as Malaysia.