



PRESS STATEMENT

[23 November 2017]

The CHE's National Review of the LLB.

The CHE undertook a review of the LLB programme across the 17 Universities that offer it. While this was a process that began in 2013, it culminated in a set of outcomes emanating from the review undertaken by the CHE during 2016, and communicated to the universities in April this year. A further set of outcomes based on the improvement plans of institutions flowed from decisions by the Higher Education Quality Committee (HEQC) on 09 November 2017. During the process of communicating these outcomes to the institutions, and their communicating them to their staff and students, considerable media interest has been ignited in the matter. This has led to the current tumult, characterised by wanton attacks on the CHE and its quality assurance (QA) processes in instances. The objective of this statement is to provide a factual basis for reflection and comment on the matter.

The CHE is the Quality Council for higher education in South Africa, deriving its mandate from the Higher Education Act and the National Qualifications Framework Act. While it has a range of functions, the central one is that of quality assurance. In practice, this entails accreditation of all programmes offered at both public and private higher education institutions, quality audits of institutions, and national reviews of programmes across the sector. Quality assurance is vitally important to ensure that students' interests are protected, that they graduate with the requisite compendium of skills and capabilities, that their qualifications have worth and secure them employment, and that the public receives value in terms of its own aspirations and priorities and expectations from higher education institutions. These functions are all the more important given that an enormous amount of public resources are used to support universities. For quality assurance processes to be credible, they must be demonstrably even-handed and fair, and conducted without fear or favour.

All institutions generally accept the role and value of sectoral level quality assurance processes. CHE QA processes are dependent on peer expertise (mostly drawn from the universities themselves) to conduct evaluations, as peer review is an internationally entrenched mechanism for upholding quality standards in academia. If an institution's programme is found to have shortcomings, it is as a result of a rigorous peer review system adopted by the CHE.

Feedback to institutions is critical in identifying weaknesses in programmes and then ensuring that action is taken to improve a programme. In such cases, a programme is given accreditation with conditions - either short or long term. A further review is undertaken after six months. If it is found that the institution has not addressed the improvement imperatives, the programme is put on notice of withdrawal and given a further six months to effect the required remedial action. Should the institution fail to effect such action during this period, accreditation is withdrawn. This means that the institution cannot offer the programme any more, and will have to re-apply for accreditation from scratch with a new submission.

The LLB review began with extensive deliberations between the CHE and the South African Law Deans Association on a potential national review of the LLB. The legal professions represented by the Law Society of South Africa and the General Bar Council reiterated the need for the review. The next step was the development of a national qualification standard for the LLB. This was done by

identifying a group of highly experienced and accomplished law academics and experts who drafted the standard for the LLB in wide consultation with the universities and the professions so that it could be used as a credible measure. Once finalised, the LLBs at all 17 institutions offering them were evaluated by peers from the legal academic community, overseen by the CHE.

None of the 17 LLB programmes on offer at South African higher education institutions received full accreditation from the review process which concluded in March 2017. Each and every one had some improvements to implement to a lesser or greater degree, and were given until 06 October 2017 to attend to them.

A selection of the issues identified relate to curriculum design and the compendium of skills and capabilities intended to be developed in the programme, which did not measure up to the standard in some programmes. Others were not satisfactory in their horizontal and vertical progression. Some offering the programme did not have adequate staffing (or staff of appropriate seniority), sufficient learning resources, or suitable infrastructure. Instances of a bias towards rote learning were found.

Central to the standard against which the individual programmes were evaluated was the ideal of “transformative constitutionalism”, stemming from the premise that legal education, as a public good, should be responsive to the needs of the economy, the legal profession and broader society. From a transformative standpoint, a programme is required to demonstrate how it cultivates the capacity, agency and accountability of the legal practitioner in shaping the legal system, and promoting the social justice goals of fairness, legitimacy and equity in the legal system.

All programmes had to effect improvements following the review process. Each institution was given a detailed report by the CHE on the shortcomings in their improvement plans that needed attention. Those with a few conditions to meet were re-accredited subject to those conditions being met within the specified period. Those programmes with serious shortcomings were immediately placed on notice of withdrawal and also given a specified time period within which to implement the short term remedies, failing which accreditation would be withdrawn as the next step. Longer term remedies would be monitored by the HEQC into the future.

If an institution is now put on notice of withdrawal (after having been given conditional accreditation in the March process), it would signify that it has not demonstrably attended to the short term improvements required. The institution is now given a further six months (until May 2018) to address these. Failure to do so may well result in the withdrawal of accreditation. Any institution in this position would be advised to give careful and due attention to the required actions in order to avoid this consequence. The Council on Higher Education undertakes its functions in a professional, rigorous and fair manner in both public and private higher education as required by the legislation governing its existence.

Prof Narend Baijnath

CEO

On Behalf of the Council on Higher Education

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