

International Legal Services Advisory Council

International Legal Education and Training Committee

**AUSTRALIAN INTERNATIONAL LEGAL
EDUCATION AND TRAINING
DIRECTIONS, ISSUES AND OPPORTUNITIES**

December 1995

Executive Summary

Background to the Report

- ILSAC is a part-time advisory Council to the Australian Government whose 17 members are appointed by the Attorney-General. It is chaired by Sir Laurence Street. ILSAC's function is to help improve Australia's international performance in international legal services. In 1992, ILSAC prepared the *Australia in Asia : Legal Education Challenges and Opportunities* report, which examined and recommended goals and strategies for Australia in international legal education and training in the Asia Pacific region. ILSAC's second report *Australian International Legal Education and Training : Directions, Issues and Opportunities* examines developments in international legal education and training since 1992 and the international higher education environment faced by Australian providers of legal education and training services.

Report Structure

- This report consists of three parts. Part One has three sections Overview of Developments; Analysis; and Outlook. Part Two comprises 13 contributed papers by legal academics, the Department of Employment, Education and Training and Austrade and a law firm involved in international legal education and training. The papers are arranged by theme : service delivery by Australia to traditional markets; service delivery by Australia to non-traditional markets; new and emerging opportunities; and case studies - one each on Indonesia and Malaysia. Part three comprises appendices. The conclusions of ILSAC are contained at the end of each section in Part One and at the end of this Executive Summary. The conclusions are those of ILSAC and not necessarily those of the contributors of the papers or the Australian government, its departments and agencies.

Summary of Report

Section 1 : Overview of Developments

- The report notes broad developments in international higher education and also in Australian international legal education and training. The former include the steady increase in international higher education students in Australia and the significance of export earnings, a refocussing of Australian policy on international education from trade to internationalisation, the introduction of a number of government programs to assist closer engagement with Asia and the establishment of the Australian International Education Foundation (AIEF). In the field of Australian international legal education and training, the

trend shows a slowing of growth in international student enrolments in law, compared to other fields of study. Changes in the recognition of Australian law degrees overseas and initiatives by government and some Australian law schools to attract more international students have been identified.

- Developments relevant to international legal education and training are briefly surveyed in public policy, departmental programs and initiatives and also in strategies recommended by ILSAC in 1992 to lift the performance of Australian international legal education and training. Initiatives and activities by other organisations are also noted. On balance, the report concludes that although international student numbers in law have not increased greatly (622 full fee and AusAID full fee sponsored students in 1991 rising to 817 in 1994), there have been worthwhile gains.

Section 2 : Analysis

- The report examines the global market for international education, with particular reference to law and legal studies, participation by Australian institutions in this market, and the main source countries for legal education and training in Australia. Preferences for particular courses of study and the share of Australian university law schools and States and Territories in the field of legal education are analysed. AusAID activities and practical legal training are reviewed briefly and an estimate of the value of Australian legal education and training in 1994 (\$17 million) is included.

Tables and charts are provided in this section and information is presented and analysed at a level of detail not previously possible. Although some of the data are not strictly comparable due to differences in definitions and collection, the data provide a fairly detailed picture of international legal education and training in Australia between 1991-1994.

Section 3 : Outlook

- Section 3 deals with directions, issues and opportunities relevant to Australian international legal education and training.
- A three dimensional conceptual model (reproduced below) is included to show the main categories of international legal education and training services, the source of education fees, and the country or countries where the service is delivered. Forty five different combinations of legal education and training services are shown in the model. Apart from one category where Australian universities are well established (privately funded degree education undertaken in Australia), the model identifies 15 categories which appear to present good prospects : 9 are where services are already being provided by Australia but which show further prospects for development, and 6 are relatively new areas of service for Australia. The full table is reproduced at the conclusion of this summary.
- The best prospects for development by Australia are seen in formal degree and other courses, including post-graduate studies and some forms of training, delivered in Australia and the student's home country (9 of the categories). There is also scope for special-purpose courses, such as those of an intensive kind, which focus on specific areas of law or legal skills. Delivery of services entirely in the students' home country, including by distance education, show some prospects, but these will need to be carefully and sensitively developed. Home-government sponsored international education and training in Asia is seen as an area of service largely overlooked by Australian institutions to date, but which has good prospects.

Exhibit 1 CONCEPTUAL MODEL OF INTERNATIONAL LEGAL EDUCATION AND TRAINING SERVICES

(Image not available)

Definitions: *Degrees - Undergraduate/Post-graduate:* LLB, LLM, SJD, etc, whether taught conventionally or by distance education

Other Formal Courses: eg single subjects, summer courses, etc

Practical Legal Training & Skills Training: Award and non-award training with a high skills component

Ad Hoc Courses: usually client-specific, intensive or short (group) courses

Work Experience: includes on-the job (non formal) training

Directions

- In 1994 there were 817 international students studying law/ legal studies in Australian universities, 664 of whom were not AusAID sponsored students. The figures for 1991 are 622 and 569 respectively. The figures ignore some short term students and trainees, whose numbers are growing.
- Asia and the Pacific Islands continued to be the main source of full fee (non AusAID sponsored) international students studying law in Australia in 1994 (86%). Malaysia provided nearly 46% (305 students); Fiji provided 11% (75 students) and Singapore, Japan, Hong Kong and Indonesia were next in importance. The six top source countries represented nearly 75% of all non AusAID sponsored international students studying law in Australia.
- Four of the six countries (Malaysia, Fiji, Singapore and Hong Kong) are not expected to continue to provide relatively increasing numbers of students to study law in Australia on the present enrolment pattern. All four countries presently seek mainly undergraduate programs : just 5% of enrolments from these countries in 1994 were for post-graduate study (24 of 441 students).
- International students enrolled in undergraduate law degrees in Australia increased from 497 to 617 students (or by about 24%) between 1991-94. However, these students declined as a proportion of all international students studying law (from 80% in 1991 to 75% in 1994). Post-graduate international enrolments rose from 125 to 200 students (or 60%) increasing from 20% to 24% of all international students studying law in Australia.
- Civil law/socialist legal system countries of Asia and the Pacific increased their demand for legal education (now about 15% of the market for international legal education and training in Australia).
- Some Australian universities introduced new LLM programs by course work and graduate diploma and certificate courses between 1991-93. International enrolments in these courses, which tend to be largely free of the capacity constraints in providing the LLB degree, grew significantly.
- There were about 40-50 international students from Vietnam and Indonesia undertaking special-purpose group courses in Australia in 1994, compared to very few or none in 1991. International participation in practical legal training courses grew only slightly.
- University law schools with the largest numbers of non-AusAID sponsored international students taking law in 1994 were Bond, Monash, the University of New South Wales, ANU and the University of Melbourne (about 2/3 of all such students). The university law schools which appear to have made the greatest number of gains in international students in law over 1991-94 are Bond, Wollongong, the University of South Australia, the University of

Tasmania and the University of Canberra. The five new university law schools established since 1992 have gained few international students to date (this should change over time).

- The States of Tasmania, Victoria and Queensland and the ACT attracted, proportionally, far more international students in law/legal studies than other States and the Northern Territory.

Issues

- Globalisation, fuelled by world economic growth, and the higher participation rates from countries of Asia in international education, present both enormous opportunities and challenges for Australian universities and law schools over the next 10-15 years.
- Internationalisation of legal education curricula in Australia is crucial to attracting international students beyond those who seek vocational training at undergraduate degree level. It is also important in the professional education of young Australian lawyers : less than 1% of all Australian undergraduates currently complete parts of their courses overseas.
- Differentiation in demand for international legal education and training has become more pronounced since 1992. Discrete areas of demand include law as vocational education; law as a general education; post-graduate courses with international relevance to common law and civil law legal system countries; legal skills and practical legal training; law for non-lawyers; intensive or special purpose courses; continuing legal education, and other programs targeted to the overseas practitioner.
- The lack of profile of Australian university law degrees in some countries of the Asia Pacific region has impeded international post-graduate enrolments. Positive steps since 1992, such as the annual publication and distribution overseas of *Studying Law in Australia*, has helped but more work needs to be done to raise Australia's profile in law internationally.
- The impact of new technology in international legal education and training is uncertain. Some applications are discussed in the report. Populous countries such as China, Vietnam and Indonesia are expected to put considerable emphasis on distance education using existing and new technologies.
- Australian university law schools can increasingly expect to see competition in the provision of legal education and training services by Asian universities, separately or in partnership with other universities from within or outside the region.
- Planning by university law school staff in designing, promoting and delivering legal education courses to international students appears to make a difference in terms of the international profile achieved by the law school, the pattern of international enrolments and the level of satisfaction of both Australian and international students.

Opportunities

- Strong growing global demand over the next 10-15 years will of itself create opportunities in international legal education and training. Australian university law schools will not be able to respond to all of the opportunities and should try to target the international demand it is best able to meet. The role of the AIEF is potentially important to achieving a better result for Australia in the field of international legal education and training.
- Demand for home country delivery of legal education, particularly of part of an undergraduate law degree, and intensive or special purpose courses is expected to increase

for cost and other reasons. A demand for legal skills as distinct from knowledge-based courses may also emerge as an important area of demand which Australia could meet.

- The low but rapidly increasing higher education participation rates in populous countries such as China, India, Vietnam and Indonesia have particular implications for Australian international legal education and training. A sustained contribution in this field by Australia in these countries will probably need to take a strategic and long term approach.
- There is scope for more Australian universities to promote combined BEc/LLB and BCom/LLB degrees and also to develop combined Business/Law degrees or courses having application to cross-border trade and investment. This is because many international students have a preference for a field of study with business applications.
- Post-graduate programs which have a strong international law component are increasingly popular with students in Australia's traditional markets for international legal education and training and should be promoted and developed further.
- Linking schemes between Australian and overseas universities are very important to developing international cooperation in legal education in civil law and socialist legal system countries. Indonesia, Japan, China Thailand and Vietnam are countries that present worthwhile opportunities for these links. Taiwan and Korea may also offer opportunities.
- India appears to show considerable potential for international legal education and training services. Australia will need to develop its approach sensitively and carefully, however. Most students from India in Australia are undertaking MBA programs. Europe, North America and South Africa offer a small but potentially important demand for law in formal programs and short courses.
- In new and emerging international higher education opportunities, distance education presents scope in legal education for some in-country applications overseas, in collaboration with local training institutions. Study tourism also offers some opportunities for law in short duration programs.

Conclusions

- The last three years have seen many changes in the international higher education and international legal education and training environment. These range from increased demand and more competition to changes in the recognition status of Australian law degrees overseas. International student numbers are increasing in absolute and relative terms in Australia and are likely to continue to do so. International students taking law are also increasing, but at a less certain rate.
- Many dynamics will continue to affect international higher education and influence demand and opportunities. Some of these are largely or totally beyond Australia's control. The establishment of targeted Australian government programs and the AIEF to help develop, coordinate and direct Australia's responses to the international opportunities are positive developments for Australian law schools.
- Australian international legal education and training is relatively narrowly focussed on a small number of Asia Pacific countries with a similar common law legal system. These countries provide about 2/3 of all international students studying law in Australia, most of them at the undergraduate level. While this has provided benefits to all involved, it would

make sense for Australian law schools to broaden and deepen their participation in international legal education and training.

- Some markets for Australian legal education and training appear to be stable or diminishing; others are yet relatively unexplored. Fifteen categories of potential opportunity for Australian law schools and other providers of legal education and training services are identified in the conceptual model at the end of this summary. Specific opportunities are discussed in detail in the two case studies as well as other contributed papers in Part Two of this report.
- Malaysia is an established market which should benefit from an increased participation by one or more Australian law schools in areas such as twinning programs and the home-government sponsored market for international education. India and China are countries of potentially large demand which will require planning and a long-term commitment from Australia. Indonesia and Vietnam are two other such countries. Cooperative links between Australian law schools and university law schools overseas will also become more important. There appears to be scope for select joint endeavours overseas by Australian law schools.
- Australian university law schools will not be able to respond to all of the opportunities over the next decade and should try to target the international demand it is best able to meet. A well-coordinated, national Australian response to the opportunities will require development of a strategy acceptable to most of the Australian law schools which are active internationally. There should be a key role for the AIEF and the Committee of Australian Law Deans (CALD) in such a task.
- There is a need for more market research on the international demand for Australian legal education and training, which is largely beyond the individual resources of Australian law schools. There is also a need for improved and more detailed international student statistics and better comparability between data from government and universities in Australia.
- The export earnings from Australian international legal education and training are estimated by ILSAC to be about \$17 million in 1994. Although this export revenue is small in comparison to Australian international education as a whole, law makes a unique contribution to Australia's links with Asian and other countries and in international human resource development. The growth of the Asia Pacific region with emerging and sometimes rapidly changing legal systems presents an unparalleled opportunity for Australia to participate in and contribute to the development of these new systems of law. For these and other reasons, Australian international legal education and training should be encouraged.
- Australian law schools that have consciously planned and responded to the international legal education and training opportunities over a number of years can be shown to have succeeded in attracting significant numbers of international students. Benefits have accrued to the law school, Australian and international students, and academic staff. Several of the papers included in Part Two of this report reveal insights into the planning process.
- A well-defined Australian international legal education strategy adopted by internationally active Australian law schools could have potential value in determining approaches to recognition problems for Australian law degrees overseas, attracting Malaysian government-funded students into undergraduate programs in Australia, and perhaps, a significant legal education and training initiative in India or China, involving a consortium of Australian law

schools. Such a strategy may also enable more effective access to targeted government educational linking programs.

- Australia's competitive advantage in international legal education and training depends on the constructive interaction of Australian government departments and agencies, the law schools, law firms and members of the Australian legal profession. Bodies such as the Law Council of Australia and ILSAC can, and do, make a useful contribution. This interaction, together with a greater focus on strategic issues and a shared sense of national purpose should help to advance Australia's performance internationally in the important field of legal education and training.

In Students Home Country (1-15)

1) UTS delivers Business Law subjects to Taylors College in Malaysia which are included as part of a BBus. However, a BBus/LLB double degree is available through UTS although, as yet, there has been no intake. This category (1) includes distance education (from UK, Australia, etc).

2,3,4,5,6) Includes scope for distance education.

8) Scope for skills training (NSW College of Law has done work in Malaysian at MARA). Mallesons Stephen Jaques is undertaking a consultancy in Hong Kong (City University).

10) NUS -Stamford offers such courses in Singapore.

11) Scope for short courses in Indonesia and Singapore.

12) Melbourne University's Asian Law Centre has recently undertaken dispute resolution training at Chulalongkorn University, Thailand.

12) The International Development Law Institute (IDLI) based in Rome, has undertaken ad hoc courses in the Pacific (Vanuatu) and Asia (Vietnam, Laos & Cambodia) using Australian lawyers. Similarly, the Asia Foundation and Mekong Region Law Centre have also funded/ presented ad hoc courses (usually intensive, one week).

In Australia and Students Home Country (16-30)

16) Twinning schemes in Malaysia, e.g. Monash University at Sunway College (LLB or combined degrees); The University of Western Australia and Sunway College (an introductory law for non-lawyers unit); and the University of Technology, Sydney, and Taylor's College.

19) Scope to develop and market courses.

23) Wollongong University's Centre for Court Policy and Administration undertook an intensive Court Management Course in Singapore in 1995 which may lead to participants undertaking part of a Graduate Diploma program in Australia. There may be scope in Malaysia for judicial training and in Vietnam and Indonesia for other forms of legal skills training.

26) Scope for Vietnam, Laos, Indonesia.

29) Some interest by Indonesia (BAPPENAS) in work experience in Australia (firms and Govt. Depts.).

In Australia (31-45)

31) Most full-fee law students currently in Australia.

32) Fiji Govt. funded students at Bond University.

34) Japanese and US students undertake such courses.

35) Some enrolment in Bond University's " Introduction to the Common Law " offered annually.

37) Introduction of 'economic' fees and competition for places has reduced international

enrolments.

38) Some interest from Malaysia.

40) Includes 'study tourism'.

41) Indonesia Govt. has funded courses in Business law, Introduction to the Common Law, Maritime Law, etc).

42) Swedish International Development Agency has met costs of special purpose courses for lawyers from Vietnam.

43) Australian law firms meet costs of some work exp.

44) Interest from Indonesian Government/ Vietnam.

45) Vietnam secondments (UNDP and Mallesons) and Asian Development Bank study tours (eg China insolvency practitioners) by Blake Dawson Waldron.