

立法會
Legislative Council

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Legislative Council
Panel on Administration of Justice and Legal Services

Minutes of the special meeting
held on Saturday, 29 September 2001 at 9:30 am
in Conference Room A of the Legislative Council Building

Members Present : Hon Margaret NG (Chairman)
Hon Jasper TSANG Yok-sing, JP (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon Mrs Miriam LAU Kin-yee, JP
Hon Mr Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP

Members Absent : Hon Albert HO Chun-yan
Hon James TO Kun-sun

Member Attending : Hon Audrey EU Yuet-mee, SC, JP

By Invitation : The University of Hong Kong

Mr Benny TAI
Acting Dean of Faculty of Law

The City University of Hong Kong

Dr Carol JONES

Mr Michael William DOWDLE

Steering Committee on Legal Education and Training

Mr Robert C ALLCOCK, BBS
Solicitor General and Chairman of Steering Committee

Mr TSANG Keung
Senior Government Counsel

Mr Alan LEONG, SC
Chairman of Hong Kong Bar Association

Professor Michael WILKINSON
Head of Department of Professional Legal Education
University of Hong Kong

Ms Bronwyn DAVIES
Head of the Law Division, SPACE
University of Hong Kong

Mr Dennis HIE
City University of Hong Kong

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Miss Yvonne YU
Senior Assistant Secretary (2)7

Action
Column

- I. Meeting with representative of the Steering Committee on the Review of Legal Education and Training in Hong Kong and other relevant parties**
(LC Paper Nos. CB(2)2344/00-01(01) - (04))

The Consultants' Report

Disclosure by Mr Christopher ROPER

The Chairman enquired about the reason for disclosure by Mr Christopher ROPER in page 7 of the Consultants' Final Report. Solicitor General (SG), as Chairman of the Steering Committee on Review of Legal Education and Training in Hong Kong (the Steering Committee), replied that

Mr ROPER, who was one of the consultants preparing the Report, became Director of The College of Law Alliance in the course of the review. The College of Law Alliance was a supplier of legal professional training in England and Australia. Hence, there might be a perception that Mr ROPER might have an interest in recommending a training course along the lines of those offered by The College of Law Alliance. The disclosure by Mr ROPER of his change of status to the Steering Committee was intended to address the concern that there might be, or appear to be, a conflict of interest.

2. In response to the Chairman, SG said that should eventually a new practical legal training model be adopted for Hong Kong, the possibility of The College of Law Alliance being a potential course provider could not be ruled out.

The Review

3. The Chairman invited SG to brief members on the progress of the review since the publication of the Final Report prepared by the two consultants in early August 2001.

4. SG said that as the Final Report released by the consultants was a lengthy report containing a total of 160 recommendations, members of the Steering Committee had agreed that the Steering Committee would need a few months to consider the recommendations before deciding on the way forward. He advised that the eventual plan was to have a second stage of review which would involve a review panel to be appointed by the Steering Committee. During the period of about three months after the publication of the Report, the concerned stake-holder organisations would consult their own members to decide on their positions on the recommendations put forward in the Report. So far the Faculty of Law of the University of Hong Kong had come up with a preliminary response to the Report.

5. SG further informed members that the Steering Committee planned to start holding meetings at the end of October 2001 to consider the Final Report and the views put forward by the relevant stake-holders to see whether any consensus could be reached on at least some of the recommendations made in the Report. He envisaged that there might be meetings over several months and there was no question of any deadline to be met. He said that one of the important issues to be decided on was whether it was necessary to constitute a second stage review panel and if so, the terms of reference and the composition of the panel.

6. Ms Audrey EU expressed the view that the reform of legal education in Hong Kong was long overdue and hence it should be taken forward with a sense of urgency.

7. The Chairman sought the views of representatives of the University of Hong Kong (HKU), the City University of Hong Kong (City U) and the Hong Kong Bar Association.

8. Mr Benny TAI briefed members on the two papers prepared by the HKU Faculty of Law which set out the Faculty's preliminary response to the consultants' Report and explained the Faculty's consideration of a reformed Postgraduate Certificate in Laws course (PCLL) (LC Paper Nos. CB(2)2344/00-01(03) and (04)). The major views of the Faculty were -

- (a) The consultants had not made out a sufficient case for the abolition of the PCLL;
- (b) There were fundamental problems and inconsistencies relating to the consultants' proposal regarding a four-year Bachelor of Law degree (LLB) followed by a Legal Practice Course and also a conversion course for non-Hong Kong law graduates; and
- (c) The HKU Faculty of Law's proposal regarding a reformed PCLL provided the best way forward.

9. Concerning the issue of a reformed PCLL at HKU, Professor Michael WILKINSON said that the replacement of the previous dual mode of the University Grants Committee (UGC)-funded PCLL and the School of Professional and Continuing Education (SPACE) PCLL by a single "mixed mode" funded PCLL charging a uniform tuition fee was being introduced in the academic year 2001-2002. A curriculum reform working party had been set up in the Faculty and the curriculum re-design work would take place within the academic year 2001-2002. The Faculty intended to work closely with the City U, the two legal professional bodies, the Department of Justice and the Judiciary in this reform initiative.

10. Professor WILKINSON further advised that the Law Society had recently informed the Faculty that the Law Society's position remained that the PCLL should be abolished. However, without prejudice to this view, the Law Society was prepared to regard a reformed PCLL as an interim measure and would be willing to be involved in the reform initiative provided that there would be substantial involvement on the part of the Law Society. He said that the Faculty would try to seek more information and clarification from the Law Society.

11. Dr Carol JONES said that the stance of the City U was that it welcomed the review because a reform of legal education and training in Hong Kong was long overdue. She advised that the School of Law of City U would provide a submission to the Steering Committee by mid October which would contain some statements of principle about the review and explain in more specific

terms how the LLB and PCLL should be reformed. She said that the initial response of the School of Law was that the PCLL should be retained, because of two major reasons -

- (a) The Universities had the material and the intellectual infrastructure to provide vocational legal training in the existing PCLL courses; and
- (b) The proposal of a Practical Legal Course and the concept of an Academy of Law in the consultants' Reports were vague and lacked sufficient details as to how they should be implemented. It would be more preferable to first consider how the existing PCLL could be reformed and improved rather than jumping into the void of a radical and untested experiment.

12. Dr JONES further expressed the view that it appeared that the consultants had failed to consult the wider communities in Hong Kong, apart from the stake-holder organisations, on the "unmet legal needs" of the society.

13. Mr Dennis HIE added that the School of Law of City U in principle supported the proposals of a four-year LLB and small-class teaching but appreciated that the availability of funding would be an important consideration.

14. Mr Alan LEONG summarised the views of the Bar Association as follows -

- (a) It was a view shared by all that a reform of legal education and training in Hong Kong should be implemented as a matter of urgency. Many recommendations proposed in the consultants' Report were generally accepted by stake-holders in the legal community and they should be implemented without delay. In this connection, the Legislative Council should have an important part to play, particularly in assisting in securing the necessary funding for the implementation of the reform;
- (b) The Bar Association was doubtful as to whether the introduction of a four-year LLB programme to incorporate certain non-law subjects presently dealt with in the PCLL would substantially improve legal education and training in Hong Kong. The proposals of the LLB to be extended from three to four years and the abolition of the PCLL had to be considered carefully. While the Law Society was of the opinion that the PCLL should be discontinued, the Bar Association had not yet come to a concluded view on the matter;

- (c) The Bar Association was of the view that certain barrister-oriented elective subjects should be added to the existing PCLL courses to achieve a more balanced course content. The Bar Association would be ready to provide support for the teaching of those subjects and training of students intending to become barristers;
- (d) The two legal professional bodies should have greater institutional involvement in the reform, such as admission of law students to the Universities, curriculum design and standard setting for law graduates etc.
- (e) The modern trend in the demand for legal services indicated a structural shift from small individual clients to large enterprises. In order to survive the challenges in a new era and compete on a world basis, legal practitioners in Hong Kong must fully equip themselves with new knowledge and skills in areas such as corporate financing and finance management, e-commerce, international public laws, anti-discrimination and anti-dumping laws etc. Legal knowledge and training in such specialised areas could be provided in a Master Degree in Law Programme to which funding and resources should be provided.

15. SG said that funding and resources required for implementing reform measures would be key issues to be considered by the Steering Committee at the second stage of the review. He advised that the Steering Committee was in close contact with the Education and Manpower Bureau (EMB) which was the link with the UGC. According to the EMB, it would be premature for the Administration to take any position on the question of funding at this stage before the Steering Committee took any decision on how the reform of legal education and training should be taken forward. In the final analysis, there was a degree of independence in terms of the UGC's allocation of money to the Universities and the ways in which the Universities themselves distributed money between competing demands from their Faculties.

16. SG added that the Department of Justice would do the best it could in lending support to any funding requests which emerged from the review and which were generally supported by members of the Steering Committee. The Steering Committee, on its part, would come up with specific recommendations in this regard and assess the financial implications to facilitate the Administration in considering the recommendations.

17. Mr Martin LEE opined that stake-holders surely would like to get some assurance from the Administration that should they come to a consensus on certain funding requests, the Administration would try its best to accommodate the requests.

18. Ms Emily LAU said that the Frontier was in support of providing funding and resources for the implementation of any broadly agreed reform proposals. However, in referring to HKU's current reform initiative in relation to restructuring its PCLL, Ms Emily LAU said that she had doubts about whether it was the right timing to take such course when the general review was still going on and the parties concerned had yet to come to any consensus on the consultants' recommendations. She said that this would give people the impression that the consultants' report was a fait accompli.

19. SG expressed the view that nothing should bar individual stake-holders from implementing some of the recommendations of the consultants if they considered it appropriate to do so. Regarding the PCLL, he considered that HKU was entitled to re-structure its PCLL course on its own if the University believed that by so doing the same objectives set out by the consultants could be achieved, without having to abolish the PCLL.

20. Mr Benny TAI said that the Faculty of Law saw the review of legal education as an impetus to facilitate the expediting of a much needed reform. The Faculty admitted that there were limitations with the existing PCLL but it was of the view that the problems could be best addressed by way of reforming the PCLL within the present framework of the course with a re-designed curriculum, instead of abandoning the course altogether as suggested by the consultants. The Faculty considered that it had the academic freedom and independence as well as the capacity to achieve that goal.

21. Dr Carol JONES said that the School of Law of City U was also aware of the need for reviewing and introducing changes to the existing LLB and PCLL. The University started the process some two years ago when it undertook to conduct a forum to discuss ways to make improvements and invited members of the legal profession as well as the academic community local and overseas to take part. Some new contents had been introduced into the courses already and the standards had been improved. The School of Law held the view that further reform measures would need to take into account any agreed solutions that might come out of the review, such as in relation to the suggestion to remove the teaching of substantive law from the PCLL to the proposed extended LLB.

22. Professor Michael WILKINSON said that the reform measures which the Faculty of Law of HKU now introduced to its PCLL would not affect the basic structure of the legal education system in Hong Kong, though the content of the course and the methodology of teaching would change.

23. Mr TSANG Yok-sing and Mrs Miriam LAU supported the move taken by the Faculty of Law to re-design its PCLL. Mrs Miriam LAU expressed the view that the City U might consider taking a similar approach as the eventual

decisions arising from the comprehensive review would probably take a long time to come about.

24. Concerning the review which was now undertaken by the Steering Committee, Mr TSANG Yok-sing said that due to the perception that stakeholders represented on the Steering Committee already had their own positions by virtue of their status, there might be difficulties in satisfying people that the reform decisions could be reached objectively.

25. Mr Benny TAI said that as explained in the Faculty of Law's submission to the Steering Committee, the Faculty considered that a sufficient case had not been made out for the abolition of the PCLL. The Faculty had noted that there were fundamental problems and inconsistencies relating to the consultants' proposed model of a four-year LLB followed by a Legal Practice Course, the benefits of which were uncertain. On the other hand, the existing PCLL, though imperfect, had been well-tested in Hong Kong. The Faculty believed that to provide a reformed PCLL without having to segregate the teaching of substantive law and lawyering skills provided the best way forward which could achieve the same objectives as envisaged by the consultants. Mr TAI added that the Faculty's reform initiative was not for the purpose of maintaining the PCLL for its own sake. From the point of view of the Faculty, the question of funding and resources which the University could keep was not the primary issue at stake.

26. Concerning the PCLL, Dr Carol JONES said that the School of Law's reservation about the consultants' proposal to abolish the course arose not because of vested interests but because of a proposed alternative model which provided no clear blueprint of the details and methodology.

27. Dr Carol JONES reiterated her earlier opinion that the review should allow the voices of the community at large sharing an interest in legal education to be heard. She pointed out that there were criticisms in the community about law students holding a utilitarian view that legal education was just a means to an end, i.e. making money. She said that she would like to see another set of values to be instilled so that students could realise that legal education was an end in itself with a community interest element involved in it.

28. Ms Bronwyn DAVIES said that apart from reforming the current model and content of legal education and training, one should not overlook the importance of ensuring that there was sufficient local expertise available for the successful delivery of the reform.

29. The Chairman noted that a manpower survey had been conducted in connection with the consultants' review. She asked to what extent the Steering Committee relied on the manpower survey in considering the Report.

30. SG responded that the manpower survey made no attempt to estimate the number of lawyers that would be needed in Hong Kong. The Steering Committee agreed that legal education was worthwhile in itself and it should not aim at producing lawyers simply to satisfy the needs of the profession. He explained that the manpower sought to identify areas in which legal services would be needed in the future. The findings of the survey would be useful, for instance, in re-designing course curricula.

31. Dr Carol JONES said that she had reservations about the methodology used in the manpower survey. The Chairman said that she was also not satisfied with the survey. As she saw it, the scope of the survey seemed to be too narrowly focused on just a few aspects. For example, too much focus was put on legal services to cater for the needs of large international corporations and the China market and too little on other areas. She suggested that the parties concerned should further look into the matter of how a proper manpower survey should be done taking into consideration the overall community interests.

32. Ms Audrey EU enquired about how the Universities addressed the issues of raising the language standard of students, re-designing the contents of the law courses and improving expertise for teaching in the law schools.

33. Dr Carol JONES and Professor Michael WILKINSON said that there were no easy solutions to those issues which the Universities certainly required a lot more time to deal with. On the language issue, Dr JONES advised that the City U had introduced a compulsory English for Legal Purposes Course and an English Enhancement Course which was a remedial course for law students. New subjects had been introduced or being considered for introduction, such as subjects on cyber law, e-commerce, dispute resolution and arbitration etc. The University had also introduced new skills-based courses on techniques for teaching and legal research. Professor WILKINSON said that the Faculty of Law was considering bringing in expertise from overseas to participate in programmes on re-training the teachers. He added that as already explained above, an initiative to re-design the Faculty's PCLL was now under way.

The way forward

34. The Chairman said that there was a need for the Panel to follow up on the review closely. In response to the Chairman's question on the timing for a further discussion, SG said that it would be appropriate for the Steering Committee to report progress to the Panel in December 2001.

35. Members agreed to discuss the subject again at the Panel's meeting in December 2001.

Action
Column

36. The Chairman thanked all parties for their views on the matter.
37. There being no other business, the meeting ended at 11:30 am.

Legislative Council Secretariat
17 December 2001