

***COMMONWEALTH  
LEGAL  
EDUCATION***

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

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## **JOURNAL OF COMMONWEALTH LAW AND LEGAL EDUCATION**

### INVITATION TO SUBSCRIBE AND CONTRIBUTE

The first issue of the CLEA's new journal *Journal of Commonwealth Law and Legal Education* is now available.

**Please send contributions and all other correspondence to Veronica Barnes, Editorial Manager, Commonwealth Law and Legal Education, OUBS, The Open University, Walton Hall, Milton Keynes MK7 6AA, UK e-mail: [v.m.barnes@open.ac.uk](mailto:v.m.barnes@open.ac.uk) The journal web site is: [www.jclle.cavendish.com](http://www.jclle.cavendish.com)**

#### *About the Journal*

Citizens of the commonwealth number 1.7 billion, amount to a quarter of the world's inhabitants, and live in 54 countries. Originally the term "commonwealth" meant "the body politic", and, more broadly, a nation understood as a community in which everyone had a common interest. The Commonwealth which provides the impetus for this journal is not so very different. A voluntary association of 54 independent sovereign states, the Commonwealth is – at its heart – a community whose members are enjoined, through the Harare Commonwealth Declaration of 1991, to respect and further the goals of democracy, the rule of law, social justice and good government.

There are differences in the laws and legal systems of Commonwealth countries but the similarities are more striking. It follows from this that the corpus of Commonwealth law and jurisprudence is a hugely influential set of rules, precepts and processes. The resultant scale of human conduct controlled, protected, empowered, stirred with obligations and benefited with rights is gigantic. It is our aim that this journal becomes an attractive and influential source of useful information and debate, and a crucible for the forging of new ideas, policies, principles, laws and systems that form the social governance of the commonwealth countries.

It is over thirty years ago since the American writer Herbert Marshall McLuhan first coined the expression "global village". The world today is an even more closely-knit and integrated social fabric. The publication and distribution of books has proliferated globally and the broadcast media have permeated the earth. In 1970 there was no Internet. In 1984 there were 1000 computers linked to the Internet. In 2001 there are over 150 million computers connected to the system - and many are in public libraries, schools, colleges and universities so numerous people have access to such units. It is desirable that a smaller world operating with potentially rapid decision-making processes, enjoys the fruits of deliberative discussion from lively and eclectic contributors. At the time of writing, multifarious issues of law and legal education are subject to vibrant debate in scores of countries: issues of land ownership, human rights, civil obligations, international criminal law, international trade law, public international law, issues of sex, sexuality, and of family, issues of the legal professions, the judiciary, the role of the Law School, intellectual property, communications technology, asylum, immigration and the plight of refugees. We hope that, over time, all these subjects and many more will be explored in articles in this journal. We also hope to encourage contributions with mixed or innovative themes as we recognise that all established subjects (like the ones in the foregoing list) were once new!

Short opinion or experience-based articles are as welcome as longer more detailed contributions. Pieces of an innovative, imaginative or unconventional nature will be considered as potentially of equal worth to traditional academic articles.

We are committed to representing contributions from those in Commonwealth jurisdictions which have traditionally been under-represented in journals of legal practice and scholarship.

*To discussion without frontiers.*

*Gary Slapper and Matthew Weait*  
General Editors

## ***HIGHLIGHTS OF THIS ISSUE***

- Report on the CLEA conference in Colombo
- Report on the Commonwealth Law Students' Mooting Competition
- CLEA Annual Report
- Anti-terrorism laws and the challenges for law teachers
- Launch of *Commonwealth Law and Legal Education (The Official Journal of the CLEA)*
- Latest news on the CLEA Commonwealth Law Lecture Series
- The CLEA at the Meeting of Senior Officials of Commonwealth Law Ministries
- Details of the forthcoming CLEA West Africa Chapter Conference in Accra and Call for Papers

### ***From John Hatchard*** *General Secretary*

The CLEA conference in Sri Lanka was a tremendous experience for all those fortunate enough to attend and I am pleased to report that the number of participants exceeded our expectations. The local organisers, led by Joe Silva of the Sri Lanka Law College, did a quite splendid job, a fact that made life for the General Secretary a great deal easier. The Association is also indebted to the Commonwealth Foundation and the Hatton National Bank who were the main sponsors of the conference and to the Hon. Sarath N Silva, Chief Justice of Sri Lanka for opening the event. On an extremely sad note, Ajantha Coorey, one of the key figures in the organising of the conference passed away shortly before it opened. We send our heartfelt condolences to his family

The Commonwealth Law Students Mooting competition took place during the conference. From the feedback, this was probably the most successful competition ever and the Association is indebted to our Moot Coordinator, Ros Macdonald, for the enormous amount of time and effort she put into the competition.

The CLEA also celebrated its 30th birthday in Colombo. It was a particular pleasure to have three former office-holders of the Association, William Twining, Neil Gold and Jill Cottrell, present to share it with us. We also launched the Official Journal of the Association *Journal of Commonwealth Law and Legal Education* which is being published on behalf of the Association by Cavendish Publishing. Readers are warmly invited to contribute to the new journal.

On the subject of publications, I am delighted to announce that we have now agreed with Cavendish Publishing that they will become the official publishers of the Association. We have already established a happy and mutually beneficial relationship with them and this agreement will greatly enhance our publishing programme.

The CLEA Executive Committee met in Colombo and we also held a General Meeting of the Association. Details are given below. In particular, you will see the changes to membership of the EC. One of those departing is Peter Slinn who is standing down after serving many years as the EC member for Europe. He has provided invaluable support and assistance to me and I am delighted that he will be remaining as a Vice-President of the Association. We are also particularly pleased to welcome Joe Silva of the Sri Lanka Law College as a new Vice-President and Mir Aurangzeb of the University Law College, Quetta, Pakistan as the CLEA Representative for Pakistan.

Another major change was the re-alignment of the South Asia region. It has long been felt that it is an impossible task for one EC member to have responsibility for this region, covering as it does Bangladesh, India, Pakistan and Sri Lanka. The General Meeting has now approved the proposal of the EC to divide the region into two with a newly created EC member position for South Asia (India). The Association is now seeking nominations from persons in India for appointment to this key position. For further details please contact me direct.

The decisions taken in Colombo are set out below. They provide for individual and collective input on a wide range of issues that have a Commonwealth-wide importance. We would invite you to support them.

#### **Law teachers and the response to "anti-terrorism laws"**

"Anti-terrorism laws" are already having a considerable impact on our societies. Law teachers must remain abreast of these developments. The Association already has a curriculum and training programme on transnational crime which it is working on in association with the Commonwealth Secretariat. This deals with the key legal issues relating to anti-terrorism strategies such as mutual assistance, extradition and proceeds of crime. We are now expanding the curriculum to cover other relevant issues such as anti-money laundering laws and the human rights implications of such laws e.g. the use of preventive detention laws and the freezing of assets. The revised curriculum itself will be available later in the year but anyone wishing to obtain information on it or to contribute to its development is invited to contact the General Secretary. Further details are set out below.

#### **CLEA Annual Report**

I have pleasure in including the CLEA Annual Report for 2000/2001. Space restrictions meant that it was not possible to include it in the last issue of *Commonwealth Legal Education* but it was made available to all participants at the Colombo meeting. All those involved in the work of the Association should be rightly proud of the achievements chronicled in the Report. The year in question was another immensely busy one, despite (or perhaps because of) the fact that there was no Commonwealth-wide CLEA conference. Our activities included:

- Holding international conferences on "Legal Education and the Administration of Justice" (in Abuja); "Legal Deterrents to Coups" (in London) and "Law and Development in the 21<sup>st</sup> Century" (at Cumberland Lodge, UK)
- Establishing the CLEA West Africa Chapter
- Establishing the UK CLEA Committee
- Launching the transnational crime project in the Caribbean and West Africa.

- Launching the Commonwealth-wide "Commonwealth Law Lecture Series"
- Holding the Commonwealth Law Students' Essay Competition
- Developing the CLEA publication programme
- Continuing work on the *Commonwealth Legal Education Research Centre* in Cameroon

I am also pleased to announce the improved financial position of the Association. Particularly noteworthy is the 10% increase in income from the previous year. I think this demonstrates very well the increasing interest in the work of the Association from around the Commonwealth. This means that as well as covering, for the first time ever, some of our administrative overheads, we are able to provide some modest funding to support the development of our projects. I am also extremely hopeful that the Marketing Plan currently being developed by Cavendish Publishing will provide a significant boost both to the profile of the Association and to its income. Of course, given our very limited administrative resources, keeping things moving efficiently is becoming an increasing challenge but we continue to do our best!

### **CLEA West Africa Conference**

The Second CLEA West Africa Regional Conference will be held in Accra, Ghana in December 2002. This follows on the extremely successful meeting in Abuja, Nigeria in November 2000. Further details, including a Call for Papers are provided below.

### **The Lighter Side**

There is no room for our regular section this time around. However I thought I would share with you a recent exchange of e-mails I had with an Executive Committee member (who was unable to attend the Colombo meeting).

*Gen Sec: Herewith the draft Minutes of the Executive Committee meeting in Colombo. Please let me have any comments or suggested amendments (preferably from those who were there) by the end of February*

*EC member: I think the minutes are a travesty (but I have not opened them). I can't remember any of this going on!*

Who says I never get any feedback from EC members!

## **COLOMBO 2001**

The CLEA conference took place at the Ceylon Continental Hotel, Colombo, Sri Lanka between 18-20 December 2001. The conference, which attracted wide media coverage, was opened by the Hon. Sarath N Silva, Chief Justice of Sri Lanka. The number of participants exceeded expectations and it was very encouraging to have a mixture of "grey beards" (I'm not sure of the female equivalent) and younger academics. The conference was superbly organised by a team from the Sri Lanka College headed by Joe Silva.

The keynote address entitled "Much More than Law: The Law Curriculum for the 21<sup>st</sup> Century" was given by Neil Gold of the University of Windsor, Canada. Neil is a former CLEA Executive Committee member and it was a great pleasure to welcome him back. Eight plenary sessions were held with papers being presented on the following topics: Human Rights; Clinical Legal Education; Ethics and Professionalism; Information Technology; Criminal Law; Intellectual Property; Environmental Law; Banking Law. The edited papers will be published later in the year. A General Meeting of the Association took place during the conference. The Minutes are provided below for information.

### ***DECISIONS TAKEN AT THE CONFERENCE:***

- Invite Canada to host the next CLEA conference in 2003
- Maintain the Commonwealth Law Students Mooting Competition as an integral part of the activities of the Association
- Establish a Commonwealth-wide group on Environmental Justice tasked with developing an appropriate model curriculum for the Commonwealth and relevant materials.
- Establish a Commonwealth-wide group on Industrial Law/Labour Law tasked with developing a model curriculum for the Commonwealth and relevant materials.
- Establish a Roman-Dutch law group
- Establish a Sri Lanka branch of the CLEA
- Hold a legal education seminar in Pakistan towards the end of 2002
- Hold a training session for the South Asia region on the transnational crime curriculum in Sri Lanka during the second half of 2002 or early 2003
- Establish a medico-legal research project based at the University of Natal

### ***CURRICULUM DEVELOPMENT***

The session on curriculum development raised some key issues as to the way forward for the Association and Commonwealth law schools. Three issues in particular were highlighted:

- (1) *The need for the Association to encourage law schools to develop curricula for the 21<sup>st</sup> century.* In addition to those areas already being addressed, i.e. transnational crime/anti terrorism law; human rights; and environmental justice, it was suggested that consideration should be given to developing work in the following areas: (i) Law and Poverty; (ii) Labour Law; (iii) Law and Health; and (iv) Rights of Women.
- (2) *The need to accommodate new areas in the law curriculum without "impossibly overloading" students.* It was suggested that there is a need to examine core subjects and consider what really are the basic areas that are fundamental to the subject and which might be dropped (or at least given less emphasis) to make room for the new areas.

(3) *Pedagogy*: It is just as important to consider the methods of teaching as to re-consider the formal curriculum.

#### *COMMONWEALTH LAW LECTURE*

The Commonwealth Law Lecture delivered during the conference was by Judge C.G. Weeramantry, former Vice-President and present Judge Ad Hoc of the International Court of Justice. His topic was "Legal Education without Frontiers". The lecture, which was chaired by the CLEA "roving representative" Laksman Marasinghe, attracted a very large audience, many of whom went on to enjoy the 30<sup>th</sup> Anniversary Dinner of the Association.

#### *LAUNCH OF THE JOURNAL OF COMMONWEALTH LAW AND LEGAL EDUCATION: THE OFFICIAL JOURNAL OF THE COMMONWEALTH LEGAL EDUCATION ASSOCIATION*

Volume 1 of the new journal of the Association was launched at the conference.

#### *ROMAN-DUTCH LAW COLLOQUIUM*

The Colloquium on Roman-Dutch Law was attended by members of the Sri Lanka judiciary, legal practitioners, law teachers from the Faculty of Law of the University of Colombo, teachers from the Sri Lanka Law College, members of the Sri Lanka British Law Graduates Association, South African law teachers and law teachers from other parts of the Commonwealth.

The meeting agreed to an open agenda and began with a short introduction by George Devenish (University of Natal, South Africa) on the important contribution that Roman-Dutch law has made to the development of international law. The Deputy-Chief Justice of Sri Lanka, the Honourable Mr Justice Amerasinghe mentioned that Roman-Dutch law was alive and well in Sri Lanka and that he had recently decided an Appeal Court succession case solely on the basis of Roman-Dutch law principles. David McQuoid-Mason then gave a brief overview of some of the more recent developments under the Roman-Dutch law *actio injuriarum* and how South Africa's new Constitution was impacting on the Roman-Dutch law principles. The law teachers from Sri Lanka said that it was unfortunate that although the Sri Lankan courts often referred to South African judgments on aspects of Roman-Dutch law the converse was not true. Discussion followed on how the South African legal practitioners and courts could be made aware of the rich field of Sri Lankan Roman-Dutch jurisprudence that existed. A number of suggestions were made including the introduction of exchange programmes between Sri Lanka and South African academics and exchanges of law reports, law journals and books between the countries.

A number of other practical issues were raised at the Colloquium including the difficulty of ordering books from South African publishers; the need for law teachers in cognate Roman-Dutch law courses in Sri Lanka and South Africa to interact with each other; the possibility of teaching exchange programmes between law teachers in Sri Lanka and South Africa; the use of law teachers in Sri Lanka and South Africa as external examiners for post-graduate theses in the two countries; the extension of invitations to Sri Lankan law teachers to attend the Society of Law Teachers of Southern Africa congresses; the mounting of appropriate LLM programmes for students and staff from Roman-Dutch law jurisdictions in Sri Lanka and South Africa (e.g. advanced comparative courses in delict, contract, property, family law and succession); the possibility of holding Roman-Dutch colloquia every two years alternatively in South Africa and Sri Lanka; the feasibility of engaging in joint research projects (e.g. a Restatement of the Law of

Delict in Roman-Dutch Law); the possibility of South African law schools donating their recently discarded editions of Roman-Dutch law text books to the law faculties and law schools in Sri Lanka; and the possibility of making the South African law reports available on line using a system similar to AUSLII.

Professor McQuoid-Mason undertook to contact the South African publishers and to ask them to liaise directly with the Faculty of Law at Colombo University and the Sri Lankan Law College. He also undertook to investigate whether the South African Department of Foreign Affairs could assist with the shipping of second-hand law books donated to law schools and faculties in Sri Lanka. Some of the other issues could be taken up by the Sri Lankan branch of CLEA (which was due to be formed after the Conference) and the Southern African Chapter of CLEA.

### *OPENING ADDRESS*

*by Hon. Sarath N. Silva, Chief Justice of Sri Lanka*

I am indeed privileged by this invitation to be the Chief Guest of this Commonwealth Legal Education Association conference. This is the first occasion on which the Association has thought it fit to have Sri Lanka as its venue. When the invitation came our way we were indeed honoured that amidst all the problems that were confronting the country at that time, you yet thought it fit to hold both your Conference and the Commonwealth law students mooting competition in Sri Lanka. I must make use of this opportunity to commend the team ably headed by Dr. Joe Silva for putting a tremendous effort and making this a reality.

I think it is fitting that you have selected Sri Lanka as the venue for this Conference, because we have had a rich history of over one hundred years of legal education. I would say a consistent history of over a hundred years of legal education. In fact the Council of Legal Education was established by the Ordinance of 21<sup>st</sup> of March 1900. Throughout that period we have consistently engaged in legal education following a very steady and constant path. We have never deviated from that. Our commitment to the rule of law is personified by that commitment to legal education. Linked with legal education has been our court system. Our Supreme Court has had a history of 200 years. So whatever be the perceptions of Sri Lanka, as a peaceful country or otherwise, we can say that our commitment as far as systems go and as far as institutions go to the rule of law, the study of law and to the practice of law has been consistent.

There is another matter that I want to address. There is a perception, at least in some respects, that law and order in some parts of this country is not as it should be. I dare say there is some merit and truth in that. There is also another factor which is not known by the world at large, and I want to make use of this opportunity as I have done on other occasions as well to drive home that point. That is, whatever be the problems, we have got a court system, a system of administration of justice which functions throughout this country. The litigants come there with confidence and we are resolving the disputes with a firm commitment to the rule of law. That is something which is not very much known. I have to emphasize that it is indeed a redeeming feature. We have never failed in our commitment to the rule of law and the administration of justice within the framework of the law whatever may have been the problems that have been there. So, that is a positive feature. Another positive feature is that none of our judicial

institutions and none of our judicial personnel have ever been the subject of any kind of improper pressure. This shows that all parties respect our processes. It is quite recently that I went to almost the war-zone area where we opened a new court house. I distinctly recall on the afternoon they said, "Now there is mortar fire. Sir, it is time for you to leave." But nevertheless the court functioned and it is yet functioning. So that is a tribute to our system and our commitment to the law. This is most significant. There is a way of resolving this dispute and all disputes within the framework of the law. I think that is the commitment that we require. A firm commitment to resolve all disputes within the framework of the law and within the framework of the system of the administration of justice with a commitment to the rule of law. So those are our basic values. Those are the values which have built up our structures and those are the values that are going to make our structures more firm and longer lasting than the World Trade Center or any other center that may ever be built with human ingenuity. In that respect today's event is indeed a great event because we bring together to this country the richness of the Commonwealth legal education system. I see that there is a significant representation from all parts of the world. So we are proud that you have taken the trouble to come here and visit us at a time we need you most.

There are a few other matters on which I wish to dwell on. One significant feature is the commonality between South Africa and Sri Lanka. One word about the legal system on the whole. The main feature of the Commonwealth of nations, I would say, one of its principal assets is its foundation on the common law system. The Commonwealth of nations, almost all the countries -- I know there are one or two countries that are exceptions -- have the Common Law system as its basis. We rest on principles that have evolved to meet situations by judicial dicta. We have a high commitment to precedent. We have a high commitment to stare decisis, that is the structure of courts and binding precedents. That is how the law evolves in a common law system as opposed to the civil law system that operates in continental Europe, where the law is codified, and the judgments are brief and deal with facts. There may be pluses and minuses in both systems, but the need of the hour is not to see the distinctions. The need of the hour is to enrich ourselves through interaction as has happened in South Africa and in Sri Lanka. We have Roman-Dutch Law as our common law. We have had occasion to visit your great country. We know how Roman-Dutch Law has developed under the influence of English judges. Our Law of Contract and Law of Tort or Delict - whatever we call it - are really a mixture of the Roman-Dutch principles evolved under the influence of English law principles. So we have got a rich heritage which comes from a mixture, from a combination of two schools of law. We have to benefit from all systems and guide ourselves on the basis of international norms that are developing. It is very significant to note that now starting from the area of human rights and evolving towards the various finer aspects of the law of commerce we see international norms evolving. After the World War we had international norms evolving in the area of human rights under the UN Charter. We have had various developments in the area of human rights which are significant and which have safeguarded liberty throughout this globe. At the same time we evolved financial institutions under the Bretton Woods agreements. The IMF and the World Bank that came into being soon after the World War set the tone and pace for development of international financial institutions. Today we have got international trade institutions with the World Trade Organization that has come up. We have also got international institutions that monitor Environmental Law, Intellectual Property Law and many other matters. So we have got a growing body of international law that is now evolving. Now we have to interact with this

international law in our local systems and this is the challenge of the law teachers. The law teachers of today and of the future have to now focus not only on national systems, not only on the history of national systems but also the evolution of law in this newly growing international system, and evolve our legal systems so that they can survive the stresses and strains of the future that lie ahead of us. These areas are developing very fast and it is a burden of the law teachers to help judges develop them. It is a burden on you to see the parameters of these developments and put these developments in proper focus so that they can survive the test of time, the same way that common law principles have survived the test of time for centuries.

I will take no more of your time save to say that I commend very much the proposal of Dr. Silva to commence a branch association of the Commonwealth Legal Education Association in Sri Lanka so that we can continue with this rich experience which will benefit every one of us.

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# MINUTES OF THE GENERAL MEETING OF THE COMMONWEALTH LEGAL EDUCATION ASSOCIATION

Held on 19 December 2002 at the Ceylon Continental Hotel, Colombo, Sri Lanka

The Meeting was attended by 49 members of the Association. David McQuoid-Mason was in the Chair with John Hatchard in attendance as Secretary. Members were supplied with the 2000-2001 Financial Report for the Association and the 2000-2001 CLEA Annual Report

**1. Apologies For Absence** were received from Keith Sobion, Jeff Berryman, Lillian Tibatemwa-Ekirikubinza, Rob Fowler, Dianne Stafford, Jeremy Cooper, Selena Goulbourne, and Martin Cartwright

**2. Minutes of the General Meeting** held on 11 April 2000 were approved

**3. Matters arising:** There were no matters arising that were not included in other items on the agenda

## **4. Financial Report**

Members approved the financial report for 2000-2001. Pleasure was expressed at the significant increase in income compared to previous years. The continued support of the Commonwealth Foundation was welcomed.

It was agreed to re-appoint Mr M Y Gulamhusein as the auditor for the Association

## **5. Administration of the Association**

It was reported that the Association continued to be administered by the General Secretary with assistance from Siew-Kee Lim from the Commonwealth Secretariat

## **6. Executive Committee**

It was agreed to divide responsibility for the South Asia region. It was agreed unanimously that Joe Silva be appointed Executive Committee member for South Asia (excluding India) as a direct replacement for the previous Executive Committee member. It was further agreed to seek nominations for the new position of Executive Member for South Asia (India) and that accordingly no appointment would be made at the meeting. The General Secretary was asked to seek nominations and to report to the Executive Committee by mid-2002. The name of Dr A R Reddy was put forward as a nominee.

It was also agreed to appoint Ros Macdonald as the EC member for Australasia and Selena Goulbourne as the EC member for Europe. It was also agreed to invite both Alexis Goh and Jeremy Cooper to join the Executive Committee as ad hoc members with special responsibility for the Commonwealth Law Lecture Series and the CLEA web site respectively.

The meeting expressed its thanks to the outgoing EC members for their valuable contribution to the Association. Members thanked, in particular, the member for Europe, Peter Slinn, for his enormous contribution to the work of the Association and agreed to the proposal that he remain as a Vice-President.

## **7. Reports from CLEA Chapters**

Philip Iya, the President of the CLEA Southern Africa Chapter briefed the meeting about its activities.

## **8. CLEA Web site**

It was agreed that the Executive Committee work out the most economic and effective arrangements for ensuring the web site is as useful as possible.

## **9. Reports on Projects**

Members welcomed the work on the projects as set out in the Annual Report. On specific issues, the Meeting:

- (a) approved the development of the transnational crime project to include "anti-terrorism" laws
- (b) urged that the CLEA research centre in Cameroon be opened as soon as possible
- (c) congratulated Alexis Goh on the success of the Commonwealth law lecture series
- (d) agreed that the Association work with Transparency International on the development of a digest on corruption-related cases

## **10. Publishing Programme**

Members approved the formal link with Cavendish Publishing and welcomed the expansion of the publishing programme of the Association, and in particular the launch of the new CLEA Journal.

## **11. CLEA Patrons**

A decision as to whether or not to seek patrons of the Association was deferred until the next meeting

## **12. Commonwealth Human Rights Initiative**

It was reported that the CLEA needed to appoint a person to the Advisory Commission of the CHRI. It was agreed that anyone interested in being nominated should contact the CLEA General Secretary.

## **13. CLEA Conference 2003**

It was agreed to invite Canada to host the next conference, and possibly link it with the Canadian law teachers annual meeting

## **14. Any Other Business**

The meeting thanked Joe Silva and his team for their work in making the conference possible

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## COMMONWEALTH LAW STUDENTS MOOTING COMPETITION

The Commonwealth Law Students Mooting competition took place in Colombo between 15-20 December 2001. A total of seven teams competed representing: Australia, India, West Africa, Southern Africa, Canada, United Kingdom and Sri Lanka. The moot problem was as follows:

*In 1956, the British mining company, Rin Tin Tin Ltd. ("RTT Ltd."), entered into a joint venture agreement with the government of the nation of Numeria to develop and operate a lead mine in Numeria. Under the joint venture, a company, Plumbago Ltd., was incorporated in England to conduct the operation. Plumbago is owned 51% by RTT Ltd. and 49% by Numeria. Plumbago pays royalties to Numeria on the lead extracted and the profits of the enterprise are shared proportionately to the shareholding in the company. The ore is exported by train to the neighbouring country of Thud, where RTT Ltd operate a lead smelter. The lead mine is located 150 kilometres from the capital city of Numeria in an area where small rural communities have grazed cattle herds and grown crops for their own subsistence for many generations. The mine was developed on a site of some 30 hectares which was leased to Plumbago in 1956 by the government of Numeria for a term of 99 years. The lead ore has been extracted from underground through an extensive network of shafts and tunnels, and a rail link was provided by Numeria for the transport of the ore from the mine-site to the border with Thud. Many people from the communities near the mine have been employed in the mine since it was established.*

*About ten years after mining operations commenced, Plumbago encountered serious difficulties due to the existence of a substantial underground aquifer in the vicinity of the ore-body. It proved necessary to install extensive pumping and drainage equipment to redirect water from the site of the operations to the surface. Even after mining activity proceeded deeper into the earth below the aquifer, it was necessary to maintain the pumping operation in order to protect the shaft infrastructure. Unbeknown to Plumbago or the communities in the vicinity, the operations have caused significant lead contamination of the aquifer. The region in which the mine was situated is semi-arid, with seasonal rains occurring during a limited period of about three months each year. As a result, the communities depend heavily upon the underground aquifer for water to drink and to maintain their crops and herds. In 1998, a World Health Organisation team working on a project to monitor and evaluate the health of rural villagers in Numeria observed an atypically high incidence of children with elevated levels of lead in their blood. Whilst these levels are not sufficiently high to give rise to the onset of lead poisoning and its associated health impacts, they are in a range which scientific evidence since the early 1980s has indicated is likely to result in the impairment of intellectual development in early childhood. This impairment has appeared from the scientific studies to be permanent and in the range of 10-20% of normal intellectual function.*

*The nation of Numeria was settled by the British in 1812, after some brief skirmishes with the indigenous occupants, and remained a British colony until 1951. Thereafter, a period of peace and prosperity ensued, but the country has remained an essentially rural economy, with only small, local industries, some tourist activity and a small commercial sector dominated by expatriate British residents. Its legal profession has been trained primarily in the only Law School in Numeria, and the judiciary comprises both native-born lawyers and expatriate British lawyers attracted to the relaxed lifestyle the county has offered. All this changed in 1991. That year, a military coup replaced the democratically elected government of Numeria with a junta of military leaders. In an*

*anti-British purge, the expatriate judges and other settlers were expelled from the country, and many ex-military personnel with only basic legal qualifications were appointed by the junta as judges. The Plumbago mine has been allowed to continue to operate, but the government has extracted substantial ex gratia payments from RTT Ltd in response to its regular threats to expropriate the interest of RTT Ltd by “nationalising” the mining operation.*

*Efforts to restore a democratic system of government in Numeria have been ruthlessly repressed, human rights violations have been ignored by the Numerian courts and, on occasions, its Supreme Court has reversed its decisions at the request of the President. Nevertheless, the country retains its common law heritage and has a well-developed system of legal aid in relation to criminal and family matters.*

*In 1999, the WHO released its report on health conditions of the rural population in Numeria. The report caused considerable alarm in Numeria amongst the rural population. However, the junta government has rejected calls for a Commission to be established to identify and compensate those persons who, over the period from 1960 to the present, may have been affected through lead exposure during their childhood. Plumbago has announced that it will hire international environmental consultants to advise on the measures needed to decontaminate the aquifer.*

*Back in England, the international aid group, Social Aid Abroad (“SAA”), which has been involved in rural development projects in Numeria for the past 15 years, has resolved to assist the victims of the lead pollution in Numeria. They send a team to Numeria to interview members of the community near the mine-site, including two medical experts. After obtaining the consent of 25 individuals, they instruct the London law firm, Gordon & MacDonald, to initiate proceedings against RTT Ltd. in the names of these 25 persons for damages in relation to the intellectual impairment that these individuals have allegedly experienced as a result of exposure to lead from the Plumbago mine. The proceedings assert that RTT Ltd. failed to ensure that the operations of its subsidiary, Plumbago Ltd., were conducted in a safe manner.*

*RTT Ltd. immediately applies to stay these proceedings, relying on two arguments:*

- that the proceedings should have been taken in Numeria;*
- that, given that the effects of low level exposure to lead on the intellectual development of young children were not known until the early 1980s, it has no case to answer on the issue of civil liability.*

**Team 1 should argue these matters for RTT Ltd.;**

**Team 2 for the 25 plaintiffs.**

**Important Cases:**

*Spiliada Maritime Corporation v Cansulex Ltd [1987] AC 460*

*Connelly v RTZ Corporation [1998] AC 854 (HL)*

*Lubbe and Others and Cape Plc. and related appeals [2000] 4 All ER 268; [2000] 1 WLR 1545*

*Cambridge Water Co v Eastern Counties Leather Plc [1994] 2 WLR 53*

*Connelly and Lubbe are available on the Internet from [www.bailii.org.uk](http://www.bailii.org.uk)*

**Clarification**

*"It is correct to assume that the action referred to in the moot problem has been commenced in the High Court of Justice in the United Kingdom"*

The final was contested between South Africa, represented by Mr Matthew Welz and Ms Jennifer Ndhlovu, and the United Kingdom, represented by Mr Kriston Berlevy and Ms Tracey Paskins. This was a repeat of the 1999 Final in Kuala Lumpur in which South Africa came out on top. On this occasion, the United Kingdom exacted revenge and were duly presented with the Turnbull Shield. Kriston Berlevy was also named the Best Mooter. The inaugural prize for Most Improved Team went to the Sri Lanka duo of Ms Shahina Zahir and Mr Shehan Gunawardena.

Much of the enormous success of the competition is due to the work of the CLEA Moot Co-ordinator, Ros Macdonald. As well as overhauling the rules for the competition, she oversaw the smooth and efficient running of the entire programme. The Association would also like to thank the local moot committee, namely Champaka Ladhuwahalty, Sharmaine Gunaratne and Avanti Perera (who was also the joint winner of the CLEA law students essay competition). Especial thanks go to Rob Fowler of the University of South Australia who devised the moot problem.

Sir Robert Woods also acted as a judge throughout the competition. His stamina was extraordinary and his contribution immense.

The commemorative plaques which were presented to the finalists were kindly donated by the Commonwealth Lawyers' Association. The book prizes which were also awarded to the finalists and to the home law school of the Most Improved Team were kindly donated by Cavendish Publishing.

The Commonwealth Moot Competition is now a major international event. The next competition will take place in 2003.

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# ANNUAL REPORT ON THE ACTIVITIES OF THE ASSOCIATION

1 July 2000 - 30 June 2001

## OVERVIEW

It gives me great pleasure to present the Annual Report of the Association.

Once again the period in question was one of the busiest ever for the Association with our activities spanning the Commonwealth. These included:

- Holding international conferences on "Legal Education and the Administration of Justice"; "Legal Deterrents to Coups" and "Law and Development in the 21<sup>st</sup> Century: The Challenge of Globalization"
- Establishing the CLEA West Africa Chapter
- Establishing the UK CLEA Committee
- Launching the transnational crime project in the Caribbean and West Africa.
- Launching the Commonwealth-wide "Commonwealth Law Lecture Series"
- Holding the Commonwealth Law Students' Essay Competition
- Developing the CLEA publication programme, including preparation for the launch of *Commonwealth Law and Legal Education: The Journal of the Commonwealth Legal Education Association*
- Continuing work on the *Commonwealth Legal Education Research Centre* in Cameroon

I would like to thank the President of the Association, David McQuoid-Mason and the members of the Executive Committee for their support throughout the year. I would also like to acknowledge in particular Alexis Goh, for organising the Commonwealth Law Lecture Series, Oluwatoyin Doherty for all her work in developing our activities in Nigeria and Ros Macdonald, our moot co-ordinator, for her work on the organisation of the law students' moot competition.

I am pleased to report that the income of the Association has again increased this year. As ever, we are also indebted to the Commonwealth Foundation for its continued generous financial support for our activities.

I would like to thank Siew-Kee Lim for her administrative assistance. Without her the work of the Association would rapidly grind to a halt. I would also like to thank Di Stafford, the Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat and our Hon Treasurer for all the invaluable support provided to the Association.

**John Hatchard**  
General Secretary, CLEA  
Marlborough House

## EXECUTIVE COMMITTEE

The CLEA Executive Committee did not meet during the period covered in this report. This was due to the fact that two meetings were held in the previous year. However the President and General Secretary remained in close touch with members and had several meetings with individual EC members during the course of the year. The next EC meeting will take place at the Commonwealth Legal Education Association conference in Colombo in December 2001.

There were two changes to the membership of the EC. One was the resignation of Nik Thani both as Vice-President and as member for South East Asia. He has made a major contribution to the work of the Association, in particular taking responsibility for organising both our 1997 conference in Kuala Lumpur and the 1999 Commonwealth students' mooted competition at the Commonwealth Law Conference. We will miss him greatly but wish him much success in his legal practice. His replacement will be elected in December at the next General Meeting.

We are extremely pleased to welcome Jeff Berryman of the University of Windsor as EC member for North America. The Association is anxious to develop its activities in the region and we look forward his active assistance in doing so.

## CLEA CHAPTERS

The year saw some significant developments with the formation of a new Chapter in West Africa and a new Committee in the UK.

### *West African Chapter*

In December 2000 the West African Chapter of CLEA was established. The first Executive Committee of the Chapter, elected for a four-year term, consists of:

Seth Bimpong-Buta (Ghana)	<i>President</i>
Oluwatoyin Doherty (Nigeria)	<i>Secretary</i>
Samgena Galega (Cameroon)	<i>Joint Secretary</i>
Margaret Insaadoo (Ghana)	<i>Treasurer</i>
Hon Mrs Justice Olateru-Olagbegi (Nigeria), Emmanuel Akahigbe (Nigeria), Philip Bondzi-Simpson (Ghana)	
<i>Executive Committee Members</i>	

Three additional members, one each from Cameroon, The Gambia and Sierra Leone will be appointed in due course.

The first Commonwealth Law Lecture in the region was delivered on Commonwealth Day in Accra by Hon Mr Justice George Acquah.

### *CLEA UK Committee*

The CLEA UK Committee started work during the year and is headed by Selina Goulbourne of Coventry University. The Committee members are as follows:

*Martin Cartwright*, University of Wolverhampton (in charge of the CLEA web site)  
*Jeremy Cooper*, University of Middlesex (Commonwealth Law Lecture Series Co-ordinator)  
*Rosalind Malcolm*, University of Surrey  
*Roger Burridge*, UK Centre for Legal Education, University of Warwick,  
*Peter Slinn* (CLEA EC member for Europe)

One of the first events was the holding of the UK Commonwealth Law Lecture in May 2001 which was given by Marc Galanter on the topic "The Inexorable Growth of Large Law Firms in the Common Law World".

### *Southern African Chapter*

In July 2000, the Southern African Chapter held a well attended seminar on the Latimer House Guidelines at the Congress of the Society of Law Teachers of Southern Africa in Durban.

At the General Meeting of the Chapter, a new Executive Committee was appointed:

*President:* Philip Iya, University of Fort Hare  
*Secretary:* Francois De Villiers University of the Western Cape  
*Treasurer:* Shannon Hooctor, University of Port Elizabeth  
*Commonwealth Law Lecture Series Co-ordinator:* Clement Ngongola, University of Botswana

In Feb 2001 the Chapter organised a Commonwealth Law Lecture at the University of Botswana. This was given by Lord Rodger, Lord President of the Scottish Court of Sessions on the topic "Recent Constitutional Developments in Scotland".

### *CLEA Caribbean Chapter*

The Chapter continued to spearhead the development of the transnational crime course. In November 2000 it hosted a training seminar in at the University of the West Indies, Barbados, with participants drawn from Barbados, Jamaica, the Bahamas and Trinidad and Tobago. It is intended to include the subject in the curriculum of the four Caribbean law schools in their next academic year.

### *South Asia Chapter*

Due to administrative difficulties, it was not possible to hold any regional events during the course of the year. This was disappointing but it is hoped to rectify the situation next year, particularly in that the next Commonwealth Legal Education Association conference will take place in Colombo, Sri Lanka.

## **ADMINISTRATION OF THE ASSOCIATION**

John Hatchard remained as General Secretary of the Association with Siew Kee Lim as his administrative assistant. Both work on a wholly part-time basis.

## **FINANCIAL REPORT**

Income for the year rose slightly, due largely to increased advertising. Expenditure was down significantly. This was due to the fact that the previous year had seen additional expenses resulting from the holding of the Commonwealth moot competition and the convening of two EC meetings.

The Association remains indebted to the Commonwealth Foundation for its continued financial support and to the Commonwealth Secretariat for its support in kind. The Association is also indebted to the many people who provide voluntary assistance. Without them, most of the activities would be impossible.

## **CLEA ACTIVITIES**

The activities of the Association are based on the Plan of Action that was adopted at the last General Meeting in April 2000. This covers six themes namely:

- Developing human resources
- Developing non-human resources
- Curriculum development
- Professional training
- Strengthening links between law schools
- Strengthening clinical legal education and law clinics

The highlights of the Association's activities during the current year are provided below. Full details are set out in our regular publication *Commonwealth Legal Education*.

## **CONFERENCES AND MEETINGS**

### *LEGAL EDUCATION AND THE ADMINISTRATION OF JUSTICE IN WEST AFRICA*

The first West Africa CLEA conference was held from 28-30 November 2000 at the Sheraton Hotel and Towers, Abuja, Nigeria. It was organised by Oluwatoyin Doherty, the Country Representative for Nigeria, and the Association is indebted to her for the enormous effort she put in to ensure its success. It was attended by 90 persons: 12 from the judiciary, 32 from law schools, 7 from government agencies (prisons, immigration, police and customs) and 39 private legal practitioners. Participants came from Nigeria, Ghana and Cameroon. The conference was opened by Chief Bola Ige S.A.N., Honourable Federal Attorney General and Minister of Justice. The papers from the conference have now been published. The conference also saw the launch of the CLEA West Africa Chapter.

### *CONFERENCE ON THE LEGAL DETERRENTS TO COUPS*

This conference was held in London on 16-17 January 2001 and co-hosted by the Association together with King's College, London and the British Institute of International and Comparative Law. The conference brought together experts from many Commonwealth countries, including three states that have proved particularly prone to military intervention, Fiji, Pakistan and Nigeria. The aim was to explore from a proactive perspective the phenomenon of coups against

democratically elected governments with a view to identifying legal mechanisms and strategies designed to help bring the cycle of coups to an end. Copies of the papers are available free of charge to all CLEA members

### *LAW AND DEVELOPMENT IN THE 21<sup>ST</sup> CENTURY: THE CHALLENGE OF GLOBALISATION*

This major international conference was organised by the CLEA in association with the British Institute of International and Comparative Law and the School of Oriental and African Studies. "Hosted" by Peter Slinn, a Vice-President of the Association, the conference took place at Cumberland Lodge, Windsor Great Park, UK between 25-27 June 2001. It was a truly international gathering with participants coming from around the Commonwealth and beyond.

Issues discussed included "The Changing Nature of the Law and Development Discipline", "The Legal Challenge of Multinational Enterprise" and "Gender, Law and Development".

For the Association, a particularly important session was on "Teaching Law and Development". This led to agreement on the need to develop a model Law and Development course for use in Commonwealth law schools.

### *THE LATIMER HOUSE PROCESS*

Peter Slinn and the General Secretary continued to represent the Association at the regular meetings of Latimer House Group. This consists of representatives of the four sponsoring bodies, i.e. CLEA, Commonwealth Magistrates' and Judges' Association, Commonwealth Lawyers' Association and Commonwealth Parliamentary Association as well as a representative of the Commonwealth Secretariat.

Work on the development of the Monitoring Process continued during the year and a funding application prepared. As an interim measure, the Association has started to include details on Commonwealth developments relating to the Guidelines in *Commonwealth Legal Education*.

## **PUBLICATIONS**

The publication programme is becoming an increasing significant part of the activities of the Association.

### **CLEA Newsletter**

*Commonwealth Legal Education* appeared three times during the year under the editorship of the General Secretary. Its size has increased significantly in recent years and now averages forty pages per issue. Each issue appeared on schedule and was sent to all members as well as to all known law schools and law libraries in the Commonwealth.

### **Journal of Commonwealth Law and Legal Education**

At the CLEA conference in Adelaide in April, 2000 it was agreed that the Association should publish a journal devoted to developments in legal education in the Commonwealth. Following consultations, it was decided to launch the new journal under the title *Journal of Commonwealth Law and Legal Education*. Gary Slapper and Matthew Weait (both of the Open University, UK) are

the General Editors of the new journal which will be published by Cavendish Publishing Ltd. The first issue of the new journal is planned for January 2002.

### **Legal Education and the Administration of Justice in West Africa**

The papers from the November 2000 Commonwealth Legal Education Association conference in Abuja have been edited by John Hatchard and are now available on CDROM. This is the first electronic publication of the Association and is specifically designed to enable materials to be accessed quickly and cheaply by all law schools in the Commonwealth.

### **Facing Complexity: Law and Development in the 21<sup>st</sup> Century**

This book, which is in preparation, is based on papers given at the June 2001 Cumberland Lodge conference together with several other contributions from other leaders in the field of Law and Development. The volume, to be published in honour of Peter Slinn, will be published by Cavendish Publishing Ltd in 2002.

### **CLEA Website <[www.clea.org.uk](http://www.clea.org.uk)>**

The Association's own web site remains in development. It currently contains full information about the Association as well as copies of recent issues of *Commonwealth Legal Education* and our model Human Rights Curriculum for the Commonwealth.

### **CLEA Directory of Commonwealth Law Schools**

The next edition of the Directory is in preparation and will appear in 2002.

## **OTHER ACTIVITIES**

### **COMMONWEALTH LAW LECTURE SERIES**

This year saw the start of the Commonwealth Law Lecture series. The object of the series is to provide a forum in which to create awareness of, and provoke discussion on, current legal developments in the Commonwealth or in a particular Commonwealth jurisdiction.

A key feature is that it is a **COMMONWEALTH-WIDE EVENT**. To date, lectures have been held in Australia, UK, Ghana and Botswana. Lectures will also take place in Canada, Sri Lanka, Cameroon, Singapore and South Africa and further lectures in Australia (as part of the events surrounding the Commonwealth Heads of Government Meeting) and the UK.

This is an exciting new venture for the Association and we would like to thank Alexis Goh of the University of Western Sydney for undertaking the role of "Series Co-ordinator". The lectures will be published in book form by Cavendish Publishing Ltd on behalf of the CLEA.

### **COMMONWEALTH LEGAL EDUCATION ASSOCIATION RESEARCH CENTRE**

Work on establishing the Commonwealth Legal Education Association Research Centre at the University of Buea, Cameroon continues. The Association has already despatched books and other law materials to the Centre that have been donated by law publishers and Commonwealth law schools. Further contributions of law books and other legal materials from law schools, law publishers or individuals are most welcome. It is hoped to launch the Centre by early 2002.

## *CURRICULUM DEVELOPMENT*

### *Transnational crime course project*

The joint project CLEA/Commonwealth Secretariat project on transnational crime gathered momentum during the year. Two training seminars were held. One in Bridgetown, Barbados in November 2000 for the Caribbean law schools and the other in Accra, Ghana in February 2001 at which representatives from law schools in Ghana, Nigeria, Cameroon and Tanzania attended. It is expected that the course on transnational crime will be introduced into the law schools within the next year.

### *Human rights curriculum for the Commonwealth*

Work on this curriculum continued with more material being added to the web site.

## *COMMONWEALTH HUMAN RIGHTS INITIATIVE*

The Association continues to support the work of the CHRI. During the period in question, the Association was represented on the CHRI Trustee Committee by John Hatchard and Peter Slinn.

## **COMMONWEALTH LAW STUDENTS ACTIVITIES**

### *CLEA Law Students' Essay Competition*

The latest essay competition was held during the course of the year with the title being: **What Role Should Commonwealth Law Students And Law Schools Play To Meet The Challenges Of The New Millennium?**

The judges decided that the two best essays from the many received were by Umoh *Emem Ofonime* of the Faculty of Law, University of Lagos and *Avanti Perera* of the Sri Lanka Law College.

### *Commonwealth Law Students Moot Competition*

In previous years, the CLEA student moot competition has been held as part of the Commonwealth Law Conference. With the postponement of the 2001 conference until April 2003, the Executive Committee has decided to hold the competition as part of the CLEA's conference in Colombo in December 2001

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## **CLEA NEWS**

### **2<sup>nd</sup> CLEA West Africa Regional Conference: 3-5 December 2002, Accra, Ghana**

This conference is being hosted by the Ghana School of Law in collaboration with the Faculty of Law, the Ghana Bar Association and the Ministry of Justice. The title of the conference is "*Legal Education, Curriculum Development and Recent Developments in the Law: The West African Experience*".

*Call for Papers:* Those interested in presenting Papers are requested to send an Abstract to the conference organisers by 30 June 2002.

The address for all correspondence is: The Registrar, Ghana School of Law, P O Box 179, Accra, Ghana. Tel/fax (233) 21 667706/664775/664822; e-mail: gsslawlib@gh.com

### **Law teachers and the response to "anti-terrorism laws"**

There is now an urgent need for a concerted and ongoing legal response towards combating "terrorism" at the international and regional and national levels. This is particularly so given the terms of the UN Security Council Resolution 1373 of 28 September 2001 which calls upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international co-operation in combating terrorism. These include; working towards universal implementation of the numerous international and regional conventions in place to address terrorism and organised crime; strengthening of national, regional and international legal frameworks to combat terrorism and organised crime in a comprehensive manner; and increased efforts to prevent the use and abuse of financial services sector by money launderers and the like. The relevant extract from the Resolution is as follows:

#### *RESOLUTION 1373 (2001)*

*Adopted by the Security Council on 28 September 2001*

*The Security Council...*

*1. Decides that all States shall:*

- (a) Prevent and suppress the financing of terrorist acts;*
- (b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;*
- (c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;*
- (d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate*

*or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;*

*2. Decides also that all States shall:*

- (a) recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;*
- (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;*
- (c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;*
- (d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;.*
- (e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the Seriousness of such terrorist acts;*
- (f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;*
- (g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;*

*3. Calls upon all States to:*

- (a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;*
- (b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;*
- (c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;*
- (d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;*
- (e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);*
- (f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;*
- (g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;*

*4. Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;*

5. *Declares that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;*

6. *Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;*

7. *Directs the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;*

8. *Expresses its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;*

9. *Decides to remain seized of this matter.*

Law teachers must remain abreast of these developments both in terms of their teaching and their research. *The Association is committed to assisting them in this challenge.* We are already developing a curriculum and a training programme on transnational crime in association with the Commonwealth Secretariat. This deals with some of the key legal issues relating to anti-terrorism laws such as mutual assistance, extradition and proceeds of crime. The next training the trainer workshop is taking place in Lusaka, Zambia in April 2002 and participants are expected from the entire sub-region. A fourth training workshop for the Asia-Pacific region is planned for 2002-3.

This curriculum is now being expanded to include money laundering as well as the significant human rights issues involved in anti-terrorism activities, such as the introduction and use of preventive detention laws. This will be available later in the year but anyone wishing to obtain information on it or contribute to its development is invited to contact the General Secretary.

### **CLEA at the Meeting of Senior Officials of Commonwealth Law Ministries**

As mentioned in the last issue of the *Newsletter*, the Association was invited to attend this meeting of Attorneys-General and other senior officials. This took place between 6-9 November 2001 at Marlborough House, London under the Chairmanship of the Honourable P Skelemani, the Attorney General of Botswana. The CLEA General Secretary and Peter Slinn represented the Association and the former had an opportunity of addressing the meeting on the work of the Association. Colleagues from the Commonwealth Lawyers' Association, Commonwealth Magistrates' and Judges' Association and the Commonwealth Parliamentary Association were also present.

The wide-ranging discussions covered the following topics:

- Good Governance (consideration of the Latimer House Guidelines)
- Globalisation and the Law;
- TRIPs and the Protection of Traditional Knowledge;
- Protection of Cultural Heritage;
- Rights of Victims of Crime;

- Mutual Assistance between Business Regulatory Agencies (in the context of the fight against organised crime and money laundering);
- Co-operation in Criminal Matters (possible amendments to the London Scheme on the Rendition of Fugitive Offenders and the Harare Scheme on Mutual Assistance in Criminal Matters);
- Freedom of Information model legislation;
- Developing the Commonwealth model law of evidence;
- Law and Technology (including consideration of model laws on e-commerce and computer and computer-related crime); and
- Freedom of Assembly, Association and the Right to Protest

Senior officials made a series of recommendations for consideration by Commonwealth Law Ministers at their meeting in St Vincent and the Grenadines later in the year. There are several matters of particular interest to the Association.

*(i) The Latimer House Guidelines*

The Final Report from the Meeting states as follows:

*In 1999 Law Ministers asked Senior Officials to give further consideration to the Latimer House Guidelines on relations between the Executive, Parliament and the Judiciary and to report to the next Law Ministers meeting. Senior Officials were assisted in this work by a paper prepared by the Commonwealth Parliamentary Association, the Commonwealth Magistrates and Judges Association, the Commonwealth Lawyers Association and the Commonwealth Legal Education Association. Continuing concern was expressed by Senior Officials at aspects of the Guidelines -- those recommending that a majority of members of Judicial Services Commissions should be senior members of the judiciary, those seeking to ensure that responsibility for managing the funds voted for the judiciary should lie with the judges, and those dealing with the accountability and disciplining of judges.*

*Senior Officials noted that the principles of good governance and judicial independence had been clearly endorsed by Commonwealth Heads of Government, and welcomed the general thrust of the declaration of those principles in the Guidelines. On the issues of judicial appointment mechanisms and the control of funds voted for judicial purposes, Senior Officials agreed that the Guidelines needed revision. A revised text should stress the importance of ensuring that any appointment mechanism should be widely accepted as guaranteeing the quality of those selected, and that the resources provided for the judiciary should be adequate and protected from misuse. With such revisions the Guidelines could be laid before Ministers for endorsement.*

Following a meeting of the Latimer House Group in January 2002, it was agreed to draft amendments to the Guidelines designed to address the concerns of the Meeting. These will be placed before CLEA members for approval before being taken to the Commonwealth Law Ministers Meeting later in the year.

*(ii) International cooperation issues*

These relate directly to the transnational crime curriculum and course. Senior Officials made several recommendations for amendments to the Harare Scheme on Mutual Assistance in Criminal Matters and requested the Commonwealth Secretariat to provide member countries with information and initiatives relating to interception of communications, computer related crime, DNA samples and international cooperation.

As regards the London Scheme on the Rendition of Fugitive offenders, it was recommended that the word "rendition" be replaced with "extradition" as well as the substantive amendment of the scheme in several areas.

*(iii) Model Law of Evidence*

The Meeting considered the *Report of the Expert Group on a Commonwealth Model Law of Evidence* and the resultant Model Bill. The Expert Group (upon which the CLEA was represented) was asked by Law Ministers and Attorneys General to examine areas of the law of evidence which were felt to require modernisation. These included

- Documentary evidence, including the admissibility of business documents
- Foreign testimonial evidence in a criminal proceeding
- Providing and receiving evidence in legal proceedings by way of technology
- Measures for the assistance of vulnerable witnesses
- Admissibility of evidence in cases of sexual offences
- Witness and police anonymity in a criminal proceeding
- Corroboration and competency to testify
- DNA evidence in criminal proceedings

Senior Officials reported to Law Ministers that they "believed that the provisions contained in the Model Bill...are worthy of consideration by any member country seeking to amend its laws of evidence to take account of technological and social changes". Perhaps not surprisingly the issue that caused the most debate amongst Senior Officials was the admissibility of evidence of sexual reputation and experience with a person other than the accused. This was the very issue that had also divided the Expert Group. As a result, no less than three options have been included in the Model Bill to be sent to Law Ministers for consideration.

There is no doubt that the law of evidence in the vast majority of Commonwealth countries is not only seriously outdated but unable to deal effectively with technological and social changes. In the view of the Association, the Model Bill represents a real opportunity for Commonwealth countries to bring their laws up to date.

Any CLEA members interested in obtaining further details about any of the recommendations made to Law Ministers should contact the General Secretary.

**Commonwealth Law Lecture Series**

The Canadian Commonwealth Law Lecture was held in November 2001 in association with the Law Commission of Canada, the Faculty of Law and the Richard Ivey School of Business at the University of Western Ontario. The lecture was given by Professor Richard McClaren, Professor and former Associate Dean of the University of Western Ontario, editor of *Personal Property*

Security Act Cases, Canadian Co-Reporter and special consultant to the American Law Institute's project on Transnational Insolvency in the three NAFTA countries. His topic was "Securing Transactions and Intellectual Property in the Commonwealth and Beyond".

The Commonwealth Law Lecture for Nigeria was held in October 2001 at the Ladi Conference Centre, Sheraton Hotel and Towers, Abuja. The lecture entitled "Law and the Management of Democracy" was delivered by Hon Justice E O Ayoola of the Supreme Court of Nigeria. The Special Guest of Honour at the event was Hon. Musa Elayo Abdullahi, the Honourable Minister of State for Justice, while the Chairperson was Professor Ebere Osieke, who is currently the Legal Consultant to the National Assembly (the Federal Legislature). The event was attended by over sixty people, mainly private legal practitioners, federal legislators and students of the Nigerian Law School. A question and answer session followed the delivery of the paper.

On the evening of 19 December 2001 and as the centrepiece of the CLEA conference, the first Commonwealth Law Lecture for South Asia region was delivered by Judge C.G. Weeramantry, former Vice-President and present Judge Ad Hoc of the International Court of Justice. His topic was "Legal Education without Frontiers". A very large audience at the Ceylon Continental Hotel, Colombo attended the lecture which it was followed by the conference dinner.

The Association is grateful to the Commonwealth Foundation for its assistance in funding these lectures

## **CLEA PUBLICATIONS**

### **JOURNAL OF COMMONWEALTH LAW & LEGAL EDUCATION**

Volume 1(1) of the Official Journal of the CLEA is now available. The articles in the first issue are:

"*The Judicial Protection of Human Rights in the Commonwealth*" by Lord Lester of Herne Hill

"*A Cosmopolitan Discipline? Some Implications of 'Globalisation' for Legal Education*" by William Twining

"*Commonwealth Case Law and the Ad Hoc International Tribunals*" by Judge Richard May

"*Is Rights Based Review Justified?*" by Shivaji Felix

"*Path Dependency, Law and Development*" by Patrick McAuslan

**Please send contributions and all other correspondence to Veronica Barnes, Editorial Manager, *Commonwealth Law and Legal Education*, OUBS, The Open University, Walton Hall, Milton Keynes MK7 6AA, UK e-mail: [v.m.barnes@open.ac.uk](mailto:v.m.barnes@open.ac.uk) The journal web site is: [www.jclle.cavendish.com](http://www.jclle.cavendish.com)**

### **LEGAL EDUCATION AND THE ADMINISTRATION OF JUSTICE IN WEST AFRICA**

The papers from the CLEA Nigeria conference in Abuja, Nigeria in November 2000 edited by John Hatchard are available on CD ROM. The CD is **free** to all paid-up CLEA members and otherwise costs £15. For those in Nigeria, please contact your local CLEA representative for information.

### **DIRECTORY OF COMMONWEALTH LAW SCHOOLS**

Work on the Directory is continuing. In order to process the significant amount of new information, publication has been deferred until June 2002.

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## **ON LINE**

### ***Human rights network***

A new news, information and networking service on human rights is available on: <http://humanrights.britishcouncil.org>. The following areas are particularly well covered:

*Economic and cultural rights*: Employment rights; Right to development; right to education; right to housing; right to work and right to favourable conditions of work; trade union rights

*Rights of children*: Child abuse; child labour; child protection

*Rights of women*: gender equality; violence against women

### ***Parliament and the Media: Building and Effective Relationship***

Details of a seminar on this important but often neglected topic are available on the web site of the Commonwealth Parliamentary Association: [www.comparlhq.org.uk/parlam/parlam3.htm](http://www.comparlhq.org.uk/parlam/parlam3.htm)

### **York University Library**

The York University Library web site offers access to over 12,000 indexes, data bases, ejournals, ebooks and Canadian government publications. Find it on: [www.library.yorku.ca](http://www.library.yorku.ca)

### ***University of London LLM programme***

The new website <http://ials.sas.ac.uk> contains:

- All exam papers from 1995 onwards
- Subject guides listing recommended textbooks, journals and websites for subjects including human rights and criminal law

### ***Eurofunding***

All the latest news and opportunities regarding European funding programmes from the European Commission and European Council can be found on:

[www.welcomeurope.com/eurofunding\\_zineen.asp](http://www.welcomeurope.com/eurofunding_zineen.asp)

### ***The Southern African Development Community Protocol Against Corruption***

This important protocol was adopted in August 2001. The full text is now available. Find it on [www.sahrit.org/programmes/draftsadcprotocol](http://www.sahrit.org/programmes/draftsadcprotocol)

## ***CLEA Executive Committee Members***

### *Australasia*

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

### *Europe*

#### **Selena Goulbourne**

Coventry University, School of International Studies and Law; Priory Street, Coventry CV1 5FB,  
U.K.  
Tel: +44 024 7688 8256/8176; Fax: (44) 024 7688 8679; e-mail: lsx085@coventry.ac.uk

### *East and Central Africa*

#### **Lillian Tibatemwa-Ekirikubinza**

Faculty of Law, Makerere University, P0 Box 7062, Kampala, Uganda  
Tel: +256 41 542284; Fax: +256 41 255879/554297; e-mail: ltibatemwa@muklaw.bushnet.net

### *The Caribbean*

**Keith Sobion** Council of Legal Education, Norman Manley Law School, P0 Box 231, Mona  
Campus, Kingston 7, Jamaica  
Tel: +1876 927 1899/927 1235; Fax: +1876 977 1012; e-mail: nmlsl@hotmail.com

### *South East Asia*

Vacant

### *Southern Africa*

#### **David McQuoid-Mason**

University of Natal, Howard College of Law, Durban 4001, South Africa  
Tel: +27 (0)31 260 2487; Fax: +27(0)31 260 2559; e-mail: Mcquoidm@law.und.ac.za

### *South Asia*

**Joe Silva** Sri Lanka Law College, 244 Hulftsdorp Street, Colombo 12, Sri Lanka  
Tel: (94) 1 323759, Fax: (94) 1 436040; e-mail: locwal@slt.lk

### *South Asia (India)*

Vacant

### *Country representative for Pakistan*

**Mir Aurangzeb**, University Law College, Quetta, Pakistan. e-mail: miraurangzeb@yahoo.com;  
fax: (92) 81 826492

*Roving representative:* **Lakshman Marasinghe** e-mail: lmarasi@hotmail.com

### *West Africa*

#### **Seth Bimpong-Buta** Ghana Law School, P0 Box 179, Accra, Ghana

Tel: +233 21 664822, 663246 and 664775; fax: +233 21 778185; e-mail: sethbb@hotmail.com

*Country representatives*

**Cameroon Samgena Galega**, University of Buea, Buea e-mail: dr\_sdgalega@yahoo.com  
**Nigeria Toyin Doherty**, Nigerian Law School Fax: +234 09 5231570/5231571

*North America*

**Jeff Berryman** Faculty of Law University of Windsor, Ontario N9B 31'4 Canada  
Tel: 1 519 253 3000 ext 2965; fax: 1 519 973 7064 e-mail: jberryman@uwindsor.ca

*Ad Hoc Members*

**Jeremy Cooper** University of Middlesex, UK. e-mail: jeremycooper1@hotmail.com  
**Alexis Goh** University of Western Sydney, Australia. e-mail: a.goh@uws.edu.au

*Honorary Treasurer*

**Dianne Stafford** Legal and Constitutional Affairs Division, Commonwealth Secretariat,  
Marlborough House, Pall Mall, London SW1Y 5HX, U.k. Tel: +44 020 7747 6410; Fax: +44 020  
7747 6406 ; e-mail: d.stafford@commonwealth.int

## 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 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; for law schools to prepare themselves for the demands of the profession in the context of the information revolution and other global challenges; and to support continuing legal education and distance learning programmes.

### Programmes:

#### *Publications and Research:*

- *Commonwealth Legal Education* is published three times a year and contains news, views and articles about law and legal education developments in the Commonwealth
- *Journal of Commonwealth Law and Legal Education* (published twice per year)
- *Directory of Commonwealth Law Schools* (published biennially)
- A variety of books on law and legal education in the Commonwealth
- The Association's web site ([www.clea.org.uk](http://www.clea.org.uk)) is being developed to provide 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 and Malaysia

#### *Commonwealth Law Lecture Series*

This is a unique series of lectures that take place on a Commonwealth-wide basis and are given by leading legal academics and judges. The collected lectures will be published in 2002.

#### *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 21<sup>st</sup> century lawyer .

- Human Rights for the Commonwealth
- Transnational crime/Anti-terrorism law (*available June 2002*)

- Environmental Justice (*in preparation*)
- International Trade Law (*in preparation*)

#### *Strengthening law schools*

- 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 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 Law Students' Mooting Competition. This is held biennially with the last three competitions being held in, Sri Lanka, , Malaysia and, Canada
- Commonwealth Students' Essay Competition. This is held biennially.