

LegCo Panel on Administration of Justice and Legal Services

Proposed establishment of a third law school

This note describes the consultation that has taken place in respect of the proposed establishment of a third law school, and the likely impact of such a development on the provision of legal services.

Consultation

2. The Steering Committee on Legal Education and Training was consulted in March 2004 on the proposed establishment of a third law school by Chinese University of Hong Kong (CUHK).

(a) LLB

3. The representatives of the City University and of the Bar Association on the Steering Committee, and lays member Mr Graham Cheng and Mrs Pamela Chan, all supported the establishment of that law school and the allocation of LLB places to that university.

4. The Legal Education Committee of the Law Society did not object to the allocation of LLB places to the Chinese University, provided that it runs a law school of quality and closely adheres to the Law Society's position on Legal Education and Training as issued from time to time, particularly with regard to admissions.

5. The Faculty of Law of the University of Hong Kong has reservations about the proposed establishment of a third law school. The Faculty reiterates its belief in healthy competition and is constantly enhancing its standards through such competition. However, it is concerned that the extra LLB places for the third law school were taken from the Faculty's existing resources, which effectively means that the Faculty of Law at HKU is subsidizing the setting up of the third school at its expense and at a time when its new 4-year LLB has received no additional resources in the first three years

of implementation. The Faculty of Law of HKU considers that its LLB places should not be reduced, so that it will have the critical mass to offer a meaningful diversity of courses in a quality 4-year LLB programme. On the whole, the Faculty is not opposed to having three LLB programmes in Hong Kong, subject to proper quality assurance and the availability of additional resources. In this regard, there is of course a policy issue whether, in light of shrinking public resources and the international and global positioning of Hong Kong, it is more appropriate to concentrate scarce resources to build up excellence than to spread across the resources, including human resources, thinly among three different institutions, when there is no indication whatsoever that the three institutions are going to do different law programmes.

6. The Department of Justice took the view that it would be beneficial to legal education for a university of Chinese University's academic quality and standing to offer an LLB degree. Moreover, it noted that the proposed LLB programme is in line with the recommendations of the legal education consultants, which had been endorsed by the Steering Committee on Legal Education and Training.

(b) PCLL

7. Differing views were expressed by members of the Steering Committee on the question whether it would be beneficial to professional legal education to establish a third PCLL course.

- (1) The representatives of City University believed that a third PCLL programme would be beneficial to legal education as a whole and would drive standards and promote diversity in professional legal education.
- (2) The Faculty of Law of HKU considers that there should not be more than two PCLL providers in order to ensure consistency of standards and quality.
- (3) The representatives of the Bar Association considered that, if Chinese University is to have an LLB course, it should also have

its own PCLL course in the interests of students and the public alike. Although they thought that, in the long run, three PCLL courses would be too many, they believed that, in due course, the weaker institution will probably have to give way by reason of competition.

- (4) The Legal Education Committee of the Law Society considered it necessary to withhold, until a later stage, its decision on whether to support the allocation to the Chinese University of the PCLL places that will become available. This is because –
 - (a) the proposed PCLL starting date of 2007/08 is before either the LLB or JD students from Chinese University will have graduated;
 - (b) it considered that a decision on whether there should be a third PCLL course should not be made before the current PCLL courses are reviewed at the end of 2004/05; and
 - (c) it could not at that stage endorse Chinese University's LLB or JD as a qualifying degree for the purposes of admission to any vocation course leading to admission as a solicitor, without knowing much more detail about those programmes.
- (5) Lay member, Mr Graham Cheng, queried whether it will be possible for a third PCLL provider to create an adequate pool of full-time and part-time teachers who have practical experience in Hong Kong.

8. In the light of the above comments, the Department of Justice supported the establishment of a PCLL at Chinese University, but considered that the timing of this needs further justification.

(c) Other points

9. Members of the Steering Committee raised a number of questions concerning the plans of CUHK and, in response, were invited to CUHK on 21

May 2004 for a briefing session. That briefing was conducted by the Chairman of the Planning Committee of the School of Law, Dr Anthony Neoh SC, JP. Following that briefing, the Department of Justice has not been aware of any concern amongst members of the Steering Committee about the proposal.

10. Although legislation has been enacted to establish a statutory Standing Committee on Legal Education and Training, no chairman has yet been appointed and so the committee has not yet met. It has not therefore been consulted on the proposal.

Impact of a third law school

11. The Department of Justice has studied the impact of the establishment of a third law school on the provision of legal services. It notes, firstly, that the creation of a third law school would not necessarily have any impact on either the number of law students in Hong Kong, or on the number entering the legal profession.

(a) Numbers

12. The number of LLB and PCLL students in Hong Kong is mainly determined by –

- (1) the number of UGC-funded places for these courses; plus
- (2) the number of self-financed places.

The total number of places available is not simply based on the number of law schools. If, for example, it is decided that UGC-funded places for law students should be increased, this could be achieved by allocating those places to the two existing law schools, or by creating a third law school. This fact is reflected in the comments of the Faculty of Law of the University of Hong Kong in paragraph 5 above.

13. Even if there are to be extra UGC-funded LLB places (whether at a third law school or at the two existing law schools), the Department of Justice does not consider that this will have any direct bearing on the number of people

entering the legal profession. There are two reasons for this.

- (1) At present, many local students go overseas to take a law degree. The existence of a third local law school may not necessarily result in a greater number of local students taking a law degree. It may simply mean that fewer local students have to go overseas to study law.
- (2) Those obtaining a law degree do not necessarily want to practice law and, even if they do, there are constraints on entry to the legal profession by virtue of –
 - (a) entry requirements to the PCLL;
 - (b) the number of PCLL places;
 - (c) quality control in the form of the PCLL examinations; and
 - (d) the number of traineeships and pupillages available.

14. With regard to the PCLL, the number of student places available is not limited by the number of UGC-funded places. In recent years, more than half of the PCLL places each year have not been supported by public funding. If there is an increase in UGC-funded places (whether by virtue of the establishment of a third law school or otherwise), this will not necessarily increase the total number of places available. It would, however, mean that more students have financial assistance to undertake their professional legal education.

15. In recent years, there was a suggestion that the PCLL should cease to be (partly) publicly funded. That suggestion was strongly opposed by the legal profession, since it would make it more difficult for students from poorer families to enter the legal profession. The suggestion was eventually dropped.

16. If the proposed establishment of a third law school leads to more publicly-funded PCLL places, this will give greater opportunities for poorer students to have access to such a place, as opposed to a self-financed PCLL

place. The Department of Justice would welcome such a development.

(b) Quality

17. Even if the establishment of a third local law school were to result in an increase in the total number of PCLL places, and an increase in the number of law students who are eligible for traineeship or pupillage, the Department of Justice does not consider that this would result in a decline in the standards or quality of lawyers. Our main reasons for this view are as follows.

- (1) Entry to the PCLL would remain extremely competitive. The applicants to that programme are not merely those who have obtained a local law degree, but also many local students who have obtained a law degree elsewhere. Even if CUHK offers a PCLL programme, there would still be many more applicants to join the PCLL than there are places.
- (2) The standards and quality of those entering the legal profession can be properly ensured by virtue of the entry standards, relevance and quality of the PCLL course and teachers, and the rigorousness of the PCLL examinations.

18. The Department of Justice does not consider that the standards or quality of new entrants to the legal profession should, or could, be determined by restricting the number of LLB or PCLL places. Instead, it considers that only those who have the appropriate standards and quality should be able to qualify for entry to the profession.

19. The comprehensive review of the legal education and training carried out in recent years was undertaken in order to ensure that this is the case. The necessary reforms are now being implemented and will be monitored on an ongoing basis by the Standing Committee on Legal Education and Training, which includes representatives of the two legal professional bodies. In addition, PCLL Academic Boards, with similar representation, monitor and influence such matters as entry requirements and standards, and the PCLL curricula. PCLL Boards of Examiners include practising members of both branches of the legal profession, who ensure that only those who meet

appropriate standards pass the examinations.

20. Those planning the establishment of a third law school are familiar with the ongoing reforms and have agreed that the Standing Committee on Legal Education and Training should monitor the third law school, as well as the two existing law schools. The Standing Committee will therefore be able to monitor and influence standards at the third law school.

21. The Department of Justice also considers that healthy competition between three law schools could have a beneficial effect on standards, rather than leading to a decline in standards.

c. Over-supply

22. For the reasons set out in paragraphs 12 to 16 above, the Department of Justice does not consider that the establishment of a third law school would have a material impact on the number of new entrants to the legal profession.

23. In any event, the number of lawyers that are needed by the community can vary quite markedly from year to year, depending on the state of the economy and other factors. Even during recent years, about 400 law graduates were able to gain trainee solicitor contracts each year, and others were recruited to the Bar. If the economy continues to recover, there is likely to be an increasing demand for lawyers.

Conclusion

24. For the reasons set out above, the Department of Justice supports the establishment of a third law school at CUHK.

Department of Justice
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