

Letterhead of City University of Hong Kong

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By fax 2509 9055

Mrs Percy Ma
Clerk to Panel
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mrs Ma:

Lego Panel on Administration of Justice and Legal Services
UGC Funding of the PCLL

Thank you for your letter of 9 March inviting comments on the recent press reports concerning a possible reduction in government's funding of the PCLL. The press reports referred to graduate programmes generally, as well as to the PCLL specifically.

Rationale

The rationale for planning to reduce government support for post-graduate programmes, rather than undergraduate programmes, seems to consist of several components. First, students pursuing post-graduate studies have generally, by definition, already completed an undergraduate degree. Those who have undertaken their undergraduate studies in Hong Kong with a UGC-funded institution have already had the benefit of substantial public support. Secondly, many post-graduate programmes are part-time. Such programmes are typically undertaken by (indeed, are generally designed for) persons already in the workforce. Working students are obviously more likely to be able to pursue their studies with less public support than students who are engaged in a course of full-time study. Part-time masters programmes are generally of this nature. Moreover, some such programmes are regarded as adding substantially to the earning power of graduates. The clearest examples are the various MBA programmes. If such a programme adds to the earning power of graduates already in the workforce, students are more likely to be able to pursue their studies with less public support. Thirdly, most post-graduate programmes, whether part-time or full-time, are supplementary to, rather than a required component of, basic vocational training. Again, most masters programmes are of this nature.

The PCLL is different. It is a postgraduate qualification, but it is a prerequisite to becoming a barrister or solicitor. Indeed, it is not even the final prerequisite: after obtaining an LLB and a PCLL, graduates still face a further year or two of unremunerative on-the-job training before being admitted to practice (one year's

pupillage for those wishing to go to the bar; two years' traineeship for those wishing to become solicitors). The PCLL is also, of course, a full-time programme and, indeed, one that is generally regarded as particularly demanding. It appears that very few full-time PCLL students work in any kind of part-time employment.

The training of various other professions (physicians, dentists, architects) exceeds the three-year norm for undergraduate degrees. Indeed, it exceeds the four year aggregate of the LLB plus the PCLL. There seems to have been no suggestion that the public support of basic training in these fields should be reduced. To single out legal education for reduced funding would be peculiar. In this connection, it is worth noting also that, by international standards, university training of lawyers in Hong Kong is already minimal. In Canada and the United States, law is generally a post-graduate degree, involving 3 years of law study after 4 years of undergraduate study. In Australia and New Zealand, it is likewise impossible to commence a law degree without prior tertiary study. It seems likely that this is a factor contributing to the concerns expressed in Hong Kong in recent years as to the adequacy of LLB and PCLL graduates.

Practical Consequences

The consequences of cutting public support for the PCLL are difficult to predict. They would also, of course, depend on the extent and timing of the cuts. Nonetheless, some general observations are possible. The first and most important is that cutting public support would tend to exclude people from a career in the law on the basis of the adequacy of their financial resources. In other words, only those relatively economically well off would be able to seek entry to the profession. This would obviously be bad for the profession and bad for Hong Kong.

Secondly, it is possible, indeed likely, that the PCLL as currently offered by the City University is viable only on the basis of substantial public support. (It appears from Albert Chen's paper that this is equally true of the PCLL offered by the University of Hong Kong.) Reduced public support would mean increased fees for students. If public support were to be entirely withdrawn, the increase in fees would be very substantial. How substantial is impossible to say, even approximately, because substantially increased fees would tend to lead to substantially decreased demand. That is, it would tend to lead to a reduction in the number of students (assuming no lowering of admission standards). This, in turn, would necessitate further increases in fees; and so on. At some point, a cycle of increasing fees and falling student numbers would render the PCLL unsustainable in its current form. The suggestion that PCLL fees might increase dramatically has already caused some apprehension among some first-year law students who fear that they would be unable to pay the fees. (Second and third year students assume that any cuts in funding will not occur until after they have obtained their PCLLs.)

Legal Education Review

There is currently underway a general review of legal education in Hong Kong. Its aim is to improve the quality of legal education in Hong Kong. The review is being

funded by the government and involves the active participation of the judiciary, the Bar Association, the Law Society, the government and the two law schools. It would be unfortunate if the review were to be effectively pre-empted by funding decisions taken without reference to it. It would be surprising if the consultants to the Steering Committee on the Review of Legal Education did not make some recommendations concerning the relationship between the LLB and PCLL programmes.

Conclusion

Reducing public spending on the PCLL is not merely a matter of shifting the burden from the government to students. Put simply, many students who would have made good lawyers may opt to pursue other careers instead. Given that the consequences of cuts are likely to be drastic, PCLL funding by the UGC should continue. We will be happy to provide more detailed information on the matter.

Yours sincerely

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