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THE

LAW SOCIETY
OF HONG KONG

香 港 律 師 會

THE LAW SOCIETY OF HONG KONG

Position on
A THIRD LAW SCHOOL

February 2005

Position on a Third Law School

1. The proposal by Chinese University to establish a school of law ("School of Law")

The Chinese University, in its press release dated 10 May 2004, announced its intention to set up a School of Law in accordance with the following timetable:

- (a) LLB programme in 2006;
- (b) Doctor of Jurisprudence (JD) providing legal education for graduates in non-law subjects in 2006;
- (c) PCLL in 2007;
- (d) One-year taught LLM offering a selection of specialisations in 2007;
- (e) MPhil and PhD in 2007.

The School of Law is thus aimed at covering general education, professional education and postgraduate education in law.

2. General education in law

The general education in law is to be offered by the School of Law through its LLB and JD programmes. It is assumed that the two degrees are intended to qualify students to seek admission to practise in Hong Kong ("qualifying law degree").

The Society has set out its position on the various aspects of a qualifying law degree including the aim, the entry requirements, the scope, the assessment, the staffing and the teaching and learning methods of the degree.¹

Quality

The Society will support the offer of the LLB and JD programmes by the School of Law on the condition that they fully meet and exceed the Society's expectations on the quality of those programmes as qualifying law degrees.

Structure of law degree programmes

Apart from the 4-year LLB degree as the primary model and the JD programme as the graduate law programme, the Law Society strongly encourages the School of Law to consider the alternative model of combined law degree programmes for the academic stage of legal education.

The Law Society agrees that combined law degree programmes provide law students with a broader liberal education than a pure LLB degree programme

¹ Position on Legal Education and Training, The Law Society of Hong Kong, September 2001 (Annexure)

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and allow the students to gain a wider perspective of the context in which the law operates.²

Expansion of scope of law subjects

To enable the students to have a solid foundation of legal knowledge to cope with the changing demands for legal expertise in specialized areas that have arisen with the re-positioning of Hong Kong in the world market, the scope of subjects from which students can elect should be reviewed and expanded.³ The impact of future liberalization of international trade and investment regimes in the Mainland and its internal legal services cannot be underestimated. The training of legal expertise must ensure that legal services of a superior and wide ranging nature are continually available in the long run to sustain Hong Kong as a commercial and financial centre in the world and as a legal service centre for the Mainland.

With the School of Law starting afresh, it will be easier for it to adapt to new ideas and structure the law programmes in such a way as to meet the future demands of the society and economy as a whole. The demands in the foreseeable future will no doubt point to a curriculum that is aligned to meet the needs of Hong Kong in providing a legal service centre for the Mainland.

Practitioners' input on the market needs in relation to the Mainland legal practice will be invaluable and involvement of practitioners in the design of the curriculum is strongly encouraged.

Numbers

Some practitioners have expressed concern that with the establishment of the School of Law, the number of law students will increase leading to an imbalance of supply and demand in legal professionals in the market.

The offer of the LLB and JD programmes by the School of Law, provided that a high standard is maintained, is not considered to be a cause for concern in terms of a potential oversupply of lawyers in Hong Kong for the following reasons:

- (a) LLB and JD degrees are qualifying law degrees only. Under the present system, holders of such degrees are required to complete the Postgraduate Certificate in Laws (PCLL) before they can enter the profession as a trainee solicitor or pupil. They do not have a direct immediate impact on the number of students eligible for admission as solicitors and barristers.

² Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review" paragraph 7.4.4 on page 140

³ Some suggestions of the topics include Telecommunications and Environmental Protection

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- (b) General education in law through a quality degree programme is recognised as an effective way to help students develop essential qualities⁴ required for diverse careers, not only practice of law. With proper training of students through a high standard law degree, it may benefit various sectors of the community which increasingly demands employees with skills and attributes that a legally educated person is likely to possess.
- (c) Indeed, statistics show that quite a large number of recent Hong Kong law graduates have moved into a variety of careers other than the practice of law.^{5 & 6}
- (d) Apart from obtaining a general education in law through the degree programmes in the universities in Hong Kong, there are significant numbers of students undertaking external law degrees in overseas universities either overseas or in Hong Kong through distance learning. There has never been any restriction on people obtaining general education in law through such routes. Opposing the offer of the LLB and JD programmes by the School of Law will neither reduce the number of students undertaking external law degree programmes nor address any issue on oversupply of lawyers.

3. Professional education in law

The Society has set out its position in relation to the vocational stage of legal education. The preferred model remains a profession-run Legal Practice Course.

⁴ Qualities include:
(i) the construction of logical argument
(ii) the capacity for abstract manipulation of complex ideas
(iii) the systematic management of complex factual information
(iv) intelligent, critical reading of texts
(v) the use of the English language and the Chinese language (where applicable) at all times with scrupulous care and integrity
(vi) the related ability to communicate orally and in writing in a clear, consistent and compelling way
(vii) competence in retrieving, assessing, analyzing and using texts and information, including information technology skills.

(Derived from the Position on Legal Education and Training, The Law Society of Hong Kong, September 2001, footnote 3, page 3)

⁵ Derived from the Report of the Consultants on "Legal Education and Training in Hong Kong: Preliminary Review" paragraphs 2.3.2 and 2.3.3 on page 27, paragraph 5.4.2 on page 83

⁶ Of the 576 people who completed their academic law qualifications in 1996 (at the two Hong Kong law schools, through SPACE or at the University of London, the University of Wolverhampton or the Manchester Metropolitan University, 133 or 23% did not proceed on to the PCLL.

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In order to ensure suitably high standards, the assessment standards and methods used in the Legal Practice Course should be applied rigorously.

Some practitioners strongly support the setting up of a Professional Qualifying Examination as a means to ensure that those entering the profession have attained the required high standard.

While the Law Society does not rule out the possibility of setting up a Professional Qualifying Examination, it takes the view that assessment should not be only by way of a final examination. There should be other continual assessment methods which test the ability to conduct transactions and intellectual and work management skills, that is, to properly reflect the emphasis on teaching lawyering skills.⁷

With the existing model of the PCLL which leads to a common qualification for both branches of the profession, the Society finds "streaming" (that is, requiring students at the PCLL to opt for either of the two streams, one for intending solicitors and the other for intending barristers) an unsatisfactory structure and will discourage the School of Law from adopting such a structure, if it is to set up a PCLL.

4. Postgraduate education in law

The postgraduate education in law is to be offered by the School of Law through its LLM, MPhil and PhD programmes.

As one of the major legal centres in the world, the legal work done in Hong Kong requires lawyers with specialist legal knowledge and skills. Further, legal research into the operation and effects of specific legal issues is essential to necessary reforms and changes in the law to maintain with the pace of the society's development.

As in the case of the LLB and JD programmes, the Society will support the offer of the postgraduate programmes by the School of Law on the condition that they meet up with the Society's expectations on the quality of those programmes.

5. Standard in general

The maintenance of a high standard is of paramount importance. The School of Law must satisfy the Society that:

- (a) its criteria on student admission will measure up to the standards set by the Society with a view to attract more graduates with degrees in other disciplines;

⁷ Position on Legal Education and Training, The Law Society of Hong Kong, September 2001

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- (b) in its recruitment of teaching staff, it will open up and utilise such resources within and outside Hong Kong so as to ensure that it will not dilute the existing pool of legal academics leading to a general lowering of standards of teachers;
- (c) the teaching staff recruited must be of high quality with the appropriate legal knowledge and practical experience and skills.

The Law Society is represented on the Chinese University's Planning Committee in respect of the establishment of the School of Law. Its views therefore can be reflected to the Chinese University effectively and efficiently through a proper channel.

To continue the useful exchange of views and to ensure input from the profession in the vocational stage of legal education, the Law Society will actively seek representation on the future Faculty Board of the School of Law or equivalent body in the Chinese University.

Provided that the Chinese University meets the standards required by the Society, the Society will encourage its members to actively co-operate with the Chinese University in the design and teaching of its law programmes.