

香港大學法律學院的信頭
Letterhead of THE UNIVERSITY OF HONG KONG FACULTY OF LAW

13 April 1999

By fax & by hand

Mrs Percy Ma
Clerk to the Legislative Council Panel on
Administration of Justice and Legal Services
The Legislative Council
Legislative Council Building
8 Jackson Road
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Dear Mrs Ma,

Legal Education in Hong Kong

We are writing in response to your letter of 24 March 1999 requesting the Faculty of Law to provide a paper on the subject of Legal Education. Your letter sets out five issues for consideration:

- (1) the quality of new entrants to the legal profession;
- (2) the possibility of tertiary institutions introducing more stringent entry requirements to admit students into law schools;
- (3) improvements to the professional course to better equip students to enter the legal profession;
- (4) continuing legal education for legal practitioners;
- (5) difficulties of the Government in recruiting legal professionals.

We turn to these issues below, but first provide a brief description of the Faculty of Law at the University of Hong Kong and the programmes it offers.

In 1969, the first students entered the three-year undergraduate Bachelor of Laws (LLB) programme. Three years later the first graduates from the LLB entered the Postgraduate Certificate in Laws (PCLL) programme (the one-year professional course for those intending to practise as solicitors or barristers). In 1984 the Faculty of Law was established, comprising the Department of Law (responsible for the LLB) and the Department of Professional Legal Education (responsible for the PCLL). The academic staff from both departments supervise postgraduate research students (MPhil, PhD, and SJD) and teach in the Faculty's taught postgraduate Master of Laws (LLM) and diploma programmes, which provide an important source of continuing legal education for Hong

Kong lawyers (and are discussed in greater detail in the response to Issue 4 below). The Department of Professional Legal Education also provides the majority of teaching for the PCLL administered by the University of Hong Kong School of Professional and Continuing Education (SPACE). The Faculty's total student body in 1998-99 comprises the following: 446 full-time students in the LLB; 193 full-time students in the Faculty's PCLL; 120 full-time and 49 part-time students in the SPACE PCLL; 30 full-time and 55 part-time students in the taught postgraduate LLM and diploma programs; and 12 full-time and 7 part-time students enrolled as postgraduate research students, making up a total of 912 students.

The Faculty is composed of roughly 50 teachers (including several visiting teachers and holders of research posts) who are drawn from almost a dozen jurisdictions. Faculty members' research output (including scholarly books and articles, textbooks, and books for practitioners) is published both locally and internationally, and the Faculty's publication profile reflects its international composition. The Faculty's research output is assessed externally every three years in a Research Assessment Exercise (RAE) established by the University Grants Committee. On the last assessment, the Faculty of Law achieved an 80% score (the number of active researchers as a percentage of all eligible researchers in the Faculty). This was one of the highest scores among the cost centres at the University.

The Faculty has also increased its international profile by entering into agreements with universities throughout the world, including a Trilateral Cooperation Agreement with Stanford University Law School and the University College London Faculty of Law. The Faculty has also entered into a variety of agreements with other institutions involving collaborative research, the joint offering of summer law programs, and the exchange of students and staff. Among the Faculty's partners in these initiatives are Beijing University, Tsinghua University, the Department of Economic Law at the China University of Politics and Law, Duke University School of Law, the Santa Clara University School of Law, the University of Hawaii at Manoa School of Law, the University of British Columbia, the University of Victoria, and Kyushu University.

We are including in [Annex A](#) a copy of the Faculty's Prospectus (which describes the Faculty generally) and brochures describing the Faculty's postgraduate course offerings.

(1) The quality of new entrants to the legal profession

It is not uncommon to hear anecdotal remarks about the poor quality of entrants to the legal profession. However, there has never been a systematic study of whether such criticisms are warranted. In our view, the quality of the Faculty's law graduates is very strong, as is demonstrated by the high LLB and PCLL admission standards, by the strong performance of Faculty students in intra- and extra-university competitions, and by rigorous PCLL examination standards.

LLB admissions standards

A recent internal review of the admissions standards of the students entering the Faculty's LLB programme since 1991 demonstrates that the quality of our incoming students is high and has consistently been improving. Roughly 150 students are admitted into the LLB programme every year. The student intake into the LLB for the 1998-99 academic year continued to have **the highest standards in both the Use of English and Chinese Language and Culture (measured according to A-Level scores) of all the 93 programmes** offered by the universities in Hong Kong. (The average grade in the Use of English in the Faculty has been the highest in the University since 1994 and the highest in Hong Kong since 1996.) **Moreover, if one considers the general A-Level scores, in 1998 only 6 programmes out of 93 (Medicine and some of the Engineering and Architecture programmes) enrolled students with higher average scores than did the Faculty of Law.** These statistics, moreover, do not even include the Faculty's non- JUPAS intake (which comprises approximately 20% of our student body) and which consists mainly of degree-holders of the highest quality from universities in the United Kingdom, the United States, Canada, Australia, and Hong Kong.

The Faculty has also taken steps to further improve the overall quality of its LLB student intake. This year, the Department of Law agreed to establish mixed degree programmes with the School of Business (to offer a BBA(Law)) and with the Faculty of Social Sciences (to offer a BSocSc (Government & Laws)) commencing in the 1999-2000 academic year. These new programmes will attract high calibre students, who will be among the strongest academically when compared to the LLB intake. It is anticipated that many of these students will complete a fourth year of study and earn the LLB degree, which will strengthen the overall quality of the LLB class. The Department of Law contributed 10 student places to each of these programmes (as did each of its partners). These 20 places were contributed from the existing 150 LLB places. It follows that the 20 strong students who are admitted into the mixed degree programmes will, in effect, displace the weakest 20 students who previously would have been admitted into the LLB. **Thus, it is anticipated that these mixed degree programmes will have the effect of further lifting the entry requirements into the Department of Law's undergraduate programmes.**

PCLL admissions standards

The principal eligibility requirements for entry into the PCLL are that an applicant has an approved degree in law or has successfully completed the Common Professional Examination (CPE) (which is an accelerated programme in law for students who already hold a university degree in another field). Standards of admission to the PCLL are high and places are limited. Many applicants who meet the minimum requirements do not get a place. To be admitted into the Faculty's PCLL programme, graduates of the Faculty's LLB must achieve at least a Lower Second Class Honours degree. (Students who achieve only Third Class Honours from the Faculty's LLB are not admitted.) The majority of students in the Faculty's PCLL are from the Faculty's LLB. The percentage

of Faculty LLB students in the Faculty PCLL will continue to increase over the next two academic years because the number of places in the Faculty's PCLL are being decreased. The admission quota, which stood at 200 for 1997-98, was decreased to 185 for 1998-99; it will be further decreased to 170 for 1999-2000, and to 155 for 2000-01.

The PCLL programme administered by SPACE (which receives no government funding) guarantees places to SPACE CPE students who have passed their CPE examinations on the first attempt and to graduates of the London University External LLB who have studied SPACE preparatory courses.

The Faculty and SPACE PCLL programmes also accept many returning Hong Kong students who have obtained their LLBs in the United Kingdom or Australia. However, due to the declining number of places and the resulting keen competition, a large number of applications from such students must be rejected.

The strong performance of Faculty students in intra- and inter-university competitions

The Faculty's students perform extremely well in prestigious intra-university scholarship competitions. For example, this year LLB students won 14 of 80 Young Leaders of Tomorrow Scholarships, 3 of 11 Sir Man Kam Lo/Jardine Scholarships, 5 of 10 Li Po Chun Scholarships, 4 of 9 Koo Shui Ting Scholarships, 1 of 4 Ho Tung Donor Scholarships, and 1 of 4 Mok Kong Sang Scholarships. Our graduates also win a disproportionate share of the highly competitive overseas postgraduate scholarships such as the Chevening Scholarships (formerly the Commonwealth Scholarships) and Sir Edward Youde Memorial Scholarships (for which all university graduates in Hong Kong are eligible). These scholarships again allowed many of our top students to pursue postgraduate study at the world's leading universities, including Harvard, Oxford, and Cambridge. In addition, one of our recent graduates won a Rhodes Scholarship for study at Oxford.

In 1998, our international mooting team placed 5th in the Jessup Mooting Competition, which is held annually in Washington, DC, and which is dominated (in terms of numbers) by the leading law schools from English language jurisdictions including the United States, Canada, and Australia. Also, this year in the 28th Intervarsity Debating Contest, 8 of the 10 students on the winning English Debating Team, and 2 of the 9 students on the Cantonese Debating Team, were LLB students.

Rigorous PCLL examinations

The PCLL examinations that students must pass in order to practise law are extremely rigorous. It should be noted in this regard that the average pass-rate (over the past 6 years) on the first attempt is only 63%. It should also be noted that students now receive their numerical marks on their transcripts. Thus, law firms and other potential employers can now distinguish among students and are under no obligation to hire students who are at the lower end of the graduating class.

Faculty concern over reports of declining quality

The Faculty takes seriously, and attempts to investigate, anecdotal reports of the “declining” quality of our law graduates. In some cases, the reports have turned out to be seriously inaccurate. This was the case with respect to the recent front page news story and editorial in the South China Morning Post on the Department of Justice’s recent hiring exercise, which we discuss more fully in response to Issue 5 below.

In other cases, the criticisms reflect, in our view, many developments, including the following:

- (i) A decade ago, all but a handful of PCLL graduates became solicitors. Now, with the recent economic recession, some graduates are unable to find positions as trainee solicitors. As a result, they often embark on pupillage, despite the fact that they are not well-suited for a career at the bar and do not have a genuine desire to become barristers.
- (ii) Whereas law students were previously expected to learn and practise law in English only, the development of a bilingual legal system has brought new challenges. The Faculty has thus tried to modify its curriculum (for example by introducing the option of doing some advocacy exercises in Cantonese).

(2) The possibility of tertiary institutions introducing more stringent entry requirements to admit students into law schools

As noted above in the discussion of Issue 1, the Faculty at present is attracting among the best university applicants into its undergraduate degree programmes. To ensure that the quality remains high, the Department of Law is in the process of moving to a system that will require all applicants to the LLB programme to be interviewed. (At present, the Faculty interviews only the non-JUPAS applicants, who constitute roughly 20% of the applicants.) This new admission requirement will enable the Department to have a better all-round view of an applicant and to more thoroughly assess an applicant’s communication skills.

Recently, the Dean of the Faculty of Law appointed a Working Party on PCLL Admissions Policy. After studying the pass-rates of the PCLL students on the PCLL examinations, the Working Party recommended that the existing admissions policy be retained. Among the factors considered by the Working Party in reaching this recommendation were the following:

- the admission standards of the LLB students (as described above) are quite strong and have improved from 1992 to 1998; and

- the contribution of 20 students by the Department of Law into the mixed degree programs described above, commencing in 1999-2000, will displace the 20 weakest students currently admitted into the LLB;
- the number of places in the Faculty's PCLL intake is in the process of being decreased (from 200 in 1997-98 to 155 in 2000-01), while the present intention is that the number of places in the SPACE PCLL will remain the same; this (combined with the recent reduction in PCLL places at the City University of Hong Kong) will inevitably make admission to the PCLL increasingly competitive; and
- at present, overseas university students are usually admitted into the Faculty PCLL only if they have earned a First or Upper Second Class Honours degree.

(3) Improvements to the professional course to better equip students to enter the legal profession

It must be borne in mind that legal training is a life-long process for which the legal profession must share responsibility. (See Issue 4 below). Most of the 18- or 19-year-old students who enter the LLB programme have had limited experience outside of Hong Kong and little practical work experience. They have, for the most part, succeeded in school through an over-emphasis on rote memorization, and a lack of self-expression and analytical skills. It may not be realistic to expect that any law faculty, over the course of a three-year LLB and a one-year PCLL, can take such students and transform them into mature, independent, world-wise practitioners immediately capable of meeting the very high standards expected of a legal practitioner. Rather, the four years of educational training must be viewed as part of an overall training process that also includes trainee solicitorship, pupillage, continuing legal education, and, in some cases, further educational and practical work experience abroad.

In discussing whether the Faculty's students are adequately prepared to enter the legal profession it is important to discuss the role played by both the LLB and the PCLL. The Faculty is mindful of the need for these two programmes to complement each other and to jointly lead to the goal of graduating competent, creative and ethical professionals who are able to practise law in a legal environment that is undergoing unprecedented changes.

A large percentage of the Faculty resources are dedicated to teaching. Each year, teachers in the Faculty are assessed by both peers and students. **These assessments demonstrate that the teaching quality within the Faculty is generally of a high standard.**

The LLB

During the 1990s, many changes have been made to the LLB curriculum, as the result of initiatives taken at the faculty and the university level (the latter being part of a major curriculum reform). Under the new regulations, students must complete 180 credits over the three-year period. Of these, 120 credits are in required courses (mostly law but some language or Information Technology courses) while the remaining 60 are in optional courses (both law and general education). Among the notable changes in the LLB over the past decade are the following:

- introducing a broad range of new law courses;
- putting more emphasis on skills development;
- introducing a compulsory course in Chinese law;
- introducing a course on the Use of Chinese Language in Law;
- introducing a compulsory course of English for Law;
- requiring the acquisition of basic Information Technology skills;
- giving students more choices in their course selection;
- requiring students to take some other non-law courses;
- putting more emphasis on active participation in class;
- increasing the opportunity for legal study overseas as part of the LLB degree; and
- introducing mixed degrees.

The Department of Law is continuing to introduce new courses and innovative teaching approaches. LLB courses are taught in a variety of ways - through lectures, seminars, or tutorials. Each course is externally refereed and assessed, usually by an overseas academic with relevant expertise. The external examiners' reports are generally very positive. The three reports received to date for the Fall 1998 term and a sampling for the 1997-1998 academic year are attached as Annex B. The Faculty is the only faculty at the University that appoints external examiners for each course.

In brief, a student who graduates from the LLB course will have studied certain law courses that are required by the curriculum or for admission to the PCLL. He or she will also have been able to choose a small number of law options, will have taken courses on English for Law and Chinese language and on Information Technology (and some courses unrelated to law), and will have participated in at least one moot court programme. He or she will also have been assessed on the basis of formal invigilated examinations, written essays, and individual and group exercises in legal skills, many of which will have tested factual and legal analysis.

The PCLL

The general purpose of the PCLL is to prepare students for legal practice. Successful completion of the PCLL is a prerequisite to becoming a solicitor (with the exception of the route via the Overseas Lawyers Qualification Examination). After successfully

completing the PCLL, a student must enter a two-year trainee solicitor contract with a law firm before seeking admission as a solicitor. Similarly, subject to certain exceptions, to be admitted as a barrister, students must first successfully complete the PCLL and then complete a one-year pupillage with a barrister.

There are seven compulsory subjects in the PCLL - accounts and financial management, advocacy, civil and criminal procedure, commercial law and practice, conveyancing and probate practice, professional practice (ethics), and revenue law. The programme has both skills-based and substantive law components. Advocacy and accounts primarily test skills. In addition, the skills of legal letter-writing, fact-analysis, legal analysis, document drafting, and problem solving are taught and tested within the framework of the other subjects.

The PCLL is a demanding course, with students required to take classes five, and frequently six, days a week. Extensive preparation is required for practical exercises and small group sessions, and students are given a large volume of prescribed reading, a comprehension of which is necessary to pass the course. Teaching is delivered through lectures and small group sessions, which are taught by a full-time staff of 16, several part-time tutors on contract, and 30 or so legal practitioners who also serve as part-time tutors. Legal practitioners and judges are also involved in the PCLL in a variety of other capacities, including as external examiners, guest lecturers, or assessors in our advocacy skills programmes. Each course has two external examiners, a solicitor and a barrister, and there is a Chief External Examiner for the overall PCLL course. Annually, the Chief External Examiner submits a report assessing the examination procedures and results and the overall quality of the course. These reports are generally very positive, and the reports for the academic years 1994-95 to 1995-96 are attached as Annex C.

The low pass rate on the first attempt of PCLL examinations (see response to Issue 1 above) is well known among both students and prospective employers. Many offers of employment are made to students subject to their passing PCLL at first attempt. (Thus, even if students pass at later attempts, the first-attempt threshold is significant in determining who gets the best legal jobs and, in this economic environment, any legal job.) Students are permitted to sit supplementary examinations, and even to repeat the curriculum where necessary. After these supplementary and repeat examination attempts, the overall pass rate in the programme increases. (From 1994 to 1996, the overall pass rate averaged 84%.)

Each year the course co-ordinators for each subject in the PCLL review their syllabus and revise or update their course materials. A recent innovation has been to allow students the option of completing their Criminal Procedure advocacy exercises in Cantonese. The Department of Professional Legal Education is also actively considering a number of changes in the way it teaches and assesses its courses.

It must be kept in mind that the Department of Professional Legal Education does not have sole control over the PCLL curriculum and examination structure, but rather is answerable to the profession through the Chief Executive's Advisory Committee on

Legal Education, the Common Examination Committee, and the Law Society Legal Education Committee. In addition, members of the profession who serve as external examiners also serve on the PCLL Board of Examiners. Moreover, this year “common examinations” were introduced over the objections of both the University of Hong Kong and the City University.

(4) Continuing legal education for legal practitioners

In recognition of the fact that legal education is an on-going, and lifelong process, the Faculty plays a major role in providing continuing legal education for legal practitioners. In addition to postgraduate research degree programmes (MPhil, PhD, and SJD), we provide a broad variety of Postgraduate Diploma and Master of Laws (LLM) programmes. LLM programmes involve one year of full-time study or two years of part-time study. Postgraduate Diplomas involve one year of part-time study. The Faculty’s offerings include the following:

- a traditional Master of Laws programme (introduced in 1986-87);
- a Postgraduate Diploma in Commercial Law (introduced in 1993-94);
- a Postgraduate Diploma in the Law of the People’s Republic of China (introduced in 1993-94);
- a Postgraduate Diploma in Public Law (introduced in 1996-97);
- a Master of Laws in Chinese Commercial Law (introduced in 1998-99);
- a Master of Laws in Human Rights (to be introduced in 1999-2000); and
- a Master of Laws in Corporate and Financial Law (to be introduced in 1999-2000).

These courses play an important role in keeping Hong Kong lawyers up to date in their areas of expertise and also enable practitioners to return to the University to specialize and gain greater expertise. The Faculty is also in the process of developing shorter, executive-style training courses to assist practitioners.

The Faculty’s postgraduate courses primarily focus on substantive areas of the law (eg, PRC Intellectual Property Law or Cross-Border Insolvency Law). It is our view that the legal profession - either through the Law Society, the Bar Association, or through the efforts of individual firms - also has an important role to play in continuing legal education. The trend in many jurisdictions, including the United Kingdom, New Zealand, and Australia is for large law firms to hire legal academics to develop sophisticated in-house continuing legal education programmes with both substantive and skill components.

(5) “Difficulties” of the Government in recruiting legal professionals

It is our understanding that the Government has **not** experienced difficulties recruiting qualified legal professionals to fill the majority of positions. A letter written by Ms Pamela Tam of the Department of Justice Department, which appeared in the South China Morning Post on 10 April 1999 (attached as Annex D) noted several inaccuracies in the recently published newspaper report about the difficulties experienced by the Department of Justice in its latest recruitment exercise. In fact, the only area in which the Department could not fill its vacancies was the Law Drafting Division. This difficulty is understandable given that law drafting is a very specialized area in which most lawyers in private practise do not have an interest and which requires special expertise and (as a result of our bilingual legal system) very sophisticated language skills.

Concluding observations

We appreciate the attention that the Legislative Council is giving to legal education. We believe that the quality of our graduates is generally strong and that the LLB and PCLL programmes adequately equip students to enter their trainee solicitorships or pupillage. However, improvements can always be made; we review our courses annually with a view to making such changes.

Given the importance of legal education to Hong Kong, we would welcome a comprehensive review of legal education, to be undertaken by a panel of experts (with a broad range of membership), which would address the LLB, the PCLL, trainee solicitorship and pupillage, and continuing legal education. A review of this nature would have the broad and enthusiastic support of the Faculty of Law at the University of Hong Kong.

We would appreciate the opportunity to meet with the Panel on Administration of Justice and Legal Services to answer any questions that you may have regarding this paper or legal education generally. If you require further information, please feel free to contact me.

Sincerely yours

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