

Law and Development

at the University of Windsor, Faculty of Lawⁱ

From its earliest days, the University of Windsor, Faculty of Law, has played a strong role in the development of international scholarship and collaboration in the area of law and development.

From the beginning, Dean Walter S. Tarnopolsky, who, from 1977-1983ⁱⁱ worked for the United Nations Human Rights Committee, was interested in international development.ⁱⁱⁱ

To that end, in 1970, Professor Lakshman Marasinghe was hired as a faculty member. Professor Marasinghe had spent some time at several English universities in Africa. During his tenure at the University of Windsor, Professor Marasinghe was a scholar at the Max-Planck Institute for Foreign and Private International Law several times, and was the very first General Editor of the new journal entitled *Third World Legal Studies*. He remained a long-standing member of its Editorial Board. He was a member of the Board of Directors and Vice-President of the *Third World Legal Studies Association*.

Early on, Tarnopolsky encouraged Professor Marasinghe to contact Dr. Frank Snyder, a Professor at Osgoode Hall who had previously taught at French universities in Africa. Snyder and Marasinghe, with the assistance of Windsor Law Professor Doug Sanders, created the very first course in Law and Development at the University of Windsor. The first course was offered in 1972/73, and was taught jointly by Marasinghe and Snyder at both Osgoode and Windsor.^{iv}

This course focussed on the reception of foreign laws by legal systems and the use of common law and civil law systems in former colonial territories. It explored the problems encountered in family law, wills, and criminal law as a result of foreign law reception. Legal Theory, in all its aspects figured prominently in this course. Windsor was a leader among Ontario law schools in developing this area of its curriculum.

For several years, there was an active Faculty discussion club on legal theory, which included discussions on legal trends and developments. Several papers by members of the club were also published. Also, in the spring of 1976, a new Law & Development Committee of Faculty Council was formed. Professors Marasinghe, Menezes and Conklin were the original members.^v

Professor Marasinghe also organized fourteen Annual Symposia on Law and Development. The symposia, which made special reference to emerging and developing nations, were held at the Faculty of Law since December 8, 1972^{vi}. The themes have varied from "Famine and the Legal Order"^{vii} to discussions of the problems of particular developing nations such as Ethiopia and Sri Lanka, to "Law and Alternate Strategies for Development". In 1988 the focus was on "Funding Agencies for International Development". On November 13, 1979 the Director of the Southeast Asian Studies program from Singapore visited the law school to present a special lecture on Vietnam. The lecture was arranged by the International Development and Research Council and Professor Marasinghe.^{viii} April 7-8, 1989, the Faculty of Law hosted a Symposium on Teaching Law and Development.^{ix} In 1990 the theme of the Symposium was "Disarmament, Demilitarization and Development."

Regular participants of these Symposia eminent scholars, lawyers, politicians, economists and anthropologists from the United States, Britain, Europe, Canada and those from Third World countries. Some of the speakers over the years were: His Excellency Dr. H.W. Tambiah, High Commissioner for Sri Lanka in Canada, Dr. Francis Snyder, Osgoode Hall Law School; Professor J.C.N. Paul, Director of Research of the International Legal Centre, New York; Professor V.S. MacKinnon, Joseph Atkinson College of York University; Dr. Archie Singham (University of Michigan and of Howard University, Washington); UN Under-Secretary for Disarmament Jayantha Dhanapala, Ms. Asma Jilani Jahangir, founding member of the Human Rights Commission of Pakistan and several other African and Asian Scholars.

The symposia were well-known among scholars in this emerging field of study, and were very important for the production of papers, for the

general exchange of ideas and as teaching vehicles. The themes of the annual conferences were tied to the law school's focus on Access to Justice.

"As Dean Ianni was once to say in his jocular manner, 'the faculty provided Wine, while External Affairs (Ottawa), the Center for Law in Aid of Development (New York) and the British High Commission (Ottawa) provided the air tickets and money.' Once a system was established, funding was quite smooth."

Professor Lakshman Marasinghe

The Faculty of Law at the University of Windsor played an important role in the development of international scholarship in this field. Professor Marasinghe was actively involved in two organizations in the late 1970s and early 1980s which served as important catalysts for this area of scholarly thought: the International Center for Law in Development, and the African Law Association in America.

A working paper was prepared by the International Center for Law in Development in 1980. Two international seminars were developed around this working paper:

"The first seminar, held in December, 1980, was cosponsored, under Yash Ghai's direction, by the Legal Research Institute of the School of Law of the University of Warwick. The second, held in March 1981, was cosponsored, under my direction, by the Faculty of Law of the University of Windsor."^x

In 1982, the African Law Association in America renamed itself and became the International Third World Legal Studies Association.^{xi}

"Its principal purpose will be to aid understanding of problems which are widely shared by people in the third world -- notably problems arising from conditions of underdevelopment and dependency, impoverishment, exclusion and sometimes oppression. It will seek to facilitate understanding of how law in its different forms -- state

law, international norms and non-state laws-- may contribute to the making of these conditions or their redress."^{xii}

In 1982, the members of the newly re-formed International Third World Legal Studies Association decided to publish an annual publication. Its first volume featured the two papers presented at the 1980 and 1981 I.C.L.D. seminars, as well as the scholarly writings of the Association's members. As General Editor of that first volume (continuing until 1987), Professor Marasinghe wrote:

"We hope that each year Third World Legal Studies will contain symposia reflecting international collaboration, comparative perspectives and interdisciplinary approaches to our field of study. ...we hope this publication will respond to the needs of growing numbers of lawyers, particularly those in the third world, who are becoming more engaged -- not only as teachers and scholars, but as activists -- in "law in development" work which seeks social justice for people who are poor and oppressed. ..we hope that Third World Legal Studies can help to provide a kind of legal literature which is needed in both intellectual and operational settings."^{xiii}

In 1989, Dean Neil Gold created an ad hoc committee which consisted of Professors Marasinghe, Wilson and Menezes to consider the creation of a formal Centre for Law in Aid of Development at the University of Windsor.^{xiv} The centre was established at the December 8, 1989 meeting of Faculty Council, at which the ad hoc committee's report was adopted.^{xv}

The mission of the Centre for Law in Aid of Development was articulated as follows:

- "1. To advise Faculty Council of the Faculty of Law on needs and resources relating to "Law in Aid of Development."
2. In co-operation with the University of Windsor Institute for International Development Studies, seek funding for research publication and teaching in Law & Development.

3. Negotiate proposals with educational entities in the Third World for co-operative programs to be presented to Council for approval.
4. Subject to non-interference with the Annual Symposium on Law & Development, which is understood to be part of the course in Law & Development, to negotiate proposals for joint workshops, conferences and symposia on Law & Development for presentation to Faculty Council for approval.
5. To initiate funding and student exchanges or visits between the University of Windsor and Third World Universities."^{xvi}

The proposal indicated that the Centre would be directed by a Board of seven members, consisting of five faculty, one student, and a nominee from the University of Windsor Institute for International Development Studies. Faculty Council was directed to appoint an Executive Director, who would undertake the implementation of the Centre's programs. The Executive Director would serve for two years, along with an Assistant Director, who would take up the role of Executive Director once the previous term had expired.^{xvii}

The first faculty members of the Board were nominated at Faculty Council on January 19, 1990. The first Board was comprised of Professors Irish, Marasinghe, Moon, Menezes and West. Professor Moon was appointed Executive Director at that time.^{xviii}

The first initiative of the Centre was to sponsor a conference at Cumberland Lodge, Windsor Great Park, England. The topic was "Law and Development for the 1990's". The conference took place in the spring of 1990.^{xix}

In November of 1990, Dolores Blonde was appointed Executive Director of C.L.A.D., and Brian Mazer was made a member of the Board, in anticipation of the impending leave of absence of Professor Moon.^{xx}

In 1992, C.L.A.D. expanded its membership to include Professors Etherington and Valiante, along with Dr. David Wurfel, Chris Gora and

Andrew Pinto.^{xxi} The 12th C.L.A.D. Symposium took place from March 12 - 14th of that year.^{xxii}

In 1995, C.L.A.D. held a Law and Development Awareness Week.^{xxiii} C.L.A.D. also invited speaker Maria Dakolias of the World Bank to speak on October 30, 1995.^{xxiv}

In 1995/97 the law calendar mentions for the first time a new Law and Development Association student group.

One very distinguished alumnus was Father Micheal Onwuemeli, C.S.Sp., a Roman Catholic priest from Nigeria. He took the course as part of his LL.B degree (Class of 1986) and then pursued an LL.M in England in Law and Development. He is now the Assistant General Councillor for the Holy Ghost fathers in the Vatican.^{xxv}

On March 24, 2001, C.L.A.D. organized a presentation on the topic of "Sanctions Against Iraq, International Law and Canadian Foreign Policy: the Search for Viable Alternatives."^{xxvi}

Also in 2001, Professor Paul Ocheje joined the faculty. Soon after his arrival, Professor Ocheje, who is a Barrister and Solicitor of the Supreme Court of Nigeria, and an active scholar in the field, took on an important leadership role in further developing C.L.A.D..

On October 20 - 21, 2005, C.L.A.D. organized a Symposium on "Human Rights and Development." The keynote speaker was Professor Clarence Dias.^{xxvii}

In the spring of 2006, C.L.A.D. was incorporated into the new Centre for Transnational Law and Justice at the Faculty of Law.^{xxviii}

ⁱ This piece was compiled by Annette L. Demers, BA LLB MLIS, Reference Librarian at the Paul Martin Law Library at the University of Windsor, with the advice of Professor Emeritus Lakshman Marasinghe. It forms a portion of the larger work by Ms. Demers entitled: A History of the University of Windsor, Faculty of Law, 2008.

ⁱⁱ See Library and Archives Canada. Walter Surma Tarnopolsky fonds, archival description available online at: <http://www.archivescanada.ca/>

ⁱⁱⁱ Email from M. Lakshman Marasinghe, to Annette Demers dated April 3, 2008.

^{iv} Email from M. Lakshman Marasinghe, to Annette Demers dated April 3, 2008.

^v University of Windsor, Faculty of Law. Faculty Council Minutes. April 15, 1976, supplemental list of standing committees.

^{vi} University of Windsor, Faculty of Law. Faculty Council Minutes. December 1, 1972, page 3.

^{vii} The papers that resulted from this symposium are available in the Paul Martin Law Library, entered as follows: M. Lakshman Marasinghe and Julio Menezes, Food, Famine and the Legal Order: Proceedings. Symposium on Law and Development. (University of Windsor: 1977).

^{viii} University of Windsor, Faculty of Law. Faculty Council Minutes. October 17, 1979, page 3.

^{ix} University of Windsor, Faculty of Law. Faculty Council Minutes. March 17, 1989, page 4.

^x M. Lakshman Marasinghe, *Introducing Third World Legal Studies*. (1982) Third World Legal Studies, iii at iii and iv.

^{xi} A. Peter Mutharika, *Foreword: Introducing INTWORLSA*. (1982) Third World Legal Studies, i.

^{xii} *Ibid*.

^{xiii} Marasinghe, *supra* note x at iii.

^{xiv} University of Windsor, Faculty of Law. Faculty Council Minutes. June 2, 1989, page 2.

^{xv} University of Windsor, Faculty of Law. Faculty Council Minutes. December 8, 1989, page 3.

See also the ad hoc committee report of October 30, 1989, and the revised draft proposal of December 5, 1989 in the same volume.

^{xvi} University of Windsor, Faculty of Law. Faculty Council Minutes. Centre for Law in Aid of Development proposal dated December 5, 1989.

^{xvii} *Ibid*.

^{xviii} University of Windsor, Faculty of Law. Faculty Council Minutes. January 19, 1990, page 4.

^{xix} University of Windsor, Faculty of Law. Faculty Council Minutes. March 16, 1990, page 3.

^{xx} University of Windsor, Faculty of Law. Faculty Council Minutes. November 9, 1990, page 2.

^{xxi} University of Windsor, Faculty of Law. Faculty Council Minutes. November 1, 1991, page 5.

^{xxii} University of Windsor, Faculty of Law. Faculty Council Minutes. January 17, 1992, page 4.

^{xxiii} University of Windsor, Faculty of Law. Faculty Council Minutes. February 20, 1995, page 1.

^{xxiv} University of Windsor, Faculty of Law. Faculty Council Minutes. October 11, 1995, page 3.

^{xxv} Email from Professor Julio Menezes, April 7, 2008.

^{xxvi} University of Windsor, Faculty of Law. Faculty Council Minutes. March 14, 2001, page 3.

^{xxvii} University of Windsor, Faculty of Law. Faculty Council Minutes. October 19, 2005, Agenda page 2.

^{xxviii} University of Windsor, Faculty of Law. Faculty Council Minutes. April 10, 2006, Minutes of the C.A.R.C. meeting.