

***COMMONWEALTH
LEGAL
EDUCATION***

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

Number 93

June 2003

THE 2003 COMMONWEALTH LEGAL EDUCATION ASSOCIATION CONFERENCE

REPARATIONS - THEORY, PRACTICE AND LEGAL EDUCATION

Thursday, June 12 to Saturday, June 14, 2003

Faculty of Law, University of Windsor, Windsor, Ontario, Canada

Registration Fee: C\$150.00 (includes admission, conference materials and meals,)

Throughout the world attention has been focussed on the issue of reparations for past injustices and the role that such reparations play in reconciling various minority groups within a nation, or between nation states, towards a greater state of harmony and justice. However, the issue of reparations presents fundamental challenges for the law. What harms warrant reparations? How far back in history should one go? Do reparations require a known victim and perpetrator, or can the present economic and social conditions of a recognized group be causally linked to the activities of an earlier dominant group or colonial government? Even where a past injustice has been recognized, how should reparations be effected? Should loss be compensated in money, or some other form of making restitution? Even assuming a substantive claim arises; a reparation claim may entail complex issues of proof and the taking of evidence. How can oral history be presented?

The conference aims to address the issues outlined above. In particular, the conference will identify ways for legal education institutions to build competency to train advocates to actively participate in the area of reparations for past wrongs. An important focus will be on the creation of links and support networks between legal educators throughout the Commonwealth and to provide concrete ways to exchange and share curricula between law schools.

Conference Format

The conference format will follow the 'roundtable' concept for which this Faculty has had notable success. Speakers have been selected to provide a particular focus to the topic. Papers will be circulated to participants before attending the roundtable. Speakers will then be asked to lead discussions. A chair will also be appointed to manage time and ensure a focus is maintained. The roundtable format is designed to maximize discussion and to facilitate active rather than passive participation.

Day One - Theory

Day one will focus upon the legitimacy, including political legitimacy and moral responsibility, of claims for reparation, and capacity for a legal response.

Day Two - Practice

Day two will focus upon specific examples and case studies drawn from around the Commonwealth that have attempted to provide a form of reparations for a specific wrong. The aim will be to evaluate the success of these attempts measured against the goals identified for the specific scheme and how that scheme fits with the theoretical underpinnings discussed in day one.

Day Three - Legal Education

Day three will deal with pedagogical issues. The study of reparations transcends many facets of law and requires an appreciation of other disciplines (e.g. political science, history, philosophy) to properly situate a legal entitlement. In addition, the advocacy of a reparations claim presents unique challenges, and may take place outside traditional legal fora. It is thus an excellent vehicle to discuss how a law school curriculum can provide sufficient breadth and depth to enable graduates to participate meaningfully in this enterprise.

FOR MORE INFORMATION AND TO REGISTER ONLINE, PLEASE GO TO:

<http://cronus.uwindsor.ca/users/jjberrym/main.nsf>

OR CONTACT: Jeff Berryman: jberrym@uwindsor.ca

CLEA PUBLICATIONS NOW AVAILABLE

Journal of Commonwealth Law and Legal Education the official journal of the **Commonwealth Legal Education Association**

Now in its second year, this fully refereed Journal contains a variety of articles, comment and debate. *Published twice a year, the journal is free of charge to CLEA institutional members.*

In Vol 2(1): "*Electronic Legal Education*" Alan Davidson, Law School, University of Queensland, Australia; "*The Discipline of Law - Legal Education at the Intersection of the Juridical and the Disciplinary*" Vanessa E Munro, Law Department, University of Reading, UK; "*Towards an Efficacious Framework for Debt Recovery in Developing Countries*" Olayiwola O. Oladele, Department of Business Law, Obafemi Awolowo University, Nigeria; "*Childrens' Rights in the 21st Century*" Cherie Booth QC; "*Barefoot Lawyers*" an article about voluntary legal workers in rural Uganda by Frances Gibb, Legal Editor of The Times, London.

Directory of Commonwealth Law Schools 2003-2004

The Directory contains an individual entry for over 500 Commonwealth law schools, including full contact details, courses offered, law journals published and research centres. The Directory also contains full details of the activities of the CLEA together with a major section devoted to law in the Commonwealth. This includes copies of the major Commonwealth instruments and Commonwealth activities of particular interest to law teachers and practitioners. The final section lists research centres and law journals by area of interest.

289 pages, December 2002, £45 paperback from the CLEA (free to CLEA institutional members)

Law and Development: Facing Complexity in the 21st Century: Essays in honour of Peter Slinn

Edited by John Hatchard and Amanda Perry

Compiled in honour of Peter Slinn, this book of essays focuses on tackling the complexities inherent in the area of law and development. The essays are contributed by leading academics world-wide.

288 pages, March 2003, £45 paperback from the CLEA (free to CLEA institutional members)

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The Commonwealth Legal Education Association

The CLEA was formed in December 1971. Its objects are to foster high standards of legal education and research in Commonwealth countries; to build up contacts between interested individuals and organisations, and to disseminate information and literature concerning legal education and research. Membership is open to individuals, schools of law and other institutions concerned with legal education and research.

The Association is headed by a President, currently in South Africa, Vice-Presidents in Jamaica, Sri Lanka and United Kingdom, a General-Secretary and an Executive Committee drawn from all the Commonwealth Regions.

Contact details:

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Subscription renewals and requests for publications may be addressed to the Association.

FROM JOHN HATCHARD GENERAL SECRETARY

Membership

You will be pleased to learn that our membership drive is going well. However, with continuing uncertainty about funding, it is essential that we continue to make strenuous efforts to attract new members. The package on offer is certainly an attractive one and I hope you will continue to support our efforts to increase membership. You can find full details of membership at the end of the Newsletter.

Conferences

The University of Windsor is the venue for the next CLEA conference. Taking place between 12-14 June, it is on the extremely topical issue of REPARATIONS - THEORY, PRACTICE AND LEGAL EDUCATION. **HURRY UP IF YOU WISH TO ATTEND.** You can register online at <http://cronus.uwindsor.ca/users/jjberrym/main.nsf> or contact the conference organiser, Jeff Berryman at jberrym@uwindsor.ca. Further details can be found above.

The 13th Commonwealth Law Conference was held in Melbourne, Australia between 13-17 April. As you will see in the special section below, the CLEA was actively involved in the conference, especially through organising a session on legal education, running the Commonwealth Moot Competition and holding a Commonwealth Law Lecture. The Association is indebted to Ros Macdonald, our Commonwealth Moot Coordinator who did an outstanding job in organising and running the moot competition. Also included below is a list of the judges and practitioners who kindly presided over the moots. Their enthusiastic support is what helps make the competition so special. I would also like to thank the Commonwealth Foundation for helping us to fund many of the participants to the competition.

April also saw the Association organising a CLEA session at the conference of the Association of Law Teachers in Maastricht, Holland which was organised by Selina Goulbourne, our EC representative for Europe.

The Association is also organising a session at the forthcoming conference of Southern African Law Teachers in Windhoek, Namibia. Full details can be obtained from David McQuoid-Mason (mcquoidm@nu.ac.za)

CLEA Executive Committee

The terms of office of several members of the EC come to an end in June. Full details of the vacancies are provided below. One member of the Committee who will not be with us after June is Dianne Stafford who is leaving her post as Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat and, therefore, as Hon Treasurer of the CLEA. She has been a tremendous supporter of the Association and has helped strengthen the already close links that we have with the Commonwealth Secretariat. We wish her every success in her future ventures.

Readers may be interested in the fact that Di's position is now being advertised. You can find full details at the end of the Newsletter but please note that the deadline for applications is **20 JUNE 2003**.

I am extremely pleased to report that Colin Nicholls, QC, is the new President of our sister organisation, the Commonwealth Lawyers' Association. Colin is a leading London-based barrister and a Bencher of Gray's Inn. He has worked closely with the CLEA on a number of projects and we very much hope that his appointment will further strengthen the links between our two Associations. Colin takes over from Dato' Dr Cyrus Das. Cyrus has been a great friend and supporter of the CLEA and we hope that he will remain active in matters concerning Commonwealth law and legal education.

Publications

- Our publication programme continues apace. It is a particular pleasure to announce the publication of our latest CLEA book "*Law and Development: Facing Complexity in the 21st Century: Essays in Honour of Peter Slinn*". This was launched at a splendid occasion at Marlborough House in March. **A copy of the book is available free of charge to CLEA institutional members.** A full report on the book and book launch appears later in this issue.
- The *Directory of Commonwealth Law Schools* has been extremely well received. Bigger and better than ever, it is available from the CLEA at a price of £45. **However, it is free of charge to CLEA institutional members.**
- The 2003(1) issue of the *Journal of Commonwealth Law and Legal Education* is also now available. This is official journal of the Association and is well worth supporting. Details of the current issue appear above. **A subscription to the Journal is also included in CLEA membership.**
- Our second e-book *Curriculum Development for the 21st Century* is now available on CD-Rom. This costs £5 but is **available free of charge to all CLEA members.**

Latimer House Guidelines

You may recall that it was agreed at the Commonwealth Law Ministers' at their Meeting in St Vincent last November that the Commonwealth Secretary-General convene a small group of ministers to "distil the essence" of the Latimer House Guidelines. This meeting was held on 16 May 2003 at Marlborough House. The CLEA was afforded observer status and was represented by Peter Slinn. A report on the meeting appears below.

Curriculum development

Curriculum development remains a key part of Association's work. In this issue you will find details of meetings held both in the Fiji and at the Commonwealth Law Conference.

The last few months have been some of the busiest ever for the Association and events have severely tested our administrative capacity. Rest assured: we are trying to catch up as quickly as possible!

John Hatchard
General Secretary
Marlborough House

May 2003

CLEA Activities

CLEA EXECUTIVE COMMITTEE

The CLEA Executive Committee will meet at the CLEA conference in June. Several EC positions will become vacant. These are as follows: 1. East and Central Africa; 2. Southern Africa; 3. West Africa; 4. The Caribbean. In addition, the term of office of our two ad hoc members expires.

The relevant provisions of the CLEA Constitution relating to elections to the EC are as follows:

5. Executive Committee

- (1) The affairs of the Association shall be managed by an Executive Committee. Subject to the general directions of a General Meeting, the Executive Committee may take any action on behalf of the Association which, in its opinion, will further the objects of the Association.
- (2) The members of the Executive Committee shall be elected at the General Meeting of the Association.... The Committee shall, so far as is practicable, be broadly representative of the Commonwealth as a whole and shall consist of not less than six and not more than ten persons.
- (3) Election to the Executive Committee shall be for four years but members shall be eligible for re-election.
- (4) In addition to the members so elected, the Executive Committee may co-opt up to three further members being full members of the Association whether individuals or representative or a combination of both who shall serve until the conclusion of the next General Meeting after individual co-option PROVIDED THAT the number of the co-opted members shall not exceed one-third of the total membership of the Executive Committee at the time of co-option. Co-opted members shall be entitled to vote at meetings of the Executive Committee....

For those contemplating standing for election, the duties of EC members are as follows:

- i. Represent the CLEA at relevant conferences in their region.
- ii. Provide information to the General Secretary on developments in legal education and related matters in their region three times a year for inclusion in the CLEA Newsletter.
- iii. Seek to recruit individual and institutional members in their region.
- iv. Seek to maintain links with existing members and encourage their involvement in the work of the Association.
- v. Disseminate information about the CLEA through national associations of law teachers and other relevant bodies in their region.
- vi. Hold regular CLEA activities in their region which seek to further the Plan of Action.
- vii. Cooperate with the organisers of the Commonwealth Law Students' Mooting Competition (and any other such CLEA competitions) in identifying suitable teams.
- viii. Send a report annually to the General Secretary on CLEA activities in their region for inclusion in the Annual Report of the Association.
- ix. Provide a written or oral report to each EC committee meeting on CLEA activities in their region.
- x. When so requested, provide timeously to the officers of the Association relevant information relating to ongoing CLEA projects in their region.

NOTICE OF GENERAL MEETING

The Commonwealth Legal Education will hold its next General Meeting on 13th June 2003 at the University of Windsor

AGENDA

1. Apologies for absence
 2. Approval of the Minutes of the last General Meeting held on 19th December 2001
 3. Matters arising
 4. Membership of the Executive Committee
 5. Accounts, subscriptions and membership
 6. Consideration of the Annual Report of the Association
 7. Appointment of auditor
 8. Any other business
- Any member wishing to place additional items on the agenda should contact the General Secretary as soon as possible

CLEA AT THE 13th COMMONWEALTH LAW CONFERENCE

Full details of the Conference are provided in a special section below

CLEA BOOK LAUNCH

Law and Development: Facing Complexity in the 21st Century: Essays in Honour of Peter Slinn

The latest CLEA publication, *Law and Development: Facing Complexity in the 21st Century: Essays in Honour of Peter Slinn* and edited by John Hatchard and Amanda Perry-Kessaris. The book was launched on 18 March 2003 at a reception in the splendour of Marlborough House in London. The Association is most grateful to the Commonwealth Secretariat for granting us permission to hold event there.

The presentation was made by Dianne Stafford on behalf of Mrs Florence Mugasha, the Commonwealth Deputy Secretary-General. The book honours Peter Slinn who has been a mainstay of the Association for many years both as an Executive Committee member and as Vice-President. His work in the field of Law and Development is well known and the Preface to the Book is worth repeating:

PREFACE

In June 2001 Peter Slinn convened the third in a series of conferences on Law and Development to be held at Cumberland Lodge, Windsor Great Park, UK. Forty-five participants, who embraced a broad spectrum of opinion from the developing and developed world, attended. As this was the final time that Peter would act as Convenor, it was the wish of all present to mark the occasion by dedicating this book to him.

It has been our pleasant task to oversee its editing. The book itself contains revised papers from many of the participants to the 2001 conference together with contributions from other friends and colleagues who were unable to attend but who did not wish to miss the opportunity of celebrating Peter's contribution to the field of Law and Development. Indeed, one of our problems as editors has been to limit the number of contributions so as to keep the book to a manageable length. Jim Paul, one of only a handful of people who have been with Peter at all the conferences, has also kindly provided us with a fascinating foreword, highlighting the background to and themes of the Cumberland Lodge conferences, and placing Peter's own contribution in perspective.

Selected papers from the *two* earlier Cumberland Lodge conferences were published in the 1984 and 1992/3 issues of *Third World Legal Studies*. As the Guest Editor for these issues, Peter provided a lucid, compelling and (to use one of his favourite words) masterly overview of the range of issues discussed at the conferences. With some trepidation we have sought to follow in his footsteps by providing our own Introduction to the papers along the theme that so clearly emanated from the 2001 conference discussion: 'Complexity'.

Participants left Cumberland Lodge in June 2001 intent on ensuring that the Law and Development Conference series lives on. As Peter Slinn himself has put it: 'Clearly there is some real point to the decennial periodisation in view of the profound changes in the structure of international society...'. As the contributions to this book demonstrate, a regular review of this complex area is certainly needed, albeit more regularly than the period envisaged by Peter.

Looking back at the names of the participants to the first two Cumberland Lodge conferences, we were struck by the fact that they represented a veritable *Who's Who* of legal scholars and practitioners in the field of law and development. Sadly some, perhaps most notably Tony Allott, are no longer with us. However this book demonstrates that there is now a new generation of scholars in the field of law and development, thus ensuring that there is no diminution in the interest and importance of this fascinating topic.

As the majority of participants at the three conferences were academic lawyers, it is not surprising that an abiding sub-theme has been the role of the legal academic community in the area of law and development. At the First Conference, for instance, Paul Brietzke argued that this role encompassed 'devising badly needed theories of the right to development' and this role was again touched on at the Second Conference. The involvement of the Commonwealth Legal Education Association (CLEA) in the Third Conference emphasised the importance of ensuring that law students and legal practitioners of the 21st century are provided with the necessary tools with which to tackle law and development issues.

It was therefore significant that the Third Conference included a session on 'Teaching Law and Development' and explored ways of developing a 'model curriculum' and materials for use in Commonwealth law schools. The differing views expressed as to what such a curriculum might contain merely went to emphasise the uncertain scope of the area and its 'complexity'. Yet the need to encourage law teachers to incorporate law and development issues into their teaching was recognised and this remains an important goal for 21st century law schools. Hopefully this book will serve as a useful tool for assisting them to do so.

To fulfil this aim, we are anxious to ensure that the book reaches as wide an audience as possible in both developing and developed countries. We are therefore extremely grateful to Cavendish Publishing for their assistance in keeping production costs to a minimum and to the CLEA for undertaking to ensure the book's wide distribution.

As for Peter Slinn's contribution to the conference series, we are happy to echo the words of Sam Gyandoh in his Introduction to the 1992 issue of *Third World Legal Studies*:

I believe I speak for all of us who were present at Cumberland Lodge when I convey our collective debt of profound gratitude to Peter Slinn for being such a splendid host and accomplished Conference organizer. We cannot ever forget his seemingly infinite capacity for combining high intellectual acuity and rigorous academic discipline with generous and easygoing hospitality, dispensed in an inviting and utterly charming environment of gracious living, untouched by any affectation or bombast.

*John Hatchard and Amanda Perry-Kessaris
London, January 2003*

The contributors to the book are as follows

FOREWORD,
James C N Paul

1. INTRODUCTION
John Hatchard and Amanda Perry-Kessaris

PART 1: THEORETICAL DEVELOPMENTS

2. 'LAWS AND DEVELOPMENTS'
David Kennedy

**3. DECISION-MAKING IN A REGULATORY ENVIRONMENT:
REPRESENTING THE BUTTERFLY**
Amanda Perry-Kessaris

4. JURIDIFYING GENDER JUSTICE: FROM GLOBAL RIGHTS TO LOCAL JUSTICE
Ann Stewart

PART 2: INTERNATIONAL PRACTICE

5. TECHNOLOGY TRANSFER: SHIFTING MODELS OF LAW AND DEVELOPMENT
Peter Muchlinski

6. PATENTS AND HEALTH IN DEVELOPING COUNTRIES
Philippe Cullet

7. INTERNATIONAL COMPETITION LAW AND POLICY IN DEVELOPING COUNTRIES
Emmanuel Opoku Awuku

8. TECHNICAL ASSISTANCE AND TRADE LAW REFORM POST-DOHA: BRAVE NEW WORLD
Mary E Footer

9. THE OECD AND TAX COMPETITION: THE LAST RIGHTS FOR TAX HAVENS?

David Salter

10. INTERNATIONAL COURTS AND THE APPLICATION OF THE CONCEPT OF 'SUSTAINABLE DEVELOPMENT'

Philippe Sands

PART 3: NATIONAL PRACTICE

11. POST-COMMUNIST LEGAL REFORM: THE ELISION OF THE POLITICAL

Scott Newton

12. CONSTITUTIONAL OPTIONS FOR THE SETTLEMENT OF THE SRI LANKAN PROBLEM

Lakshman Marasinghe

13. THE SINGAPORE MODEL OF LAW AND DEVELOPMENT: CUTTING THROUGH THE COMPLEXITY

Andrew Harding and Connie Carter

14. LEGAL AID AND DEVELOPMENT: LESSONS FROM SOUTH AFRICA AND SOME THOUGHTS FOR NIGERIA

David McQuoid-Mason

15. ENVIRONMENTAL LITIGATION IN HONG KONG: THE ROLE OF THE JUDICIARY AND STATUTORY TRIBUNALS

Anton Cooray

16. WOMEN IN THE DEMOCRATIC PROCESS IN UGANDA: GENDER AND JUSTICE

Beatrice Odonga-Mwaka

CLEA at the 2003 ALT conference

The Association of Law Teachers 38th Annual Conference took place at the University of Maastricht from 12-14 April 2003 on the theme "Legal e-s: e.ducation and ethics in Europe". Selina Goulbourne, the CLEA's EC member for Europe organised a CLEA session on legal education.

CLEA and the International Cooperation in Criminal Matters Project

The Association was involved with the Criminal Law Unit (CLU) of the Commonwealth Secretariat in the organising and running of another workshop on International Cooperation in Criminal Matters. This time the venue was the University of the South Pacific in Suva, Fiji and participants came from Australia, Fiji, New Zealand, Papua New Guinea and Vanuatu. We are especially grateful to Professor Mere Pulea of the University of the South Pacific for her support and assistance and Kimberley Prost, of the CLU for running the course.

CLEA AT THE 13th COMMONWEALTH LAW CONFERENCE

The 13th Commonwealth Law Conference was held at the Melbourne Convention Centre, Melbourne, Australia between 13-17 April 2003. The CLEA was represented by David McQuoid-Mason (President), Ros Macdonald (EC Member for Australasia), Alexis Goh (EC Member), Peter Slinn (Vice-President) and John Hatchard. The Association shared an exhibition stand at the main conference centre with the Commonwealth Lawyers' Association and Commonwealth Magistrates' and Judges' Association.

Three events deserve special mention: the 7th Commonwealth Moot Competition; the Commonwealth Law Lecture and the CLEA session on legal education.

1. 7th Commonwealth Law Moot

The Commonwealth Legal Education Association once again organised and ran the Commonwealth Moot Competition. The venue was the magnificent Banco Court of the Victoria Supreme Court.

The competition brought together teams of law students representing all regions of the Commonwealth, i.e. Australasia, North America, the Caribbean, West Africa, South Asia, Southern and Eastern Africa, the South Pacific, and Europe. Regrettably, the team from Nigeria only made it as far as Kuala Lumpur where they encountered ticketing problems and were unable to fly on to Melbourne. However it was a great pleasure to welcome, for the first time, a team from the South Pacific.

The problem, which was written by Max du Plessis of the University of Natal, reflected current Commonwealth and international concerns about the prosecution of crimes against humanity committed by heads of state. The problem itself received considerable praise from the judges both for its originality and its topicality.

THE MOOT PROBLEM

The President of Uzania, Geoffrey Landima, has for the last two years been intent on ridding Uzania of 'those colonial white farmers who arrogantly think they still have a right to live here'. International as well as local opposition media has reported that President Landima, through his political party (UZ), has since June 2001 endorsed and sponsored the terrorization of the remaining white farmers. Amnesty International has conducted an independent investigation which has confirmed that the ruling party has mobilised a mass of largely landless individuals within Uzania to 'take action' against the whites. The investigation shows that in the last year, beginning in January 2002, the ruling party has encouraged and supported occupation of white farms in the Ipopo district of Uzania, the district in which the majority of white farms are situated. The report further confirms that there is rising evidence that state-sponsored torture, rape, violence and intimidation is taking place on a large scale, not only against white farmers in the Ipopo district, but also against anyone or any party which opposes the government's policy on the 'land issue'.

A South African Farmer, Mr Ceres, has significant property interests in Uzania. Mr Ceres lived his whole life in Uzania but left in early 2001 after being forced off his farm in Ipopo by a crowd

of UZ individuals who promised to kill him if he didn't leave. Mr Ceres and his family left Uzania without being compensated for the taking of his farm, and came to South Africa where they have now taken up citizenship. Mr Ceres now farms in the Western Cape, but not without some bitterness that his farm in Uzania is lying fallow with very little prospect of him and his family being able to return. In July 2002 Mr Ceres approaches Commissioner Hunter of the South African Police to inquire if anything can be done to arrest President Landima. Commissioner Hunter, convinced that President Landima is indeed guilty of gross human rights violations, appreciates that President Landima cannot be arrested by the SAPS if he is not within South African territory. Hunter notices, however, that there is an international conference on African Development which is being hosted in Durban in December 2002. He hurriedly liaises with the Department of Foreign Affairs to send a special invite to President Landima to attend the conference as guest of honour.

President Landima, honoured by the invitation, arrives in South Africa to attend the conference. Two days before the conference is due to begin, while enjoying a quiet dinner in the Hilton Hotel, President Landima is arrested by the South African Police on an arrest warrant issued with the consent of the National Director of Public Prosecutions. The warrant was issued on the strength of the Rome Statute of the International Criminal Court which has been incorporated into South African law by the Implementation of the Rome Statute of the International Criminal Court Act, 27 of 2002. The warrant charges President Landima under the Rome Statute with crimes against humanity.

At his appearance before the High Court designated to hear the matter, President Landima insists that he had been unlawfully tricked into coming into South Africa and that the actions of the South African police are an affront to his dignity and the dignity of Uzania, violated procedural fairness guarantees, and disregarded the good relations that exist between South Africa and Uzania. In addition, Landima argues that he, like any other serving head of state, has diplomatic immunity from arrest and prosecution in South Africa, and that the High Court has no jurisdiction over him, as the crimes alleged against him were not committed on South African soil.

The High Court agrees with President Landima and refuses to exercise jurisdiction over him. It points out that South Africa and Uzania, both members of the Commonwealth, have an interest in respecting each other's sovereignty. In particular, it asserts that Landima was tricked into coming to South Africa, and that the recent decision of the International Court of Justice in the *Yerodia (Arrest Warrant Case) between Congo and Belgium (Case Concerning the Arrest Warrant of) April 2000 (Democratic Republic of the Congo v Belgium)*, 14 February 2002 makes it clear that a serving minister or head of state is entitled to immunity. The matter now comes on urgent appeal to the Commonwealth Moot Court. As in the court below, the factual accuracy of the Amnesty International Report is accepted, although the legal consequences thereof remain open to argument.

List of cases and statutes

S v Ebrahim 1991 (2) SA 553, (South African Court of Appeal)

R v Horseferry Road Magistrates Court, ex parte Bennett [1994] 1 AC 42 (House of Lords)

Attorney General of the Government of Israel v Eichmann (1961) 36 ILR 5

Regina v Bartle and the Commissioner of Police for the Metropolis and Others ex parte Pinochet, 38 ILM 581, 602 (1999) (House of Lords)

Yerodia Case (Case Concerning the Arrest Warrant of April 2000 (Democratic Republic of the Congo v Belgium), 14 February 2002), (International Court of Justice)

The Rome Statute of the International Criminal Court, 1998 (available at <http://www.un.org>)

The Implementation of the Rome Statute of the International Criminal Court Act, No. 27 of 2002, South African Act of Parliament (available at www.gov.za/acts/2002/a27-02/a27-02a.pdf)

THE TEAMS

West Africa (Ghana Law School)

James Marshall Belieb

Bright Okyere Agyekum

Sarah Adwoa Sarfo

Southern and Eastern Africa (University of Pretoria)

Nicole Tracey Lewis

Akua Okyerebea Ampofo-Anti

South Asia (India): (West Bengal National University of Juridical Science, Kolkata)

Mohit P. Abraham

Shravya K. Reddy

South Asia: (Sri Lanka Law College)

Hejaaz Omer Hizbullah

Pubudu Srikantha Sachchithanandan

Fathima Laila Nasry

North America: (University of Montreal Law School)

Annabelle Sheppard

Marie-Eve Robillard

Myriam Corbeil

Europe: (University of Southampton)

Ellie Fargin

Jodie Mittell

Caribbean: (composite team from Caribbean law schools)

Miss Hanna Chrysostom

Miss Yolanda Christie

South Pacific: (University of the South Pacific, Vanuatu)

Sarah Habla

Aca Rayawa

Virisila Lidise

Australasia: (University of Melbourne)

Paul Bernath

Sarah d'Oliveyra

THE JUDGES

As ever, judges and legal practitioners from around the Commonwealth freely gave their time to preside over the moots. The “Roll of Honour” is as follows:

- The Honourable Justice Jenny Bolan of the Family Court of Australia
- The Honourable Justice Kenneth Handley, Supreme Court of New South Wales
- The Honourable Justice Hartley Hansen Supreme Court of Victoria
- The Honourable Justice Stephen Charles, Court of Appeal Victoria
- The Honourable Justice Paul Heath High Court of New Zealand
- The Honourable Justice Robert Osborn Supreme Court of Victoria
- Lord Justice Henry Brooks, Lord Justice of Appeal, Royal Courts of Justice
- The Honourable Justice Barry Patterson, High Court of New Zealand
- The Honourable Justice Anthony Randerson High Court of New Zealand
- Judge President Pio Marapi Teek High Court of Namibia
- The Honourable Justice John Winneke, President of the Court of Appeal Supreme Court of Victoria
- Mr David Ross QC of the Victorian Bar
- The Honourable Justice Frank Vincent Supreme Court of Victoria
- Mr Brin Woinarski QC of the Victorian Bar
- Mr Julian Burnside QC of the Victorian Bar
- Lady Mary Arden Lady Justice of Appeal, Royal Courts of Justice
- The Honourable Justice Scott Booker, Court of Queen’s Bench, Alberta, Canada
- The Honourable Justice Patrick LeSage, of the Superior Court of Justice, Ontario Canada
- Justice Roderick Joyce QC, District Court of New Zealand
- The Honourable Justice Robin Millhouse, Chief Justice, High Court of Kiribati
- The Honourable Justice John Perry, Supreme Court of South Australia
- The Honourable Justice Keane, Chief Justice of Ireland
- The Honourable Justice Peter Blanchard, New Zealand Court of Appeal
- The Honourable Justice Rodney Hansen, High Court of New Zealand
- The Honourable Justice Gopal Sri Ram of the Malaysian Court of Appeal
- The Honourable Justice Noel Anderson, New Zealand Court of Appeal
- The Honourable Justice Alan Blow, Supreme Court of Tasmania
- The Honourable Justice Edward Richard, Supreme Court of Northwest Territories, Canada
- The Honourable Justice Geraldine Sparrow, Ontario Court of Justice
- Her Honour Judge Mary Ann Yeats, District Court of Western Australia
- The Honourable Justice Roslyn Atkinson, Supreme Court of Queensland
- The Honourable Justice Tony North of the Federal Court of Australia
- Professor Gillian Triggs, University of Melbourne
- The Honourable Justice Veale, Supreme Court of Yukon
- Lord Woolf of Barnes, M.R.

- His Lordship the Honourable Carl Singh, Chief Justice of Guyana
- The Honourable Justice Paul de Jersey, Chief Justice of Queensland

THE COMPETITION

The competition consisted of a preliminary round in which teams mooted twice. The four teams with the highest scores then proceeded to the semi-finals. The two teams with the highest scores then proceeded to the final. In the event the final was contested by the teams from India and the United Kingdom before Lord Woolf of Barnes, Honourable Carl Singh, Chief Justice of Guyana and the Honourable Justice Paul de Jersey, Chief Justice of Queensland. The winners were the United Kingdom.

At a reception held in the magnificent new law school building at the University of Melbourne moot competitors were presented with their certificates and books donated by the CLEA, Cavendish Publishing and Jordan Publishing. The Turnbull Shield was presented to the winning teams at the Conference Closing Ceremony.

THANKS

The Association is indebted to Ros Macdonald, the CLEA Moot Coordinator for organising and overseeing the running of the competition with tireless efficiency.

The Association is also extremely grateful for the financial and other assistance provided by the following: The Commonwealth Foundation, the Australian Bar Association, the Organising Committee of the Commonwealth Law Conference, the Commonwealth Lawyers' Association, Cavendish Publishing and Jordan Publishing.

PREVIOUS WINNERS OF THE TURNBULL SHIELD

<i>Year</i>	<i>Venue</i>	<i>Winners</i>
1983	Hong Kong	Australia
1986	Jamaica	United Kingdom
1990	Auckland	United Kingdom
1993	Nicosia	Canada
1996	Vancouver	Australia
1999	Kuala Lumpur	South Africa
2001	Colombo	United Kingdom

2. Commonwealth Law Lecture

The last in the inaugural series of CLEA Commonwealth Law Lectures was delivered by Professor Helen Gamble, Acting Judge, District Court of New South Wales and former Law Dean and Emeritus Professor of the University of Wollongong. Her topic was "Family Law: Collaboration Across the Commonwealth".

In her lecture, Professor Gamble looked at the implications for teaching and research into family law in an era of globalisation. She noted that today family law often involve issues that lie far beyond domestic legal concerns, such as inter-country adoptions. There was a need to reflect

these issues in the law curriculum. As regards Commonwealth law schools, this could be done in a number of ways:

- Developing contacts between family law teachers in Commonwealth law schools
- Exchanging of information, idea and materials: this might be done through establishing an e-mail network
- Developing the family law curriculum: for example to include issues on religion/customary law and cross-border issues
- Developing a model curriculum on family law by the CLEA
- Developing a partnership programme with other Commonwealth law schools both for faculty and students

The paper will be published along with the others in the series later in the year.

The lecture was preceded by a reception sponsored by the Association and the University of Western Sydney. The audience was welcomed by Alexis Goh, the Commonwealth Law Lecture co-ordinator. The speaker was introduced by Robin Woellner, Dean, College of Law and Business, University of Western Sydney. The Vote of Thanks was given by David McQuoid-Mason.

The Association is extremely grateful to the College of Law and Business, University of Sydney, for its financial support of the event and, as ever, to Alexis Goh for organising the event.

3. Developing the Law Curriculum to Meet the Needs of the 21st Century Legal Practitioner

As its contribution to the conference theme of "The Legal Profession & Its Future", the association organized a session on curriculum development. The four papers delivered at the session were by:

Sally Kift, Assistant Dean, Teaching and Learning, Queensland University of Technology,

Tania Sourdin, Professor of Law and Dispute Resolution, Director, Centre for the Study of the Professions, La Trobe University, Victoria, Australia

David McQuoid-Mason, President, CLEA

Gary Slapper, Director, and *Emma Bland*, Manager, Law Programme, The Open University

The papers covered two key areas concerning legal education:

1. The challenges faced in seeking to develop the law curriculum;
2. Making legal education more widely available

In the Introduction to her paper entitled "A Tale of Two Sectors: Dynamic Curriculum Change for a Dynamically Changing Profession", Sally Kift noted that:

Recent decades have witnessed dynamic change in the working environment of 21st century lawyers. While the practice of law has changed radically, it is not clear that legal education reform has kept pace with the demands of modern practice. In an environment where the tertiary sector has also been transformed by external drivers beyond its control, the QUT Law Faculty has undertaken a major reconceptualisation of its undergraduate law programs. Encouraged by the Australian Law Reform Commission's (ALRC) 1999 exhortation to re-orientate legal education around "what lawyers need to be able to do", rather than remaining bound to the traditional focus of "what lawyers need to know", the Faculty embarked on curriculum renewal centred around the development and implementation of a graduate capability framework. The Faculty wished not only to address the generic issues of first year transition, it was also

committed to providing a package of teaching and learning opportunities that combined substantive content, theoretical and practical knowledge with the development of certain generic (and some discipline specific) skills; all of this in a legal context to a basic level of competency for all students, regardless of the diversity of their prior background and experience..

She then examined this particular pedagogical response to meeting the needs of the 21st century legal practitioner, and concluded:

Overwhelmingly, contemporary educational literature suggests that universities should not be content to provide students only with good technical knowledge: a university education should also inculcate the skills necessary to utilise that knowledge in an ever-changing global workplace. This is also what employers and graduates now demand.

In the legal context, the ALRC recommended in its Managing Justice report:

“...properly conceived and executed, professional skills training should not be a narrow technical or vocational exercise...rather it should be fully informed by theory, devoted to the refinement of the high order intellectual skills of students, and calculated to inculcate a sense of ethical propriety, and professional and social responsibility.”

Traditionally, lawyers and law teachers have been resistant to change, dismissively claiming that doctrinal content cannot be sacrificed for vocational skills training or, in the alternative, that specific legal skills (such as legal reasoning and problem solving, legal research) are more important than generic skills (such as communication and teamwork), which should be acquired in other contexts in any event.

The dynamic reality of 21st century legal practice requires an equally dynamic pedagogical response. This paper has outlined one such response: a blueprint for integration of skills training into core curriculum that recognises the necessity to reinvent legal education to ensure that our graduates can do what modern legal practice demands of them. As Professor David Weisbrot cogently argues

...I don't believe that we can afford not to move purposefully in this direction: the choice for law schools is either to continue to prepare lawyers for the 1950s, or to prepare them for the challenges of operating successfully in the modern profession and the global economy. [footnotes omitted]

In her paper, Tania Sourdin focused on the obstacles that prevent the development of an effective and appropriate curriculum. As she noted in her Introduction:

“There are considerable obstacles that continue to restrain the development of a coherent and relevant national law curriculum within Australia. Three obstacles that decrease the likelihood of law education equipping future practitioners with the knowledge and skills to support effective future legal practice can be described as factors relating to – ‘money, relationships and culture’.

Australian Law Deans, for example, have noted that the underfunding of law schools and the lack of skills development are factors that inhibit the capacity of law schools to respond to modern educational trends and changes in professional practice. In 2000, the Council of Australian Law Deans published a resource document pointing out that not only is the modern modified modern law curricula expensive but that law schools are often not well funded:

“..university students who are studying law pay the highest rate of contribution but for a program which is usually funded at the lowest level within the university. In other words, law students pay themselves a significantly higher proportion of the cost of their education than students in many other disciplines.”

In addition, there have long been tensions between those in legal academia and the practicing profession about how the law curriculum can be most effectively developed. Despite many changes over the past decade, the lack of an effective relationship between the practicing and academic branches of the legal profession has continued to restrain the development of the academic law curriculum. Each branch of the profession can regard the other with suspicion and prejudice. Many practicing lawyers question the relevance an academic education which may have little to do with the reality of legal practice. Many lawyers have little understanding about the current situation and educational approaches within law schools as perspectives about academia are often shaped by law school experiences that occurred decades ago.

In recent years the different perspectives of how the legal curriculum should develop in the future have been the subject of much discussion. Within Australia, much of that discussion was crystallised by the Australian Law Reform Commission in its Discussion Paper (and earlier Issues Paper) *Managing Justice – A Review of the Federal Civil Justice System*. In referring to the United States Macrate report, it was noted that the Australian Legal education position remains anchored around “outmoded notions of what lawyers need to know” rather than “what lawyers need to be able to do”.

Having examined the position with particular emphasis on Australia, she concluded:

Legal education and training can be considered as a continuum along which the skills and values of the competent lawyer are developed. The process begins before law school, reaches a formative and intense stage during law school, and continues through out the professional career of the lawyer. Legal education at law school is the preparation for assuming the responsibilities of a lawyer and this should not be considered as the beginning or the end of legal training. The foundations that are set in place initially (at law school) must continue to be developed in the later stages through practical legal training, continuing legal education, postgraduate study and possibly judicial education.

The aims and objectives of each stage of legal education must be seen in the context of what competencies should an effective lawyer have in the litigation system. Academics also need to continually consider and assess what changes should be made to current legal education practices in response to the changes in legal practice, the expectations and needs of clients and the community, and the funding of legal services. This requires a close and relevant relationship between academia and the practising profession.

Forging closer links between academics and practicing lawyers is essential to ensure that what academics do is relevant to the profession and the development of law. It also ensures that the profession understands the important role played by academia in supporting reform and the clarification of issues. However, the impact that academics

have will continue to be linked to the energy and enthusiasm of particular teachers or practitioners.

Forging stronger links requires a greater focus on the development of structures and processes that support links. This requires academics to be active in the profession – in the reform agenda, on committees and aware of what happens in practice. Developing research strategies that provide for practically oriented research strategies to be developed is also important. Practicing lawyers also have obligations – to support academia and to become involved and provide input into law schools.

Currently, academics play a different role in respect of the various components of legal education. At law schools where much undergraduate LLB training takes place, they are clearly most active, but, the level of activity and involvement decreases when practical legal training and continuing legal education are considered. This is somewhat surprising given that academic accredited programs are generally held in high regard by the profession. However, for many practitioners, an academic approach may be perceived as either failing to have either specific relevance to a field of law or may fail to be of practical relevance to the day-to-day practice of law. Undoubtedly, academics, and their relationship to the legal profession, will be enhanced by their greater involvement in continuing legal education and the linking of professional programs to postgraduate courses. [footnotes omitted]

In his paper, David McQuoid-Mason argued that the law curriculum in African countries must reflect the realities of the needs of their own societies, but it must also equip law graduates to deal with the wave of globalization sweeping the world. Apart from exposure to traditional core courses law students must be prepared to engage with relevant aspects of (a) information technology; (b) intellectual property; (c) human rights; (d) HIV/AIDS; (e) the environment; (f) international trade and investment; (g) women's and children's rights; and (h) alternative dispute resolution. Unless African lawyers in general are able to deal competently with these matters, there is the danger that their countries will be subjected to a new era of exploitation and marginalization, and the promises of an African Renaissance in the 21st Century will be stillborn.

The paper entitled "*Off-Campus Learning In Law – Institutional Partnerships And Distance Learning*" by Gary Slapper and Emma Bland of The Open University in the UK examined the issue of making legal education more widely available. They noted that the Open University - College of Law partnership operates the largest taught undergraduate law programme in the UK with currently 3,300 registered students who are situated across the UK (with some in mainland Western Europe). They argued that open access to law courses enables more students from diverse backgrounds to gain a qualifying law degree and to have the potential to influence the profile of the legal profession in the future.

On the issue of study methodology, they noted that Open University students are provided with high quality course materials, which include bespoke course manuals, textbooks and other multimedia resources. In addition, students are also supported by a tutor who provides face-to-face group tutorials, one-to-one advice and written feedback on assignments. Students are given a timetable, which paces the student through the course, about 16 hours of study per week and includes deadlines for the submission of compulsory assignments. The course ends

with an unseen exam. The combination of these resources enables the student to complete a demanding course in 9 months, and gain an LLB (Hons) degree recognised as a qualifying law degree.

4. Overview

The conference clearly demonstrated the topicality and importance of the work of the Association. It also demonstrated the mutual benefits to be gained for legal academics working and consulting with legal practitioners on matters of mutual interest and concern. Here the development of a close working relationship with other Commonwealth legal associations promises considerable benefit for the CLEA. The decision to hold the next Commonwealth Law Conference in London in 2005 provides the CLEA with an excellent opportunity of making a even greater input into the conference.

NEWS FROM COMMONWEALTH LAW SCHOOLS

Developing a Directory of Clinical Legal Education Practice

Clinical legal education is an increasingly important topic for law schools. The need to develop an understanding of law in its real life context and to develop transferable personal skills is embedded into the requirements for law programmes. However there is currently no systematic collection of data on activities within clinical legal education in the UK.

A project being developed by Richard Grimes of the College of Law and Hugh Brayne of the University of Sunderland aims to produce a guide to, and directory of, clinical legal education practice in the UK. As well as providing an overview of provision it will produce a resource for those wishing to develop programmes, which will be published in hard copy and made available online by the Solicitors Pro Bono Group.

The first stage of the project will identify specific models of hands-on or clinical practice found in UK law schools. In each instance case studies will be used to demonstrate the nature, operation and implications (educational and professional) of the model described. As well as producing exemplars of 'best practice' the process used in stage 1 will create a template for use in stage 2, the comprehensive mapping of clinical activity. Full details of the project are now available at www.ukcle.ac.uk/research/clinic.html.

The project team invites anyone who would like to play a part in this research - either to share ideas or to tell them about the clinical programmes their institution.

Contact details: richard.grimes@lawcol.co.uk or hugh.brayne@sunderland.ac.uk.

Developing Reflective Practice in Legal Education

An interesting recent publication from the UK Centre for Legal Education is *Developing Reflective Practice in Legal Education* by Karen Hinett. In the Preface she notes:

"We all know students who adopt a 'surface' approach to learning. These students have little intrinsic interest in the subject and are more likely to view assessment tasks as a means to an end. Fortunately there are also students who adopt a 'deep' approach, committed to understanding the law and taking the time to think about feedback such that they improve future performance. The difference between the two approaches is that the 'deep' learner *reflects* on experience. Put simply, reflection is about maximising deep and minimising surface approaches to learning. Reflection is a way of getting students to realise that learning is about drawing on life experiences, not just something that takes place in a classroom. It enables students to think about *what* and *how* they learn and to understand that this impacts on how well they do.

What this guide aims to do is to provide a starting point for law teachers who want to know a little more about reflection and how it might be facilitated. In doing so it refers to educational theory provides a number of examples of how reflective practice can be integrated into the learning situation. It is hoped that the guide will provide inspiration for

action and prompt further debate about what we require of law graduates and how this might best be achieved. What the guide does not do is to reproduce the seminal works of Schön and Kolb, and readers are advised to turn to originals for a deeper understanding of the issues. Neither does it repeat work available in other guides. Highly recommended is Alison Bone's guide in the same series: *Ensuring Successful Assessment* which is now available to download free of charge at www.ukcle.ac.uk/resources/bone.html.

UKCLE is seeking to add resources on reflective practice to its website. If you are concerned with the development of reflective practice and would like to offer a short description of your own approach, please get in touch with UKCLE (fax: (44) 024 7652 3290; email: ukcle@warwick.ac.uk; website: www.ukcle.ac.uk)

Barriers to success for law students

According to a recent report from Queensland, indigenous students continue to experience difficulties at law school despite the number rising from 50 in 1990 to 256 in 2000. Students feel barriers to success include differences in class background and race. They see commitment to family as not something that can be ignored when study is required, and they often have extended family making demands.

Many students interviewed for the study were the first in their families to study at university and they also face a lack of understanding from family about legal education or fear that the student will be indoctrinated with "mainstream" culture.

(*Proctor*, November 2002 (Queensland Law Society)).

Canadian Chief Justice Visits New Zealand Law Schools

The Chief Justice of Canada, Beverley McLachlin visited New Zealand in April 2003 as the New Zealand Law Foundation's Distinguished Visiting Fellow. This scholarship enables each of New Zealand's five law schools, in turn, to host a distinguished international scholar or jurist. Canterbury University was the host institution on this occasion. During her two weeks visit, she visited all five law schools as well as giving the annual Ethel Benjamin address in Dunedin.

The Law Foundation's scholarship is intended to provide opportunities to share legal knowledge and provide practical legal training for practitioners and law students.

Trends in post-graduate education in England and Wales

- In 2000 there were 19,366 applicants to study first degree courses in law in England and Wales, of whom 11,467 were accepted.
- Of the 9,324 graduates in the summer of 2000, 49.7% achieved firsts or upper second classifications. More women graduated with firsts and upper seconds than men, 52.0% as opposed to 46.5%.
- In the year ending 31 July 2001, 7,595 students enrolled with the Law Society. Of these students 62.3% were women and 21.2% were drawn from the ethnic minorities.

- In July 2001, 6,805 LPC students were eligible to sit the examination. This represented a marginal (0.4%) decrease on the 6,830 who were eligible in 2000. Of those who took the examination in 2001, 75.7% passed, only slightly down on the 2000 pass rate of 77.1%.
- There were 7,376 full time and 1,500 part time LPC places available in 2000-01. In 2000-02 there will be 7,486 full-time and 1,632 part-time places available.
- There were 5,162 new traineeships registered in the year 1 August 2000 to 31 July 2001. This is a decrease of 2.3% on the level recorded last year.
- Of the new trainees registered, 58.8% were women and 16.8% of trainees with known ethnicity were drawn from the ethnic minorities.

Source: B. Cole *Trends in the Solicitors' Profession: Annual Statistical Report 2001* (Law Society of England & Wales, 2002)

Establishing an Australian Academy of Law

The Council of Australian Law Deans (CALD) at its meeting in Fremantle on the 29 September 2002 resolved in principle to institute a body to be known as the Australian Academy of Law. It was agreed that the objects of the Academy should be:

1. To promote the highest standard in legal education.
2. To promote excellence in scholarship and research in law.
3. To improve law and promote justice.

The decision to establish the Academy is the outcome of a long period of discussion within CALD as to the need for a body to increase co-operation between the judiciary, legal practitioners and law academics in the promotion of legal education, legal research and law reform.

In its discussions CALD took account of that part of Chapter 2 of the Australian Law Reform Commission Report No. 89 (January 2000) entitled *Towards an Australian Academy of Law* which expressed the view that "... there is a need for an institution which can draw together the various strands of the legal community to facilitate effective intellectual interchange of discussion and research of issues of concern and nurture coalitions of interest".

The Commission recognized that such learned institutions had already been formed in other jurisdictions such as the American Law Institute and the Singapore Academy of Law.

The Commission supported the establishment of an Australian Academy with Recommendation 6 in its Report which stated:

"The federal Attorney-General should facilitate a process bringing together the major stakeholders (including the Council of Chief Justices, the Law Council of Australia, the Council of Australian Law Deans, the Australasian Professional Legal Education Council, and the Australian Law Students Association) to establish an Australian Academy of Law. The Academy would serve as a means of involving all members of the legal profession — students, practitioners, academics and judges in promoting high standards of learning and conduct and appropriate collegiality across the profession."

CALD looks forward to a vigorous debate as to the promotion of its objects and the structure of its organization. Enquiries to: Kate Massy-Greene, CALD Secretariat, kmg@hotmail.net.au

Publishing Opportunities for Commonwealth Law Teachers

The CLEA's publishers, Cavendish Publishing has secured the contract from University College London to publish under the name UCL Press. UCL Press will focus on high quality academic and scholarly works in the field of Law and Criminology; Political Science and International Relations.

Law academics from Commonwealth law schools are invited to submit proposals and manuscripts. Of particular interest is the fact that proposals dealing with a single jurisdiction are welcome.

For further information contact: Cara Annett at Cavendish Publishing ((44) 0207 278 8000; email: caraannett@cavendishpublishing.com).

NEWS FROM THE COMMONWEALTH

1972 Commonwealth documents released to public

The Commonwealth Secretariat has placed formerly classified files for the year 1972 in the public domain. On 3 February 2003, a total of 83 files, containing documents dated 1972 and earlier were added to those already available.

The records include:

- Meeting of Commonwealth Consular Officials, May 1972
- Minutes of Meetings of the Rhodesia Sanctions Committee and other files related to the Rhodesia crisis
- Files relating to the European Economic Community (EEC) and in particular Association/Trade Agreements with the Enlarged EEC and the Associated African and Malagasy States (under Annex VI and the Yaoundé Convention of 1969
- Files relating to the Anguilla Commission
- Files relating to the Commonwealth Seminar on the Changing Patterns in the Organisation and Conduct of Foreign Policy
- Files relating to Youth Seminars
- Aden and the South Arabia Federation Prior to Independence
- Pakistan and Bangladesh including records related to Pakistan's withdrawal from the Commonwealth and Bangladesh's application to join.

The papers also contain 19 files from the Private Office of Arnold Smith, the first Commonwealth Secretary-General. These include records on a wide variety of subjects and often incorporate reports and records of conversations between the Secretary-General and various Commonwealth government and non-government representatives.

Specific subjects include:

- Co-operation of Commonwealth Organisations
- Tours and Visits
- The EEC and its impact on the Commonwealth
- Meetings of the Board of Trustees of the Commonwealth Foundation.

This is the seventh year that records have been made public. In 1997, the Secretariat adopted the practice of releasing all confidential Commonwealth shared records after 30 years. A copy of the complete list of files is on the Secretariat's website: www.thecommonwealth.org. The records are available for viewing in the Secretariat's Library and Archives at Marlborough House, London, and appointments may be made with Jay Gilbert, Archivist. Tel: (44) 207 747 6167; Fax: (44) 207 747 6168; E-mail: j.gilbert@commonwealth.int.

Combating the Trafficking of Women and Children

The Human Rights Unit of the Commonwealth Secretariat has just published the Report of the Expert Group on *Best Practice for Combating the Trafficking of Women and Children*. Drawn up by experts from around the Commonwealth, the *Guidelines* deals with issues such as

- Developing a Gender-Responsive, Rights-Based Perspective on Trafficking;
- Prevention Strategies;
- Assistance to Victims of Trafficking; and
- Treatment of Child Victims.

Copies of the *Guidelines* are available free of charge from: Human Rights Unit, Commonwealth Secretariat, fax: (44) 207 747 6418; email: b.morgan.Commonwealth.int

A Significant Commonwealth Presence at the International Criminal Court

Of the 18 judges elected to the ICC, seven are Commonwealth judicial or legal officers. They are: Adrian Fulford (UK); Karl Hudson-Phillips (Trinidad and Tobago); Philippe Kirsch (Canada); Akua Kuenyehia (Ghana), Georghios Pikis (Cyprus); Navanethem Pillay (South Africa); and Neroni Slade (Samoa). The inauguration ceremony took place at the Hague on 11 March 2003.

To date, 26 Commonwealth countries have ratified the Rome Treaty and 11 have signed it.

LATIMER HOUSE MONITORING PROCESS

Latimer House Guidelines Update

As reported in Newsletter No.92 (p.10) the Latimer House Guidelines were discussed in detail by Commonwealth Law Ministers at their Meeting in St Vincent in November, 2002. It was then agreed that the Guidelines would be referred to a small group of ministers to be convened by the Commonwealth-Secretary to “distil the essence” of the Guidelines.

The Ministerial Group meeting took place at Marlborough House on Friday, 16 May. India, Singapore and South Africa were represented at ministerial level, Kenya by the Attorney-General and the United Kingdom by a senior official from the Lord Chancellor’s Department. A draft “distillation” prepared by the Commonwealth Secretariat was the subject of an exhaustive all-day discussion chaired by South Africa and attended as observers by representatives of the CLA, CPA, CMJA and, for the CLEA, by Vice-President, Peter Slinn. The observers were permitted to participate in the deliberations.

At the end of the day, the draft was referred back to the Commonwealth Secretariat to produce an amended document. If approved by Law Ministers, the *Commonwealth Principles on the Accountability of and the Relationship between the Three Arms of Government* will go forward to Heads of Government, who next meet in Abuja, Nigeria, in December, 2003.

Zimbabwe

Readers may recall that the Commonwealth Chairpersons’ Committee on Zimbabwe, consisting of Prime Minister John Howard of Australia, President Olusegun Obasanjo of Nigeria and President Thabo Mbeki of South Africa, was mandated by the 2002 CHOGM in Coober Pate, Australia, to determine appropriate Commonwealth action on Zimbabwe, in close consultation with the Secretary-General. The Committee is also known as the Commonwealth Troika.

Commonwealth Statement on Zimbabwe

On 16 March 2003, the Commonwealth Secretary-General, Don McKinnon, issued the following statement

"The Commonwealth Troika, mandated by Heads of Government to deal with the Zimbabwe issue, suspended Zimbabwe from the councils of the Commonwealth on 19 March 2002 for a period of one year. Under the Marlborough House Statement, the issue was to be revisited in twelve months time, 'having regard to progress in Zimbabwe based on the Commonwealth Harare principles and reports from the Commonwealth Secretary-General.' At their subsequent meeting in Abuja on 23 September 2002 the Commonwealth Troika decided to 'see how Zimbabwe responds to the Marlborough House Statement over the next six months as foreshadowed in that Statement, at which point stronger measures might need to be considered.'

Members of the Troika, in reviewing the Zimbabwe issue, agreed that I should undertake wider consultations among Commonwealth governments. Accordingly, over the past few weeks, I have been listening to the views of and discussing the issue with virtually all leaders across the Commonwealth. They have all stated that they wish to see the Commonwealth continue to work together on the issue of Zimbabwe.

Some member governments take the view that it is time to lift Zimbabwe's suspension from the councils of the Commonwealth when the one-year period expires on 19 March 2003. Some others feel that there is no justification for such a step and that there is in fact reason to impose stronger measures. However, the broadly held view is that Heads of Government wish to review matters at the Commonwealth Heads of Government Meeting (CHOGM) in Nigeria in December 2003 and that the suspension of Zimbabwe from the councils of the Commonwealth should remain in place pending discussions on the matter at CHOGM.

I have advised members of the Troika of these views. I have also submitted to them my report as foreshadowed in the Marlborough House Statement.

The members of the Troika have now concluded that the most appropriate approach in the circumstances is for Zimbabwe's suspension from the councils of the Commonwealth to remain in place until Commonwealth Heads of Government address the issue and decide upon a way forward at the CHOGM in December 2003.

I wish to reiterate that Zimbabwe and its people matter to the Commonwealth. All the Heads of Government I have spoken to have urged me to persist with my efforts at engagement with President Mugabe and his government in the context of my good offices role. I intend to do so.

The issue of land reform is at the core of the situation in Zimbabwe and cannot be separated from other issues of concern to the Commonwealth, such as the rule of law, respect for human rights, democracy and the economy.

The Commonwealth and the wider international community remain ready to assist the Government of Zimbabwe in addressing this key issue. I once again call on the Zimbabwe Government to re-engage with the Commonwealth and the United Nations Development Programme on the issue of transparent, equitable and sustainable measures for land reform, as agreed at Abuja in September 2001.

Commonwealth governments also look to the Government of Zimbabwe to honour its undertakings given to other regional leaders on issues of concern.

The Commonwealth looks forward to Zimbabwe being able to regain its full and rightful place in the Commonwealth family."

ON-LINE

The Commonwealth Human Rights Case Law Database

The Commonwealth Human Rights Case Law Database is maintained by the International Centre for the Legal Protection of Human Rights (INTERIGHTS). The database provides summaries of recent human rights decisions from national courts in Commonwealth jurisdictions, free of charge. Many of the cases summarised are unpublished decisions which are not readily available in other jurisdictions.

Access is through the INTERIGHTS website: www.interights.org

The Proceedings of the Old Bailey

Rumpole would be proud of this site. This is a fully searchable online edition of the largest body of texts detailing over 100,000 criminal trials held at London's Central Criminal Court between 1674 and 1834: www.oldbaileyonline.org

Human Rights Update

The Human Rights Unit of the Commonwealth Secretariat has revived its publication *Human Rights Update*. Intended to be published three times per year, it includes reports on projects of the HRU, conference and workshop reports, developments in international human rights fora, human rights news from Commonwealth member states as well as book reviews. Short articles on human rights are welcome.

For comments, contributions to and copies of *Update* please contact: Human Rights Unit, Commonwealth Secretariat, Marlborough House, London SW1Y 5HX; e-mail: j.matiya@Commonwealth.int. The Newsletter can be viewed at the following website: www.thecommonwealth.org/pdf/humanrights/hrupdate1.pdf

Judgments of the High Court of Australia

You can receive free email summaries of judgments of the High Court of Australia shortly after they are released at www.farislaw.com.au. Each summary has a link to the full-text judgment.

CONFERENCES

Triennial Conference of the Commonwealth Magistrates' and Judges' Association

The 13th Triennial Conference of the Commonwealth Magistrates' and Judges' Association will take place in Malawi between 24-29 August 2003. Based on the theme "Human Rights: Human Needs -- Seeking a Judicial Talisman" the conference aims to consider the role of the independent judicial officer in: the application of human rights principles to economic and cultural issues; the promotion of economic development and social stability; and the promotion of parliamentary democracy and judicial independence.

Further details can be obtained from: <http://cmja.africa-online.net>

International Conference of Artificial Intelligence and Law

24-28 June 2003, University of Edinburgh

For details see: www.cfslr.ed.ac.uk/icail03