

**FURTHER SUBMISSION TO THE CONSULTANTS ON THE REVIEW OF  
LEGAL EDUCATION IN HONG KONG**

- 1 The Consultants for the Review of Legal Education in Hong Kong visited Hong Kong in January 2001 and revealed to us their tentative proposal (“the Proposal”) on the reform of legal education in Hong Kong. They also invited all interested parties to make further submissions to them on the proposal before they finalize their report in June.
- 2 The Faculty Board of the Faculty of Law, University of Hong Kong met on 14 February 2001 to consider the matter, and resolved that this submission be sent to the Consultants.
- 3 The Board believes that before the Consultants provide a detailed written justification for the Proposal and elaborate on its details, the Faculty is not yet ready to take a firm position on the Proposal. The Board hopes therefore that before the Consultants’ Report is finalized, it should be released in draft form so that the Board may respond fully to the Proposal.
- 4 Before the draft Report is completed, it might be useful for the Consultants’ attention to be drawn to the Faculty Board’s preliminary views and concerns regarding certain aspects of the Proposal as it is currently understood by the Faculty Board. These views and concerns are set out below.
- 5 Firstly, we believe that there is considerable room for improvement in the curriculum and teaching methodology of the existing LLB and PCLL programmes. We have already taken steps to review these matters, and three reports have been produced as a result: the Report by Ms Carole Petersen on the First Year Curriculum of the LLB, the Report by Ms Betty Ho on the Commercial Law Courses in the LLB, the Report by Mr Stephen Nathanson on the Redesigning of the PCLL. (These Reports have already been made available to the consultants as Appendices to the Submission to the Consultants of the Faculty Working Party on the Review of Legal Education dated 30 November 2000.) We would welcome the Consultants’ input on whether and how the recommendations in these Reports should be implemented.
- 6 Secondly, we are not yet convinced that the proposed integration of the

PCLL with the LLB to form a 4-year LLB would bring benefits that cannot otherwise be achieved by adopting the reforms mentioned in the previous paragraph. We have considerable doubts about what are the justifications for such a fundamental change in the existing system as the abolition of the PCLL and the creation of a 4-year LLB. On the other hand, we believe that there exist several grounds that can justify the existence of the PCLL programme and its separation from the LLB.

- 7 The declared objectives of the PCLL are to enable its graduates
  - To understand and be able to apply substantive and procedural law in areas of particular importance to legal practitioners in general practice;
  - To develop the ability to conduct common legal transactions;
  - To be able to perform basic skills required of legal practitioners; and
  - To be able to apply the principles of legal ethics to problems encountered in legal practice.
  
- 8 Within the PCLL curriculum, we also aim to provide students with basic competence in the following skills:
  - Problem solving;
  - Communication (written and spoken);
  - Fact investigation and analysis;
  - Drafting of legal documents;
  - Advocacy;
  - Legal research;
  - Recognizing and resolving ethical problems.
  
- 9 The PCLL programme as it stands does contain useful components on practical legal skills (e.g. how to set up a company, how to practise conveyancing, how to draft pleadings, how to deal with probate and succession matters, how to practise advocacy) in addition to more academic education (e.g. revenue law, the law of procedure). The existence of these practical components justifies the independent existence of the PCLL as a distinct entity separate from the LLB. We do not believe that all of these existing practical training elements need to be incorporated into the LLB.
  
- 10 Despite any possible shortcomings in the present design of the PCLL, on the

basis of our discussions with past graduates and members of both branches of the profession, we believe it is generally accepted that a pure LLB graduate (whether local or overseas) is not adequately equipped to perform the tasks required of a trainee solicitor or of a pupil. The PCLL does provide a useful foundation for law graduates to acquire the necessary practical training for the purpose of bridging the gap between the academic stage and the professional training stage as a trainee solicitor or pupil. We do not understand why it is appropriate to incorporate most of these existing practical training elements into the LLB. Nor do we believe that the proposed legal professional training programme (of a duration of say twelve weeks) can replace the professional training elements that presently exist within the PCLL.

- 11 The PCLL allows for active participation by representatives of the legal profession in the teaching and examining processes, such participation being greater in extent than is desirable or possible within the LLB programme. At present, many practitioners assist in PCLL teaching as part-time tutors, and the Bar Association and the Law Society nominate representatives to be external examiners of *each* subject in the PCLL. The active participation of the profession in the operation of PCLL is a distinctive feature of the PCLL programme and distinguishes it from the LLB. Such participation enables the profession to ensure that high standards are maintained on the part of entrants to the profession.
- 12 The PCLL represents a *uniform* standard for entrants into the legal profession for law graduates from Hong Kong itself and from overseas. The legal education received by law graduates from Hong Kong, Britain, Australia, etc (we are referring here mainly to Hong Kong students studying law in Britain, Australia, etc) may vary in nature and content, but the PCLL as the single gateway for entry into the legal profession into Hong Kong (apart from the overseas lawyers route) enables standards to be maintained in a fair, uniform, centralised and effective manner with the full participation of the legal profession.
- 13 The PCLL at it stands allows multiple routes of entry: local LLB graduates, overseas LLB and CPE graduates, HKU 4-year mixed degree graduates, etc. The abolition of the PCLL will have a disruptive effect on some of the existing programmes. For example, the attractiveness of the existing very

popular 4-year mixed degree programmes (law and business; law and politics) would be adversely affected by the abolition of the PCLL.

- 14 The PCLL programme at present accommodates students of diverse backgrounds as mentioned above, including both locally and overseas trained students and both young and more mature students. We believe that there are pedagogical advantages in having these different groups of students taught together. Local students can learn from the language skills of overseas-educated students, while the latter can benefit from the local students' deeper knowledge of Hong Kong law and culture.
- 15 The PCLL (with the exception of the SPACE PCLL) is at present funded by the UGC. In 2000, there was some public discussion about the extent to which the PCLL should be publicly funded, and the result was that even the University Grants Committee accepts that the principle of public funding for the PCLL should be maintained. The abolition of the PCLL would re-open the question of the extent to which the fourth year of legal education should be publicly funded, particularly in the light of the proposal that all 3-year undergraduate programmes should, as the secondary school reforms proceed (moving from 7 years to 6 years of secondary education), be converted into 4-year programmes with no additional funding from the Government. Even if a 4-year LLB is acceptable and is publicly funded, the number of LLB places (as compared to the existing numbers of LLB and PCLL places) is likely to be adjusted in such a way as to result in a net reduction of the financial resources available to support legal education in Hong Kong. This would not only adversely affect the quality of LLB teaching, but also the law schools' capacity to offer high-quality postgraduate programmes in law.

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