



***COMMONWEALTH
LEGAL
EDUCATION***

***Newsletter of the Commonwealth Legal
Education Association***

***FEATURE ARTICLE: “Developing Legal Education in the
Commonwealth: Some Current Issues”***

Number 100

February 2006

The Commonwealth Legal Education Association fosters and promotes high standards of legal education in the Commonwealth

All communications should be addressed to:

*Professor John Hatchard
General Secretary CLEA
c/o LCAD
Commonwealth Secretariat
Marlborough House
Pall Mall
London SW1Y 5HX
UK*

*Tel: +44 (0)207 747 6415; Fax: +44 (0)207 839 3302
e-mail: clea@commonwealth.int
web site: www.cleaonline.org*

Details of the CLEA Executive Committee members can be found at the end of the Newsletter.

FROM JOHN HATCHARD CLEA GENERAL SECRETARY

A century is always a significant milestone and this is certainly the case for *Commonwealth Legal Education*. Published for over thirty years, the publication has sought to chronicle the activities of the Association, to reflect current issues and events relevant to legal education in the Commonwealth and to provide law teachers with information and materials that can assist in their teaching and research. This issue is no different!

Regular readers will notice the new look *Newsletter*. I am delighted to report that Tottel Publishing has now taken over its production. Tottel Publishing is a new name in legal publishing, having been founded in 2004 although its name comes from Richard Tottel who started a law publishing business in London in 1553. This is an exciting new venture for both of us and I greatly look forward to working with them.

In this Issue you will find the CLEA Annual Report for 2004-5. This makes very satisfactory reading, especially given the improvement in our financial position.

You will find a report on the CLEA conference which was attended by law teachers from around the Commonwealth. This was hosted by the University of Greenwich in the wonderful surroundings of the Old Naval College, a World Heritage Site. Our thanks to Selina Goulbourne and her team for making it such a memorable event.

A CLEA General Meeting was held during the Greenwich conference and made some very significant decisions. The Minutes of the meeting are provided below. There have also been a number of changes to the Executive Committee. These are noted below. However, I would particularly like to thank Joe Silva and Jeff Berryman, two of our retiring EC members, for their considerable contribution to Association. I am delighted to report that Kumar Amirthalingam, from the Faculty of Law, National University of Singapore has been elected to fill the long-vacant position of EC member for South-East Asia.

You will also find a report on the 9th Commonwealth Law Moot. As ever, this was superbly organised and run by Ros Macdonald.

I have also included a note on CLEA involvement at the Meeting of Commonwealth Law Ministers and Senior Officials in Accra in October 2005. The Association was asked by the Commonwealth Secretariat to submit a discussion paper on legal education and this was presented at the Meeting by David McQuoid-Mason. A copy of the paper appears below.

Colin Nicholls has now retired as President of our sister association, the Commonwealth Lawyers' Association. He has been a delight to work with and has enabled both associations to work closely together for our mutual benefit. We look forward to working with Graeme Mew, the new CLA President.

Last but not least, I would urge you to visit our web site www.cleonline.org. This has been vastly improved over the past few months and you will find a wide range of information and materials. Of course its continuing value depends upon your support and I would value any materials etc for inclusion thereon.

Marlborough House, October 2005

OBITUARY

Associate Professor Alexis Goh

It is with great regret that we have to announce the death on 14 June 2005 of Professor Alexis Goh, one of the Executive Members of the Association. Alexis, who qualified with an LLB(Hons) from the University of Singapore and an LLM from the University of Sydney, was admitted as an Advocate and Solicitor of the High Court, Malaya. After a short career in legal practice she had a long and distinguished career as a law academic.

This included 20 years on the Faculty of Law, University of Technology, Sydney, where she held several management roles including Acting Dean, Director of Postgraduate Programs and Director of the International and Commercial Law Centre. In 1997 she joined the University of Western Sydney as an Associate Professor, being appointed Director of Undergraduate Programs and Associate Dean in the Faculty of Law. Her last appointment was as Director, Academic Programs and Quality Assurance in the University's College of Law and Business.

Throughout her legal career, Alexis served on the Editorial Committee of a number of law journals. Since 1995, she had been Editor in Chief of the *Australian International Law Journal*. Members of the CLEA will best remember her as the Association's Commonwealth Law Lecture Series Co-ordinator. The lectures presented in the very successful Series were delivered by internationally renowned jurists, academics and judges.

Alexis was a highly regarded law teacher particularly in her specialist areas of public international law, air law and space law. Besides her undergraduate and postgraduate teaching she also supervised both honours and postgraduate research students.

A Mass of Thanksgiving for her life was held at the Mary MacKillop Memorial Chapel in North Sydney on 20 June when many tributes were paid to her by colleagues and students from both the University of Western Sydney and the University of Technology, Sydney. The Mass was conducted by Bishop Julian Porteous.

CLEA GENERAL MEETING

Minutes of the CLEA General Meeting held at the University of Greenwich on 10 September 2005

Present: David McQuoid-Mason (in the Chair), John Hatchard (General Secretary) and 47 CLEA members.

1. *Apologies for Absence:* Betty Mould-Iddrisu.
2. *Death of Alexis Goh:* A minute's silence was held in memory of Alexis Goh.
3. *Minutes of the General Meeting* held on 14 June 2003 were approved.
4. *Matters Arising:* There were no matters arising that were not included in other items on the agenda.
5. *Financial Report and Fund Raising:* As the 2004-5 accounts had not yet been audited, draft accounts were made available to the Meeting. These showed, in particular, that project funding is now a significant part of the income of the Association whilst membership income remained relatively limited. However it was noted that the CLEA branches in Nigeria, Sri Lanka, Pakistan and India generate their own funds from local membership income. The Meeting agreed it was necessary:
 - To seek to increase membership income as well as to pursue further project funding
 - To appoint a membership secretary

The General Secretary undertook to forward copies of the audited accounts to members as soon as possible.

It was agreed to re-appoint Mr Y Gulamhusein as the Association's auditor.

The Meeting noted, with appreciation, the continued financial support provided to the Association by the Commonwealth Foundation.

6. *Administration of the Association:* The General Secretary reported that the administration of the Association remained unchanged but emphasised that it was under considerable strain particularly due to the continued expansion of CLEA activities. There was therefore a need to review these arrangements. After discussion it was agreed:
 - To retain Marlborough House as the base of the Association
 - To accept the offer by Joe Silva to assist with the CLEA administration
 - Ros Macdonald would assist with the development of the CLEA web site.

7. *Membership of the CLEA Executive Committee*

The following persons were elected unanimously:

- *The Caribbean:* Ronnie Boodoosingh (Hugh Wooding Law School, Trinidad & Tobago)
- *South Asia:* Mir Aurangzeb (University of Quetta, Pakistan)
- *South-East Asia:* Kumaralingam Amirthalingam (Faculty of Law, National University of Singapore)

The following persons were re-elected unanimously:

- *Australasia*: Ros Macdonald (Queensland University of Technology)
- *Europe*: Selina Goulbourne (University of Greenwich)

Jeff Berryman and Joe Silva, the two retiring Executive Committee members, were thanked for their invaluable contribution to the work of the Association for many years.

Other vacancies

- *North America*: It was agreed that the General Secretary would liaise with the outgoing EC member, Jeff Berryman, over a possible replacement
- *East Africa*: It was agreed that the Executive Committee would seek a suitable candidate for appointment.

It was also agreed to appoint Austin Davis and David Barker as ad hoc members. David Barker would have particular responsibility for student liaison.

8. *CLEA website: www.cleaonline.org*

It was reported that the new CLEA website was now in operation and based at the Queensland University of Technology. Members were urged to contribute to the continued development of the site. Ros Macdonald was thanked for her invaluable assistance in getting the new site established.

9. *Publications*

(a) *Commonwealth Legal Education*: The General Secretary informed the Meeting that the current arrangements for the printing and dispatch of the Newsletter by Thomson: Sweet & Maxwell had now come to an end. After discussion it was agreed:

- The Newsletter should be available electronically on the CLEA website
- It was important to retain a hard copy version and continue to distribute it widely
- The General Secretary would investigate other publishing options for the Newsletter and find out whether the Commonwealth Secretariat was able to assist with the dispatching of the Newsletter

(b) *Journal of Commonwealth Law and Legal Education*: Despite its cost to the Association, it was agreed that the Journal was an important asset. It was agreed:

- Members would encourage colleagues in their region to contribute to the Journal
- The General Secretary would discuss the financing of the Journal with Cavendish Publishing

(c) *Print of demand*: It was agreed that the General Secretary would pursue the possibilities offered by print on demand.

(d) *CLEA and Westlaw*: The General Secretary briefed the meeting on the possibilities offered by having CLEA materials appear on Westlaw. It was agreed that he should pursue the matter further with Thomson.

10. *Report on Activities*

The Meeting received a report from the General Secretary on the activities of the Association for the period 1 July 2004 - date. These included:

- (i) Revision of the model Commonwealth Human Rights Curriculum by Max du Plessis and Jo Ford. This was funded by the Human Rights Unit, Commonwealth Secretariat (HRU)
- (ii) Organising and running of three workshops in India on the development of human rights courses based on the CLEA model human rights curriculum. This was funded by HRU
- (iii) Organising and running the South Asia Regional Moot competition held in India in April 2005 and largely funded by the Commonwealth Foundation
- (iv) Writing of papers commissioned by the Legal and Constitutional Affairs Division of the Commonwealth Secretariat (LCAD):
 - o "Access to Justice" Paper prepared for the 2004 Meeting of Senior Officials of Law Ministries
 - o "Legal Education in the Commonwealth" Paper prepared for the 2005 Meeting of Commonwealth Law Ministers and Senior Officials
- (v) Partnering LCAD at the Nairobi (Latimer House) workshop (April 2005). In addition, a paper was produced for the workshop and a CLEA representative funded by LCAD to attend
- (vi) Co-sponsoring administrative law conference (March 2005, University of Cape Town)

The General Secretary reported that due to circumstances beyond the control of the Association, it had been necessary to postpone the planned African regional meeting in Accra. He further reported that members of the Association were active members of both the Organising Committee and Papers Committee for the forthcoming Commonwealth Law Conference.

11. Activities for Commonwealth Law Students

(i) Commonwealth Law Moot

Ros Macdonald, the Commonwealth Law Moot co-ordinator, briefed the meeting concerning the forthcoming 9th Commonwealth Law Moot. The Chairperson thanked her on behalf of the Association for her tremendous efforts in organising and running the competition. The meeting also noted with pleasure the financial contribution made by the Commonwealth Foundation towards the travel expenses for several of the teams and the assistance of the Commonwealth Lawyers' Association and others in providing accommodation for the mooters.

(ii) Student essay competition

Jo Silva reported that the closing date for entries was 1st December 2005 and members were encouraged to publicise the competition as widely as possible.

(iii) Student chapters

Siva Sivakumar proposed the development of CLEA student chapters, along the same lines as that established for South Asia. The Meeting welcomed this suggestion and agreed that he should take the matter forward.

12. Future CLEA Activities

It was agreed:

- (i) The Executive Committee would identify someone to take the lead in developing the environmental law model curriculum
- (ii) To develop a model curriculum on Islamic Law with Shaheen Ali taking responsibility for overseeing the project.

- (iii) Philip Iya from the University of Fort Hare would oversee the development of a model curriculum relating to the legal issues arising from cases involving capital punishment
- (iv) To examine the possibility of holding regular regional conferences for post-graduate law students. Edward Phillips of the University of Greenwich agreed to undertake responsibility for developing the project.
- (v) The Executive Committee would seek appropriate funding for the development of all these projects
- (vi) Efforts should be made to work more closely with national law teachers' organisations. David Barker agreed to undertake this as regards Australia.
- (vii) Seth Bimpong-Buta would discuss with colleagues in Accra as to how best to move forward on the proposed African regional conference
- (viii) Mir Aurangzeb would take responsibility for coordinating the next Commonwealth Law Lecture series

13. Venue for Next Conference

It was agreed that, if possible, the CLEA conference would be held immediately prior to the 2007 Commonwealth Law Conference in Nairobi. In this regard, the EC was asked to identify a new EC member for the East Africa region as soon as possible.

14. Any other business

i) Amendment of the CLEA Constitution

It was noted that the decision to hold the CLEA General Meeting every two years (in line with the holding of the Commonwealth Law Conference) required an amendment to the CLEA Constitution. The Meeting was asked to approve an amendment to Clause 4 Para 1 whereby the period of "18 months" be altered to read "two years".

Clause 6 of the CLEA Constitution provided that a General Meeting may amend the Constitution by a two-thirds majority of those members present and voting. The constitutional amendment was proposed by Philip Iya and seconded by Siva Sivakumar and then passed unanimously by the CLEA membership.

ii) Jaffna Law School

Lakshman Marasinghe briefed the meeting concerning progress on the establishment of a law school at the University of Jaffna. It was agreed that he would look into what assistance the Association might be able to provide.

The CLEA President thanked the General Secretary for his work on behalf of the Association.

John Hatchard
General Secretary, CLEA

CLEA ACTIVITIES

CLEA CONFERENCE 2005: “COMPARING COMMONWEALTH LAWS: CHALLENGES FOR LAW TEACHERS”

The 2005 CLEA conference was held between 9-10 September 2005 at the University of Greenwich. It was opened by the university Vice-Chancellor, Baroness Tessa Blackstone.

The Conference was divided into four themes: (1) *Common Law: Diversity in Unity*. This section included papers on “Non-Contractual Liability for Legislative Errors” by Leslie Blake, Tim Sinnamon (both University of Surrey) and John Ponting; “Reform of the Civil Justice System – Implications for the Legal Profession and for Law Teachers” by Bobette Wolski (Bond University) and “Product Liability in the Commonwealth: A Comparative Survey with particular reference to the prospects for legislative reform in South Africa” by M. Loubster (University of Stellenbosch). (2) *Comparative Commonwealth Laws: Civil Law, Roman-Dutch Law and Customary Law*. This section included papers on “Exploring the interfaces between contract law and property law: A UK comparative perspective” by David Cabrelli (University of Dundee); “Property Rights in Customary Law: A Comparative Perspective” by Siva Sivakumar (Hidayatullah National Law University) and “The Multiple Legal System of Sri Lanka: Development, Problems and Challenges” by HJF Silva (Sri Lanka Law College). (3) *Comparative Commonwealth and Human Rights Issues*. This section included papers on “Using reasonableness as a tool for the enforcement of social and economic rights in Commonwealth countries” by Anashri Pillay (University of Cape Town); “The comparative evaluation of disability rights mechanisms: Piloting applied legal clinical education in human rights” by Angela Laycock (University of Greenwich) and “The protection of human rights in Uganda and South Africa: A comparative survey of public awareness and perceptions” by John Mubangizi (University of KwaZulu-Natal). (4) *Family Rights and Human Rights*. This section included papers on “The application of the Hague Convention on the civil aspects of integration of child abduction in South Africa” by Marita Carnelly (University of KwaZulu-Natal-Pietermaritzburg) and “Same sex marriages – An issue for the courts or the legislature?” by Lucy Yeatman (University of Greenwich). (5) *Developing the Teaching of Islamic Law*. This section included papers on “Incorporating Islamic law into Family Law” by Shaheen Ali (University of Warwick); “Developing the teaching of Islamic law at the University of Western Cape” by Nateira Abdulla (University of Western Cape) and “The operation of the Shariah Law of inheritance in a Roman-Dutch legal system informed by constitutional values” by Mohamed Palekar (University of Cape Town). (6) *Legal Education, E-Learning, Legal Services and Law Clinics*. This section included papers on “Comparative sports law” by Elizabeth Toomey (University of Canterbury); “The UTS indigenous law degree: The Sydney experience in diversifying the LLB” by David Barker (University of Technology, Sydney), “E-learning, legal education and ideology: Diversity and identities” by Maureen Spencer (Middlesex University), and “The value of an LLB: Comparative perspectives between New Zealand and England and Wales” by Chris Gallavin (University of Canterbury).

The conference was organised by Selina Goulbourne, the CLEA EC member for Europe. The Association is indebted to her and her team for making the conference such a success.

9th COMMONWEALTH LAW MOOT

In September 2005, the Association organised and ran the 9th Commonwealth Law Moot as part of the Commonwealth Law Conference in London. The competition brought together teams of law students drawn from around the Commonwealth. The following regions were represented: The Caribbean, South Asia (India), South Asia (Bangladesh, Pakistan, Sri Lanka); East Africa, Southern Africa, North America, Australasia, the South Pacific and South-East Asia. The sole absentee was the team representing West Africa whose members were unable to attend owing to UK visa problems.

As Ros Macdonald, the CLEA Moot Coordinator put it at the closing ceremony of the Commonwealth Law Conference:

“The Commonwealth Law Moot gives a marvellous opportunity to the most brilliant young legal minds in the Commonwealth to meet with and listen to the most eminent judges and counsel and to appear in front of them during the moot.”

The Moot Problem

The moot problem was written by Max du Plessis and Steve Pate of the University of Kwa-Zulu-Natal and received considerable praise from the judges for both its originality and its topicality.

IN THE COMMONWEALTH MOOT COURT

In the matter between

***Rene Descartes
Jean-Jacques Rousseau***

***First Appellant
Second Appellant***

and

Her Majesty the Queen

Respondent

.....

The Appellants are two Canadian businessmen who were arrested in Thainam, a small landlocked country in Asia, and charged, along with two German nationals, with attempting to smuggle 10 kg of cocaine into that country. Thainam has huge oil reserves and Canada has recently entered into a multi-billion-dollar contract with the government of Thainam for the supply of oil to Canada. Despite its reserves of oil, Thainam is an underdeveloped country with a very poor infrastructure. Its prisons are in a very poor state of repair and the officials within its criminal justice system are very badly paid. At the Bangong prison where the Appellants have been detained for three months pending their trial, which is due to take place in one month's time, 60 prisoners or more are forced to sleep in cells designed to accommodate 20 inmates. There are no beds, and the prisoners are forced to sleep in rows on the concrete floor. The single blankets provided to prisoners are infested with lice and are not sufficient to protect against the cold of the Thainam winter. Toilet facilities are totally inadequate and prisoners are only allowed one shower per week. A recent report by the human rights group Amnesty International maintains that prisoners detained in the Bangong prison are regularly beaten by prison warders with canes, and the Appellants claim that they were severely beaten on six different occasions. The judges of the Thainam Supreme Court where the Appellants are to be tried are all

related to the royal family of Thainam, which controls the legislature, executive and judiciary. The penalty for smuggling over 1kg of cocaine in Thainam is death by decapitation, which takes place in a public square situated in the centre of the capital city Penong, and is carried out within 24 hours of the verdict being handed down by the Supreme Court. Officials from both the Canadian Embassy and the German Embassy in Penong have been allowed access to the Appellants and the two German nationals. Officials from the Canadian Embassy in Penong visited the Appellants in Banong prison on two occasions, but told them that although the embassy had considered their matter, the Canadian government could not intervene in their case, since it was "not in the interests of the Canadian people as a whole to upset the delicate relationship which exists between Canada and the Kingdom of Thainam". The German nationals met with more success. The German Government intervened on behalf of the German nationals and secured from the Thainam Government an assurance that the German nationals would be tried in accordance with fair trial standards and if convicted, would not be subject to the death penalty. After two months in custody, the Appellants were able to consult a Thainamese lawyer, who advised them that there was no prospect of them being granted bail or of their conditions of detention being improved. The lawyer was also not optimistic of their chances of success at their forthcoming trial. Lawyers acting for the Appellants in Canada then launched an urgent application in the Supreme Court of Canada, ordering the government to provide them with diplomatic protection, in the form of an official request to the government of Thainam to ensure that the conditions of detention of the Appellants meet internationally acceptable standards; that the appellants be given a fair trial before an impartial court; and that should the appellants be sentenced to death such sentence will not be carried out. The Supreme Court refused to order the Canadian Government to provide diplomatic protection in this form. The Appellants now appeal the matter to the Moot Court on an urgent basis.

Suggested Reading:

Kaunda v President of the RSA and Others 2004 (10) BCLR 1009 (CC)
Mohamed v President of the RSA 2001 (3) SA 893 (CC)
R v Abbasi [2002] EWCA Civ 1598 (6 November 2002)
The Mavromattis Palestine Concessions case (1924) PCIJ Reports Series A (2)12
Öcalan v Turkey, ECHR application 46221/99, 12 March 2003
Barcelona Traction Light and Power Company Ltd 1970 ICJ Reports 3; 46 ILR 178
La Grand case (Germany v United States), re the 1963 Vienna Convention on Consular Relations judgment of 27 June 2001, 40 ILR 1069
United States v Burns (2001) 1 SCR 283
Dugard First Report on Diplomatic Protection (March 2000) A/CN.4/506
Dugard Second Report on Diplomatic Protection (March 2001) A/CN.4/514

The Competition

The competition consisted of a preliminary round in which each team mooted twice. The four teams with the highest scores then proceeded into the semi-finals with Canada and the United Kingdom winning through to the final. This was heard by Justice Alan Goldberg (Federal Court of Australia), Chief Justice Pius Langa (South Africa) and Lord Justice Mance (Court of Appeal, England and Wales).

The winners of the moot and the Turnbull Shield for 2005 were the Canadian team from the University of Toronto consisting of Yousuf Aftab, Mark Elton and Amy Salyzyn. The runners-up were Benedict Rodgers and Elizabeth Prochaska from City University.

Yousuf Aftab has also won the prize for the best mooter in the final whilst the prize for the best mooter in the general round went to Suhrith Parthasarathy of the Indian team from the National University of Juridical Sciences in Kolkata

The CLEA hosted a reception for all participants where all the mooters were presented with certificates and a years' free subscription to the Weekly Law Reports, courtesy of the Incorporated Council of Law Reporting.

Thanks

The Association is indebted to Ros Macdonald, the CLEA Moot Coordinator for organising and overseeing the running of the competition with her tireless efficiency and enthusiasm. In her speech at the closing ceremony of the Commonwealth Law Conference, Ros also gave the following vote of thanks:

“There are a great many other people and organisations to thank for a successful moot. There is the CLA organising committee, which agreed to fund the accommodation costs of all the teams who attended, no small feat in London! The Association was greatly assisted by the Commonwealth Foundation which provided funds for a number of teams to travel to London. The Executive-Secretary of the Commonwealth Lawyers' Association, Claire Martin, merits particular thanks for assisting in so many ways from the London end of things. The Law Society of England and Wales was also extremely generous: The staff were most helpful; especially Ms Deanie Thain for arranging the moot accommodation at the Law Society's Hall in Chancery Lane and Ms Sonya Altus, who helped with administration at the Law Society itself. It was Deanie who also physically arranged for the students to be admitted to the conference sessions, a privilege that is traditionally given to the Commonwealth Mooters. The moots were held in the Old Council Chambers, the Council Chamber and the Six Clerks Room, all excellent venues.

The CLA should additionally be thanked for generously donating book vouchers to the prize winners, and the Incorporated Council of Law Reporting for England and Wales has also very generously given each of the 27 mooters, not just the prize winners, a year's subscription to the Weekly Law Reports. We have the Secretary of the Council, Mr John Cobbett, the Editor, Mr Robert Williams and Mr Dan Callacott to thank for this most generous gift.

I must also thank the Law School of the Queensland University of Technology and its Dean, Professor Michael Lavarch. My law school funds me as I spend time running the moot wherever it is held in the Commonwealth, it supports me administratively and it provides the internet expertise that makes the running of the moot as efficient as it is.”

The Teams

Australasia

University of Canterbury -- Colin Fife, James Shaer, Janna McGuigan

University of Melbourne -- Angus Christophersen, Cameron Nolan

East Africa

University of Nairobi -- Noella Lubano, Augustus Onyango, Wanjiku Ndiho

North America

University of Toronto -- Mark RG Elton, Amy Salyzyn, Yousef Aftab

South Asia (India)

West Bengal National University of Juridical Sciences, Kolkata -- Shashwat Tewary, Suhrit Parthasarathy

South Asia (Sri Lanka, Pakistan, Bangladesh)

Sri Lanka Law College -- Ruwanthika Gunaratne, Manohara Jayasinghe, Neshan Gunasekera

The Caribbean

Shawn Fulchan, Lorna Longley, Petronilla Basdeo

Europe

City University, London -- Benedict Rodgers, Elizabeth Prochaska

South East Asia

University of Malaya, Malaysia -- Neoh Hor Kee, Petrina Tan Tjin Yi, Ng Yew Huoi

South Pacific

University of the South Pacific, Vanuatu -- Anthony Brown, Ma Laisani Tabuakoro

Southern Africa

University of Pretoria -- Linda Ramadi, Jonathan Swanepoel

The Judges

As ever, members of the legal profession from around the Commonwealth freely gave their time to preside over the moots. The “Roll of Honour” (in order of appearance) is as follows:

- Mr Laurie West-Knights QC (London)
- Justice KG Balakrishnan (Supreme Court India)
- Helen Evans (London)
- Justice Helen M. Ogunwumiju (Nigeria High Court)
- Justice Gordon Ward (Fiji Islands)
- Mr Mark Barlow (London)
- Justice Adrian Hardiman (Supreme Court of Ireland)
- Justice Austin Davis (Bahamas)
- Justice Roslyn Atkinson (Supreme Court Queensland)
- Lord Justice Brooke (Court of Appeal England & Wales)
- Mr Colin Henry (Bahamas)
- Lord President Cullen (Scotland)
- John Logan SC (Queensland)
- Justice Helen M. Ogunwumiju (Nigeria HC)
- Hon. William Bailache (Attorney-General Jersey)
- Justice Spence (Superior Court of Ontario)
- Justice Anestine Sealey (Caribbean)
- Chief Justice Robin Millhouse (Kiribati)
- Chief Justice Richard Ground (Bermuda)
- Lord Bonomy (Scotland and ICTY)
- Justice Akua Kuenyehia (Ghana)
- Chief Justice David Malcolm AC (Western Australia)
- Mrs Carmel MacDonald (Land Court Queensland)
- Mr Aditya Sen

- Mr Mark Barlow
- Justice Mary Odili (Court of Appeal Nigeria)
- Justice Adrian Hardiman (Supreme Court of Ireland)
- Mr Chris Corry (New Zealand)
- Mr Thomas Roe (England and Wales)
- Lord Justice Jacob (Court of Appeal England and Wales)
- Justice Michael De La Bastide (Trinidad & Tobago)
- Chief Justice Uwais (Nigeria)
- Justice Kay (Family Court of Australia)
- Mrs Carmel MacDonald (Land Court Queensland)
- Mr Norman Wright (Caribbean)
- Lord Justice Mance (Court of Appeal England and Wales)
- Justice Alan Goldberg (Federal Court of Australia)
- Chief Justice Pius Langa (South Africa)

ACTIVITIES OF THE CLEA SOUTH ASIA (INDIA) CHAPTER

I) Human Rights Summer School

The CLEA in association with the Menon Institute of Legal Advocacy and Training (MILAT) organised a human rights summer school in Thiruvananthapuram between 12 - 21 August 2005.

The background to the event was a recognition that education, health, a clean environment and employment are not only basic needs for survival but important socio-economic rights recognised both under international human rights law as well as under the Indian Constitution. Yet after 58 years of democratic governance, the Indian Republic is still not in a position to guarantee a life with dignity to millions of its people who are living below the poverty line. More than 50% of children are reportedly under-nourished and a sizeable section of them succumb. Those who survive are unable to get access to education and work, despite the fact that all these are now declared as part of the guaranteed constitutional rights.

The Summer School sought to discuss a whole range of questions: Why are these basic rights not yet available to so many, particularly to women, Dalits, Tribals, the disabled and other under-privileged sections? On whom does the corresponding obligation lie? What are the content of these obligations and rights? When is the right violated and what are the indicators to measure it? From whom are remedies to be sought? When thousands of crores of rupees are spent through the Planning Commission and elsewhere in the name of “development” why is it that the “beneficiaries” remain on the periphery? How does the government implement socio-economic rights such as the right to health and education? How far can the courts intervene to streamline implementation? What is the role of civil society organizations, media and the professions?

The Summer School was attended by participants all over from India. These were young advocates, teachers, administrators and social activists who sought to deepen their understanding of the unique features of socio-economic rights (as compared to civil and political rights) and sharpen their skill in public and legal advocacy.

Resource persons included public interest lawyers from the Indian Supreme Court and several CLEA Executive Committee members: Dr H.J.F. Silva, Dr Ros Macdonald, and Dr S Sivakumar. Prof (Dr) N.R. Madava Menon, Director, National Judicial Academy, Bhopal and Chairman, MILAT and immediate past president of CLEA was the course director. The Hon Minister for Education, Government of Kerala, Mr. E.T. Md. Basheer inaugurated the Summer School.

As well as a series of seminars on key issues, each participant was expected to undertake a short research project during a field placement. Institutions involved in the research projects were the State Human Rights Commission, State Women’s Commission, Juvenile Justice Board and the Child Welfare Committee. Participants then presented their findings to the seminar.

II) Justice VR Krishna Iyer Essay Competition

In October 2005, the Chapter organised the Justice VR Krishna Iyer Essay Contest. Seventy-six entries were received and Ms. D. Renuka, a IVth year LLB (Hons) student from the School of Excellence, Dr. Ambedkar Law University, was adjudged the winner. The topic for the competition was “*The Role of Non-State Actors in Human Rights*”.

III) Selection of Indian participants for the Dhaka Human Rights Summer School 2005

The Chapter selected four undergraduate students to participate in the Dhaka Human Rights Summer School, 2005, based on a research essay competition. They are: Ms. D. Renuka, IVth year LLB (Hons), School of Excellence, Dr. Ambedkar Law University, Chennai; Ms R.P. Janani, IIIrd year, B.A., LLB (Hons), Hidayatullah National Law University, Raipur (CG); Mr V. Arvind, IIIrd year, B.A., LLB (Hons), Hidayatullah National Law University, Raipur (CG); and Mr. Ketan Nukhiji, NALSAR, Hyderabad.

IV) CLEA participants attending the SARC Training on Environmental Law for young lawyers and postgraduate scholars

Mr VS Gigimon and Ms Gayathri Devi, LLM Scholars from Hidayatullah National Law University, Raipur and Mr. George Giri, Advocate, Nilagiri, Tamil Nadu will participate in the six week long (15th Nov to 27th Dec, 2005) training on Environmental Law and Litigation for Young Lawyers and PG Students programme. The MC Mehta Environmental Law Foundation is organizing this training for the benefit of SARC country participants.

V) Upcoming programmes

The CLEA (South Asia) regional conference is planned to be organised in April, 2006 along with the regional law student conference.

CLEA AT MEETING OF COMMONWEALTH LAW MINISTERS AND SENIOR OFFICIALS

Commonwealth Law Ministers and Senior Officials met in Accra, Ghana from 17-20 October 2005. As a partner organisation with the Commonwealth Secretariat, the CLEA was invited to attend and was represented by David McQuoid-Mason (the President of the Association) and Seth Bimpong-Buta (the EC member for West Africa).

Law Ministers' deliberations covered many important contemporary issues touching on aspects of their responsibilities for civil and criminal justice, the progressive development and reform of the law, the role of law and the legal profession in supporting democracy and good governance, as well as certain areas of international law. The Final Communiqué and some of the papers from the Meeting are available from the CLEA website www.cleaonline.org.

Legal Education

The Association had particular responsibility for the agenda item on legal education in the Commonwealth. It prepared a paper for Law Ministers which is reproduced below. The CLEA issued the following press release:

President of CLEA addresses Commonwealth Law Ministers in Accra

David McQuoid-Mason, President of CLEA and Seth Bimpong Buta, the West African Representative of CLEA, were invited to attend the Meeting of Commonwealth Law Ministers and Senior Officials that was held in Accra, Ghana, from 17 to 20 October 2005. CLEA had prepared a paper on "Developing Legal Education in the Commonwealth: Some Current Issues" on behalf of the Commonwealth Secretariat for consideration by the Law Ministers, and Professor McQuoid-Mason was asked to give a presentation on behalf of CLEA.

On 18 October 2005 Professor McQuoid-Mason addressed the Law Ministers on a proposal by CLEA, based on the contents of the “Developing Legal Education” paper. The proposal is entitled “Curriculum Development in Commonwealth Law Schools” and is aimed at assisting Commonwealth law schools in curriculum development and related issues. The presentation highlighted the objectives of CLEA project as well as its proposed scope and plans for implementation, and some issues not previously canvassed in the paper.

The main objectives of the CLEA Curriculum Development proposal are to: (a) identify and develop new relevant law courses; (b) support law teachers to update existing law courses; (c) provide mechanisms for regular updating of law materials; (d) organise regular regional ‘train the trainer’ programmes; and (e) encourage regular relevant legal research.

1. New courses and standard curricula

The CLEA is assisting Commonwealth law schools by developing new courses and standard curricula on topics such as: (a) human rights for the Commonwealth (completed); (b) transnational crime (draft completed); (c) environmental justice; (d) an introduction to Islamic law; (e) forensic medicine and medical law; (f) international trade law; (g) law and technology; (h) intellectual property; (i) land and development; (j) intellectual property; (k) corruption control and organisational integrity; and (l) clinical legal education.

The new courses and modules will be designed to be flexible so that they can be used for existing LLB, LLM or diploma programmes, and can also be used for continuing legal education and paralegal programmes.

During the discussion on the curriculum by the Law Ministers and Senior Government Officials it was suggested that standard curricula for constitutional law, private international law, and the laws relating to financial services and anti-money laundering should also be included. The importance of interactive teaching methods was also emphasised.

2. Updated materials

The CLEA project is also designed to assist law schools by providing updated materials in key areas of the law, such as: (a) computer-related crime; (b) legal responses to terrorism; (c) tackling corruption; (d) electronic evidence; (e) constitutional law; (f) administrative law; (g) e-commerce law; and (h) HIV/AIDS and the law.

CLEA proposes disseminating relevant Commonwealth legal materials obtained from its extensive network of Commonwealth law teachers. It intends doing this both electronically and in hard copy using existing CLEA and Commonwealth channels.

The updating of legal materials will be done electronically via the CLEA website, and by using CD Roms and hard copies. CLEA will also use its two publications: *Commonwealth Legal Education* (a newsletter published every four months) and the *Journal of Commonwealth Law and Legal Education* (published every six months). The *Commonwealth Law Bulletin* published by the Commonwealth Secretariat may also be reformatted to include updates.

Law Ministers also noted the development of the Commonwealth Legal Information Institute (CommonLII) project to support free access to Commonwealth and Common Law core legal information. CommonLII is coordinated and operated by the Australasian Legal Information Institute (AustLII). The Law Ministers adopted a

resolution in which they supported the CommonLII project and agreed that their countries would all contribute towards it by providing the necessary legal materials.

3. Regional law teacher training workshops

The CLEA project envisages the new courses or modules being supported by regional teacher training workshops. They will be based on the models used for the draft Commonwealth human rights curriculum (as was done in India), and the draft transnational crime curriculum (as was done in the Caribbean, and West, East and Southern Africa). The teacher training will be organised through regional CLEA chapters and committees.

4. Method of implementing the project

CLEA will oversee the development and updating of the courses and modules which will be developed by teams of Commonwealth experts. The materials will address regional issues as well as the concerns of small Commonwealth states. In each case a meeting of Commonwealth experts will be convened to finalise the content of the new courses.

Each new course and module will include appropriate reference materials, and regional training of trainers' workshops will be held for the courses and modules. CLEA will provide regular updated of the materials.

The delivery of the courses and modules will be available: (a) as hard copies; (b) as CD Roms; and (c) through the CLEA website (via the Queensland University of Technology). Other possibilities are alternative programmes for delivering high quality education such as evening and part-time programmes, more intensive reduced length programmes (e.g. three year degrees reduced to two years); and distance and open learning programmes.

5. Other issues for consideration

The presentation also included a number of other issues for consideration by Law Ministers. These included:

- (a) Should there be a comparative study of professional legal training in the Commonwealth to assist member states in reviewing their programmes?
- (b) Should law graduates be accommodated as interns to expand legal services in public defender programmes (e.g. as in South Africa and Nigeria)?
- (c) Should law students be encouraged to engage in community service by providing legal aid and advice in law clinics that are integrated into national legal aid schemes?
- (d) Should law students be used in legal literacy (e.g. street law) programmes that are integrated into national legal aid schemes?
- (e) Should South-South exchanges for students (and staff) of Commonwealth law schools be developed – in addition to the existing North-South Exchanges?

Although there was no clear resolution by the Law Ministers on the CLEA paper and proposal it was apparent from the discussions that there was broad support for the suggestions in it.

Professor David McQuoid-Mason
President, CLEA

The Final Communiqué to the Meeting of Commonwealth Law Ministers and Senior Officials states as follows:

“Law Ministers received a thoughtful paper prepared by the Commonwealth Legal Education Association and presented to the Meeting by the CLEA’s President (Professor McQuoid-Mason). They welcomed the CLEA’s work on curriculum development notably in subjects such as human rights in the Commonwealth and transnational crime. Law Ministers recognised the problems of small States without a law school and also the need for specialist training in such matters as mutual legal assistance and extradition.

Many jurisdictions experienced difficulties in gaining access to legal materials. The Attorney-General of Australia informed the Meeting of the establishment of the Commonwealth Legal Information Institute which offered access to 486 databases from 51 Commonwealth jurisdictions. The Meeting adopted a resolution in the following terms:

Commonwealth Law Ministers welcomed the development of the Commonwealth Legal Information Institute (CommonLII). The meeting noted that CommonLII is an internet research facility providing free access to legal information from all Commonwealth countries. The Meeting encouraged all countries to cooperate in the development of CommonLII by providing, to the extent possible, access to their legal materials, including legislation, case law and law reform reports.”

Human Rights Education

Law Ministers also reaffirmed the importance of human rights education and endorsed the development of the CLEA’s model human rights curriculum.

Constitutional Developments in the Commonwealth

Law Ministers also considered the paper on “Constitutional Developments in the Commonwealth” that had been prepared by the CLEA for the 2004 Meeting of Commonwealth Senior Officials. This was reproduced in volume 98 of *Commonwealth Legal Education*. The paper formed the basis of a discussion on constitutional and judicial reform around the Commonwealth and Law Ministers asked the Commonwealth Secretariat to continue work in this field including the giving of advice and assistance on the development of appellate court structures and systems, reviewing bills of rights in Commonwealth constitutions; and capacity building in establishing sound constitutional structures. It is expected that the CLEA will be fully involved in providing such assistance and advice.

Transnational Crime

Law Ministers made two decisions that are relevant to the CLEA Transnational Crime model curriculum. Firstly, they agreed significant amendments to the Harare Scheme on Mutual Assistance in Criminal Matters in the Commonwealth to deal with the preservation of computer data. This, in itself, is an excellent example of the manner in which the Commonwealth is able to update its key documents in order to reflect current trends and challenges. As noted in the *Communiqué*:

“Ministers reiterated that the Harare Scheme was of great practical importance but agreed that it needed revision to deal with new forms of criminal activity and technological innovations since its adoption in 1990.”

Secondly, Law Ministers agreed to endorse a draft Model Law relating to the civil recovery of criminal assets and terrorist property after “having heard testimony about

the successful use of civil recovery provisions". This is a major development as experience has certainly shown that the use of civil recovery procedure is quicker, cheaper and more effective than using the traditional proceeds of crime route.

Overview

The three yearly Meeting of Commonwealth Law Ministers and Senior Officials is a major event for it provides a forum for discussion on, and analysis of, cutting-edge legal issues affecting the Commonwealth and beyond. As a partner organisation with the Commonwealth Secretariat, it provides an opportunity for the CLEA to contribute both to the debate and also in the implementation of decisions.

CLEA at the 14th Commonwealth Law Conference

The 14th Commonwealth Law Conference was held in London between 11-15 September 2005 on the theme "Developing Law and Justice". Keynote speakers included Chief Bayo Ojo, the Attorney General of Nigeria on behalf of the Commonwealth Chairperson in Office, President Olusegun Obasanjo, former Commonwealth Secretary General, Sir Sridath Ramphal and Lord Bingham of Cornhill. There were over 200 speakers in the panel discussions. These were divided into several streams: Human rights; Corporate and commercial law; Criminal law and practice; Family law and the child; The legal profession and the future; The judicial officer; and Law and small states. The Association organised a session on legal education which was chaired by Jeffrey Jowell (University College London) and included presentations from David Barker (University of Technology, Sydney) and Gary Slapper (The Open University).

DEVELOPING LEGAL EDUCATION IN THE COMMONWEALTH: SOME CURRENT ISSUES

Paper prepared by the Commonwealth Legal Education Association for presentation at the Meeting of Commonwealth Law Ministers and Senior Officials, Accra, October 2005

In his inaugural address the then President of the Commonwealth Legal Education 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.

It is against this background that 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

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.¹ The continued popularity of legal studies means that there are thousands of students studying law at any one time.

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

¹ Full details of Commonwealth law schools can be found in the *CLEA Directory of Commonwealth Law Schools* (edited by John Hatchard).

- Judicial studies

Current constraints on the provision of legal education

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
- Outdated law curricula

Developing strategies for strengthening legal education

When considering the development of strategies to improve legal education, there are also several other issues to consider:

- It must be remembered that 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 on 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

Given these constraints, 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**

Such courses offer the prospect of legal academics and practitioners from other institutions (not necessarily located in that jurisdiction) providing short courses at other 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.

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

- **Sharing courses between law schools**

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.

Establishing new law schools and access to law studies

An additional issue is the development of new law schools. There are several Commonwealth jurisdictions which have no law school at present: for example, The Gambia.

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 a LLB degree for Inuit students only, in collaboration with the University of Victoria.

Law Ministers may wish to mandate the Commonwealth Secretariat to explore the possibility of assisting member states who wish to develop their own law schools.

B. Ensuring adequate access to legal information

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.cleonline.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 Commonwealth Legal Education Association. 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. Law Ministers may wish to ask the Commonwealth Secretariat to examine further such mechanisms for addressing this issue.

C. Curriculum development

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

This provides a challenge for law schools to develop new courses/modules and/or to revise 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 of the 21st century lawyer
- the fact that significant numbers of law graduates do not enter the profession
- the growing importance of continuing legal education

In practice, staffing and resource constraints and difficulties of gaining access to appropriate materials often make this exercise problematic.

Some work has already been undertaken to address this situation. For example the Commonwealth Legal Education Association is developing a curriculum development project designed to assist Commonwealth legal educators update existing law courses and to develop new ones.

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.

The Association has also worked with the Commonwealth Secretariat to develop a course for use in law schools and professional training institutions on transnational crime. Further, in partnership with the Criminal Law Unit of the Commonwealth Secretariat, four regional training the trainer workshops for Commonwealth law teachers have been held. Subject to funding, it is hoped to expand the course to include further topics such as money laundering and anti-terrorism laws.

It is intended to develop new courses, including on Environmental Justice, an Introduction to Islamic Law, and Land and Development.

In order to ensure that they meet the needs of law teachers in different regions of the Commonwealth, it is suggested that

- they be drawn up by an expert group broadly representative of the Commonwealth
- regional workshops be held along the lines of those mentioned above

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 programs on corruption control and organizational integrity at universities around the world.

Law Ministers may also find of assistance the project proposal attached as an Appendix to this paper.

Law Ministers may wish to support curriculum development, including identifying further areas and topics for development and recommending that the Commonwealth takes steps to assist in the revision, development and updating of the law curriculum to ensure it remains relevant to the needs of member states.

Professional legal training

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? An issue of particular concern in England and Wales at present.
- difficulties of gaining 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

Law Ministers may wish the Commonwealth Secretariat to undertake a comparative study of professional legal training in the Commonwealth with a view to assisting member states review their existing arrangements.

Supporting law students

Given the significant number of young people studying law, it is important to provide them with opportunities for developing an interest in the Commonwealth and meeting fellow students from other jurisdictions.

Two opportunities offered by the Commonwealth Legal Education Association 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

Law Ministers may wish to express support for these strategies and mandate the Commonwealth to assist in their further development.

Contribution of law schools and law students to law reform and the development of legal services

There are 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
For example 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.

Law Ministers may wish to mandate the Commonwealth Secretariat to undertake further work on this area.

Building strategic partnerships

The contribution that other agencies might make towards the development of high quality legal education should be examined.

It may be useful therefore to consider the possibilities offered by building strategic partnerships between governments, law schools with business and industry.

This is an area that has not been adequately explored and Law Ministers may feel it appropriate to mandate the Commonwealth Secretariat to examine the feasibility of developing such partnership.

Conclusion

The provision of high-quality legal education is a pre-requisite to high-quality legal practitioners, judges and government law officers.

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.

This paper has sought to raise a series of issues and challenges for Law Ministers with a view to assisting them consider and develop 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 on the establishment of strategic partnerships.

APPENDIX

CURRICULUM DEVELOPMENT IN COMMONWEALTH LAW SCHOOLS

A project proposal by the Commonwealth Legal Education Association

Objective of the project

There are well over four hundred 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
- 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 their academic and vocation law studies, to meet the demands of 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 which 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 the course on Environmental Justice and Introduction to Islamic Law.

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.

The course is currently being revised and updated by an expert team of law academics from around the Commonwealth led by Professor David McQuoid-Mason from the Howard Law College, University of KwaZulu-Natal. A meeting of experts from around the Commonwealth will then finalise the course and materials.

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 cooperation 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 also be developed to include further 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 for use by

- Law undergraduates
- Law postgraduates
- Law students attending the vocational training stage
- 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 and 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 update regularly the courses/modules and materials. This will be undertaken in the following ways:

- Electronically via the web site of the CLEA
- Providing updates by way of CD Roms
- 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 exists no systematic programme designed to provide the sort of assistance to Commonwealth law schools envisaged by this project.

ON-LINE

Launch of CommonLII

Launched at the Commonwealth Law Conference in September 2005, the Commonwealth Legal Information Institute (CommonLII) aims to provide one central internet location from which it is possible to search -- FOR FREE -- core legal information from all Commonwealth countries. This includes a wealth of case law, legislation, treaties, law journals and law reform reports from many countries.

More than 400 databases from over 25 Commonwealth countries are currently available. These include Australia, Belize, Brunei, Barbados, Cameroon, Canada, Cyprus, Fiji Islands, India, Kiribati, Malaysia, Nauru, New Zealand, Nigeria, Papua New Guinea, Samoa, Singapore, Solomon Islands, South Africa, Tonga, Tuvalu, United Kingdom and Vanuatu.

The site also has a catalogue of thousands of links to legal websites in all 53 Commonwealth countries plus a Websearch engine to search those sites and "Law on Google" for each country.

Where feasible, CommonLII will work with local partners in Commonwealth countries to develop their country's databases on CommonLII into separate and independent Legal Information Institutes while preserving central access to their data via CommonLII.

CommonLII is coordinated and operated by the Australasian Legal Information Institute which is a joint non-profit facility of the Faculties of Law at the University of New South Wales and the University of Technology, Sydney.

The Co-Directors of CommonLII are Graham Greenleaf (graham@austlii.edu.au), Andrew Mowbray (andrew@austlii.edu.au) and Philip Chung (Philip@austlii.edu.au)

New Zealand Youth Court Decisions

A new database of some 300 youth court decisions from New Zealand is now available at **www.courts.govt.nz/youth/decisions**.

New LII website

www.nzlii.org contains Supreme Court, Court of Appeal, Human Rights Review Tribunal, Privacy Commissioner and Commerce Commission decisions.

CLEA Executive Committee Members

Australasia

Ros Macdonald
Queenland University of Technology
Faculty of Law
GPO Box 2434
Brisbane, Qld 4001
Australia
e-mail: r.macdonald@qut.edu.au

The Caribbean

Ronnie Boodoosingh
Hugh Wooding Law School
P O Bag 323, Tunapuna
Trinidad
e-mail: ronnieboodoosingh@yahoo.com

East Africa

Gladys Boss Shollei
National Council for Law Reporting,
Milimani Commercial Courts Building,
Ground Floor, P.O. Box 10443-0
0100, Nairobi, Kenya
e-mail:
gbossshollei@kenyalawreports.or.ke

Europe

Selina Goulbourne
Law Department
University of Greenwich
Maritime Greenwich Campus
30 Park Row
London SE10 9LS, UK
e-mail: s.goulbourne@gre.ac.uk

Southern Africa

David McQuoid-Mason
President, CLEA
University of KwaZulu Natal
Howard College of Law
Durban 4001
South Africa
e-mail: mcquoidm@ukzn.ac.za

South Asia (Bangladesh, Pakistan and Sri Lanka)

Mir Aurangzeb
University of Quetta
39 Army Officers Housing Scheme
Airport Road
Quetta
Pakistan
e-mail: miraurangzeb@yahoo.com

South Asia (India)

Siva Sivakumar
Indian Law Institute (Deemed University)

Bhagwandas Road
New Delhi 100 001
India
e-mail: cleaasia@yahoo.co.in

South East Asia

Kumaralingam Amirthalingham
National University of Singapore
Faculty of Law
13 Law Link
Singapore 117590
e-m
ail: lawka@nus.edu.sg

West Africa

Seth Bimpong Buta
e-mail: sethbb@hotmail.com

Ad hoc members:

Austin Davis
e-mail: austin.davis@btinternet.com

David Barker
University of Technology, Sydney
david.barker@uts.edu.au

Muna Ndulo
Cornell Law School
e-mail:
muna-ndulo@postoffice.law.cornell.edu

Hon Treasurer

Betty Mould-Iddrisu
Director, Legal and Constitutional Affairs
Division
Commonwealth Secretariat
e-mail: b.mould-iddrisu:commonwealth.int

Membership Secretary

Chris Gale
Bradford University
School of Management
Emm Lane
Bradford BD9 4JL, UK
e-mail: c.gale@bradford.ac.uk

Vice Presidents

Joe Silva
e-mail: silvahjf@yahoo.co.uk

Peter Slinn
e-mail: ps1@soas.ac.uk

