

Uphill task to turn out good lawyers

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I don't want too many law schools here because the talent pool is limited.- LIM CHEE WEE

The high-level task force the Attorney-General and Bar Council are planning to set up to reform legal education faces a huge challenge.

FIVE years ago, former Federal Court judge Datuk Seri Gopal Sri Ram said that lawyers, most of whom graduated from local universities, ranged from “the good to the grotesque.”

This was two weeks after then de facto Law Minister Datuk Zaid Ibrahim told Parliament that the Certificate in Legal Practice (CLP) would be scrapped in favour of the Common Bar Course (CBC) and Common Bar Exam.

The CLP, which is supposed to arm foreign law graduates who do not have the English Bar qualification with sufficient legal knowledge from a procedural and practical aspect, was introduced in 1984.

It quickly became controversial as the overall pass rate began falling, hitting 43% in its 10th year.

Zaid's written answer also stated that a study by a committee appointed by the Legal Profession Qualifying Board (QP) on how to implement the move was in its final stages.

Three years later, Attorney-General Tan Sri Abdul Gani Patail announced that the QP, of which he is chairman, was considering a 20-month-long CBC and that a senior judge was chairing a working group to study its implementation.

Meanwhile, public and private universities continued to churn out hundreds of law graduates every year but the gap between what law firms wanted and the law graduates they were getting kept growing; the disparity in quality between law graduates became wider; and the number of law schools increased but with insufficient quality teachers.

Last week, Bar Council chairman Lim Chee Wee told *The Star* that the council and Gani were “extremely concerned” about the quality of law graduates and that a high-level task force to reform legal education would get under way.

Lim said the Malaysian Bar was the largest employer of law graduates, and the Attorney-General's Chambers was the largest employer of local law graduates.

The task force is expected to do more than fix a single-entry point to the legal profession for both local and foreign law graduates.

On Wednesday, Gani told reporters that it would also look into language proficiency, particularly English.

In tandem with the Government's Transformation Programme, the legal sector had to be transformed as well, he said.

“We want to do our part to ensure that Malaysia provides the best possible service in all sectors.”

According to Lim, there would be a bifurcation in the profession where those with poor skills in English would be stuck in general practice work where command of the language might not be perceived to be as important while the high value and sophisticated practice would be dominated by those who were proficient.

“Ten years ago, a People's Republic of China lawyer couldn't speak English. Today, he can, and he has done his Masters at an Ivy League or Oxbridge university,” he says, indicating that the problem was not insurmountable.

Currently, lawyers called to the Malaysian Bar are products of either local law schools, foreign law schools or local law schools offering foreign law programmes.

It's not surprising then that the Bar Council's recent Survey on the Employability of New Entrants to the Legal Profession showed 79% were agreeable to having a CBC.

Among their reasons were that the CBC would provide a standardised system of measurement, a level playing ground for all, and be an easier measurement of quality.

Steven Thiru, chairman of the Council's Ad-Hoc Committee on the CBC, says 21% were against a CBC but the survey did not ascertain their reasons.

According to the QB, the law schools providing local law programmes here are Universiti Malaya (UM), Universiti Kebangsaan Malaysia, International Islamic University, Universiti Teknologi Mara, Multimedia University (MMU) and Universiti Utara Malaysia (UUM).

The private colleges/universities offering foreign law degrees here are ATC, Brickfields Asia College, Crescendo International College, HELP University College, INTI International University, KDU University College, Nirwana College, PTPL College, SEGi University College, Stamford College, and Taylor's University College.

The law firms involved in the survey gave the thumbs-up to graduates doing foreign law programmes here or overseas, says Steven.

Importance to English

It's not surprising since their most important criteria for fresh law graduates are written/oral skills and proficiency in English; commitment to the law firm; communication skills; and knowledge of the law.

While some local law graduates were rated "high quality" and "very high quality", most came off poorly, says Steven.

"Foreign law graduates, with and without CLP, scored well on most of the attributes considered important. But they fell short of the expectations with respect to knowledge of the law and commitment to the firm."

More than 50% of the local law graduates were rated high in written/oral skill in Bahasa Malaysia but this was not considered important to employers, he adds.

Is the problem due to the graduates or the law schools?

"There has been a proliferation of law schools because of the low cost structure and prestige in having a law school, which involves merely setting up classrooms," opines Lim.

"That is why we have institutions like UUM, MMU and Universiti Sultan Zainal Abidin (UnisSZA) setting up law schools before seeking recognition from the QB."

He says the common problem the new institutions faced was lack of good law teachers.

"The QB assessed the programmes and received feedback from graduates/students that, sometimes, they knew more law or spoke better English than the lecturers/teachers!"

"I don't want too many law schools here because the talent pool is limited.

"Malaysia has great legal scholars such as Shad Faruqi, Gurdial Singh Nijar, Azmi Sharom, Khaw Lake Tee and Grace Xavier, but we need more and the government needs to focus resources on this capacity building."

Lim suggests that Malaysia recruit foreign talent, citing the National University of Singapore whose dean of law is Australian, and the Singapore Management University, whose deputy dean is a foreigner.

He adds that the lack of talent was a lesser problem in private institutions but notes that they have "a bias towards ensuring good grades instead of good law graduates."

As for what shape the CBC will take, the Bar has studied various models over the last two decades.

The first principle should be that the CBC would serve as a single-entry point into the legal profession in Malaysia regardless of where the undergraduate degree was obtained, says Steven.

There could be a list of recognised universities and colleges determined by the QB, he adds.

“We have been looking at a system of continually assessing the standard of all public universities and private law schools for the purpose of recognition for the CBC.

“This will mean, for example, that if UM does not maintain its standards as a feeder law school for the CBC, their graduates will be prohibited from sitting for the CBC.”

Steven says a revolutionary feature of their proposal was for the CBC “to run parallel with pupillage, that is, the student-at-law undertakes the CBC on a full-time basis in the first three semesters.”

“They will then begin their pupillage and continue with semesters four and five of the CBC on a part-time basis.”

For now, Lim is encouraging public universities to invite the council to nominate senior lawyers and retired judges to sit on an Advisory Council.

With regular engagement, law schools would immediately know the shortcomings and weaknesses as perceived by the profession and employers, and how to overcome them, he says.