

# *The study of law at the University of the South Pacific*

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*A number of developments of interest to the countries of the South Pacific are currently taking place at the University of the South Pacific. In this paper two lawyers who have had some involvement with those developments provide a brief report on what is happening.*

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## **I THE BACKGROUND**

The University of the South Pacific was established in 1969 with its main campus in Suva, Fiji. It was basically to provide education for teachers and public administrators. Consequently the first courses taught were designed to meet the needs of teachers and of public officials.

The University is special - perhaps unique - for a number of reasons. It is, first and foremost, a regional University serving 12 states and territories of the Pacific area. The region is vast and communication within it is complicated by distance and lack of infrastructure. To meet the needs of the region the University has established centres in all its member states and territories and, in addition to the large metropolitan Suva campus which provides education and research opportunities in a traditional face-to-face teaching and mentoring mode, there is a substantial distance education system, to cope principally with the needs of those who are scattered through the region, in distant and out of the way places.

Over the years economic and social developments in the South Pacific region drew attention to particular business and economic needs in both the public and private sectors, and University programmes were developed to deal with these needs.

The latest development has been in the field of legal studies. Until very recently, academic law training was provided for the peoples of the region in law schools outside the region. The closest law schools are situated in the countries on the rim of the Pacific, particularly Australia, Papua New Guinea, and New Zealand. For historical and practical reasons the most suitable law training was in the law school of a Commonwealth country and therefore students who did not go to Papua New Guinea, Australia or New Zealand for their training typically went to the United Kingdom rather than to a law school in the United States of America. The colonial tradition persisted

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not only in terms of the systems of law themselves but also in the inherited rules relating to the admission of practitioners.

Now the needs for law studies have become very clear. Though on a population basis the region does not need a large number of lawyers, it does need lawyers, and many of the newly independent states continue to operate their legal and judicial services only because of assistance from expatriate lawyers, many of whom come to the region for short periods of time from a variety of legal backgrounds as part of various international aid programmes. There is a relatively small but real and continuing need for the training of local lawyers. There has also been, with independence, a very clear indication of need in almost all states of the Pacific for people with skills in a number of specialist law areas - nearly all being areas where there is a world shortage of expertise - in particular, legislative drafting; international law and international relations as it affects the law of the sea, natural resources, air and sea transport; and international trade.

The pressures have built up for something to be done within the region. There is a shortage of lawyers; the specialists needed are in short supply internationally, and additionally lawyers trained outside the region are not immediately suited to the work in their home states because of the different informational content of the law they have studied. There is also a need to generate local legal materials and to have personnel available who can be responsible for seeing that the primary source materials are available - and available in an accurate form. This is vital both to the protection of human rights which is of prime interest in the region today and, more specifically, in terms of access to justice for the local peoples. Further pressure is created because apart from the informational content of law training, the Pacific needs people who have a training which is sensitive to the cultural environment in which the Pacific laws work. Finally, there is a shortage of spaces in law schools outside the region. In the last few years because of domestic competition for places in law schools in, for instance, Australia and New Zealand student places are not readily available for people from outside those countries. Where they are available, the costs are high, in Pacific terms.

The responses of the University of the South Pacific in the circumstances have been various. The University has early taken an interest in providing in-service courses for Government officials, paralegals, lay magistrates and the like.

## II DEVELOPMENT OF LAW PROGRAMMES

In 1985 it went further, and introduced a law certificate course taught from the then newly established Pacific Law Unit on the University campus in Port Vila, Vanuatu. Not long afterwards, a Diploma in Legal Studies was added to the certificate course. Over the years the University has also, through the Pacific Studies Institute, published materials dealing with legal problems in the region, and particularly with the land and land tenure systems of the various countries. Finally, in October 1991, the Council of the University of the South Pacific approved a proposal for a 4 year LLB programme to be taught from the Pacific Law Unit in Vanuatu from facilities which the Government of Vanuatu offered to provide.

Following that decision the University Senate held a Law Curriculum Workshop in Vanuatu in March 1991 to obtain advice on a suitable curriculum for the law degree. That workshop was attended by 24 people, who included representatives of the University, and of the member countries of the University, being Judges, Government lawyers and members of the practising profession. Additionally, there were six consultants from outside the region: four professors from Commonwealth Law Schools, two professors from the French University of the Pacific, and two lawyers from the United Kingdom. The workshop was chaired by Mr Neroni Slade, then Assistant Director of Legal Division of the Commonwealth Secretariat, London. At the end of the four-day workshop a curriculum proposal was settled and the syllabus for each subject agreed upon. The recommendations were, with minor modification, approved by the Board of Studies of the School of Social and Economic Development of the University of the South Pacific in June 1992. It was intended that law degree teaching begin in 1993, but for logistical reasons the commencement of the LLB programme was postponed till 1994.

The other response of the University to the law teaching need was an indirect one. A number of the other degree courses taught by the University included degree courses in law for non-lawyers, eg the courses on corporation law and insolvency law in the degree programmes for accountants.

The law courses offered by the Pacific Law Unit for the certificate and diplomas in legal studies were reviewed in 1988 for the University by Professor TE Cain of the Queensland University of Technology. In the context of the introduction of the LLB degree the University decided in 1992 that it would be desirable for those programmes to be reviewed again to consider whether they could be upgraded or otherwise used in the proposed LLB degree; whether the two programmes should or could be revised to conform to other University developments; and also whether law courses currently taught at degree level in other Departments of the University could be used in the proposed LLB degree or, alternatively, whether courses from the LLB degree could be used in other Departments of the University. Professors AH Angelo (New Zealand) and J Goldring (Australia) were appointed as consultants for this task and their report was presented to the Vice-Chancellor of the University on 24 November 1992.

The current position as to law studies at the University of the South Pacific is that a number of in-course training programmes at non-degree level are provided for the region as and when required. There is also a Certificate in Legal Studies programme which has the following requirements:

- SE C01 Introduction to Law (Compulsory)
- SE C02 Introduction to the Constitution (Compulsory)
- AND Three of the following:
- SE C03 Contracts
- SE C04 Torts
- SE C06 Land Law
- SE C07 Criminal Law and Practice
- SE C08 Civil Procedure
- SE C09 Evidence

- SE C10 Administrative Law
- SE C11 Criminal Procedure
- SE C13 Family Law
- SE C15 Planning Law
- SE C16 Custom and Customary Law

The Diploma in Legal Studies programme builds on the certificate requirements by adding five courses as follows:

- SE C01 Introduction to Law (Compulsory)
- SE C02 Introduction to the Constitution (Compulsory)
- AND Eight of the following:
  - SE C03 Contracts
  - SE C04 Torts
  - SE C06 Land Law
  - SE C07 Criminal Law
  - SE C08 Civil Procedure
  - SE C09 Evidence
  - SE C10 Administrative Law
  - SE C11 Criminal Procedure
  - SE C13 Family Law
  - SE C15 Planning Law
  - SE C16 Custom and Customary Law

Enrolments in Certificate and Diploma courses are principally, but not exclusively, from students in the Pacific islands. Many are magistrates, police, court and land administration officials. Since 1987 students have been from 18 different countries. Course enrolments are about 600 per year.

From 1994 there is also the four year LLB programme of which the main features are:

- YEAR I consists mainly of non-law courses, with compulsory courses in English, History, Land Tenure and Sociology to ensure that students have an adequate understanding of their own societies and also sufficient strength in the language in which the laws are expressed. There are also two compulsory introductory courses in law.
- YEAR II comprises an introductory course in Legal Research and Writing, and four "core" law subjects of Contracts, Criminal Law, Public Law and Torts, which are all compulsory.
- YEAR III includes more "core" subjects of Property, Equity Trusts and Succession, and Legal Drafting, and the remainder are optional subjects which a student can choose to suit his or her own career needs. An extensive range of optional subjects is provided, and counselling will be available to assist students select appropriate combination of subjects.
- YEAR IV consists of one compulsory subject on Current Developments in Pacific Law and the remaining subjects are optional and may be selected to suit the future requirements of individual students. Again an extensive range of

optional subjects are available, and counselling will assist students to select appropriate combination of subjects.

The detailed curriculum of USP Law Degree is set out in the Appendix.

The consultants in 1992 concluded that the Certificate and Diploma courses were of high quality and assessed at appropriate standards for their purpose. They were impressed by the quality and teaching of the law courses on the Laucala campus. They were also of the view that the LLB courses had their own specific needs and character and that therefore there was little possibility for merging of programmes across the Certificate, Diploma, non-law degree, and law degree programmes.

The immediate task of the University in preparation for the beginning of the LLB degree in 1994 is the strengthening of the law holdings in the libraries in the region, particularly on the Suva and Port Vila campuses, and the appointment of more law staff for the teaching of the LLB and Certificate and Diploma programmes.

### **III 1994 AND BEYOND**

There is a clear need in the region for local law studies and in particular for the LLB degree that the University of the South Pacific will offer. Further, the University is ideally situated, with its two attractive campuses in Suva and Vila, to provide that training, subject only to recruiting suitable staff and building up the Law Library collection. Quite apart from the meeting of a practical need of the region, the LLB degree programme at the University of the South Pacific presents a number of exciting prospects in terms of the development of law within the region and also for developing the knowledge of the international community about the law of the Pacific.

The law degree, its staff and students will generate much material of interest to scholars and law reformers elsewhere in the world. The Pacific provides a virgin field for research, the University has a well motivated and interesting body of students with a unique cultural background, and there is the possibility for the University to integrate itself into, and make its contribution to, the international community of lawyers and scholars through staff and student exchanges, joint publications and the organising of specialist regional conferences.

The developments at the University of the South Pacific are much to be welcomed and will be watched with great interest by the local and international legal community.

## APPENDIX

## USP LLB DEGREE CURRICULUM

## FIRST YEAR - 8 COURSES

*(compulsory)*

- LA 100 Legal Systems I
- LA 101 Legal Systems II
- LL 114 English for Academic Purposes (unless exempted)
- SO 100 Study of Society
- SE 103 Principles and Problems of Land Tenure

*Any one of*

- HP 100 Introduction to Politics
- HP 101 Government and Public Policy in the South Pacific
- HP 102 Contemporary History

*Optional*

Any 2 courses in USP/BA, B.Ed. or B.Sc programme

## SECOND YEAR - 9 COURSES

*(compulsory)*

- LA 200 Legal Research and Writing
- LA 201 Contracts I
- LA 202 Contracts II
- LA 203 Torts I
- LA 204 Torts II
- LA 205 Criminal Law and Procedure I
- LA 206 Criminal Law and Procedure II
- LA 207 Public Law I
- LA 208 Public Law II

## THIRD YEAR - 8 COURSES

*(compulsory)*

- LA 300 Property Law I
- LA 301 Property Law II
- LA 302 Equity Trusts and Succession I
- LA 303 Equity Trusts and Succession II
- LA 304 Legal Drafting

*Optional*

Any 3 of the prescribed optional courses set out below

## FOURTH YEAR - 8 COURSES

*(compulsory)*

- LA 305 Current Developments in Pacific Law

*Optional*

Any of the prescribed optional courses set out below

*Prescribed Optional Courses*

- LA 306 Family Law
- LA 307 Pacific Land Tenures
- LA 308 Associations Law I
- LA 309 Associations Law II
- LA 310 Evidence
- LA 311 Civil Procedure and Dispute Resolution
- LA 312 Public International Law
- LA 313 Commercial Law
- LA 314 Foreign Trade and Investment Law
- LA 315 Revenue and Taxation Law
- LA 316 Transport Law
- LA 317 Labour Law
- LA 318 Comparative Legal Systems
- LA 319 Conflict of Laws
- LA 320 Natural Resources Law
- LA 321 Environmental Law
- LA 322 Customary Law
- LA 323 French Commercial Law
- LA 324 European Community Law relating to the Pacific
- LA 325 Personal Rights
- LA 326 Research Project
- UU 302 Ocean Law and Policy