

Planning an overseas legal career

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urges students to analyse their choices and plan their futures

There are many reasons why lawyers go overseas; adventure and change are two of them. You could say (doubtless with a straight face) that we first encounter the "Wild Wood" at law school or in practice. The "Wild World" comes after the Wild Wood and its call — as Kenneth Grahame writes in the childhood classic, *The Wind in the Willows* (1908) — is strong indeed. (To this extent, I am writing for those who take the adventure — wayfarers' all.) In this article, it is assumed the "call of the South" is a key factor in the decision to go overseas; the central focus is accordingly on the strategy of overseas legal career planning. Of course, going overseas is never for the faint-hearted and holding your nerve when things go wrong — as they inevitably do — is critical. The New Zealand novelist, Ruth Park, had this to say about her departure to Australia in a flying boat in the 1940s:

Thereafter I took for my banner those words Harry Tawhai had brought to mind: *He toa piki pari ma te pari*. He who climbs a cliff may die on the cliff, so what? Always a risk-taker by nature, now I became one by intent: R. Park, *A Fence Around the Cuckoo* (1992), 293.

As we shall see, the key words in the quotation from Ruth Park are "by intent" because they alert us to the importance of strategic planning for an overseas legal career.

This article is a revised and updated version of "The Legal OE" [2000] NZLJ 436. The 2000 version of the article grew from my experience as a law teacher at Canterbury University School of Law in the mid-1990s. Because of the economic climate prevailing at that time, I found myself regularly giving advice to former law students who were leaving New Zealand to seek legal opportunities overseas. I later formalised the advice in writing and the 2000 NZLJ article was the result.

The 2000 NZLJ article proved popular with law students and younger solicitors seeking to study or practise law offshore. The reason is straightforward: the subject matter speaks directly to self-interest. For this and other good reasons, I present an Australian version of this analysis to first year law students at La Trobe University School of Law in Melbourne annually. There is a good case for including this presentation at first year in law school because it starts law students thinking about the trajectory of their legal careers at an early stage thereby enabling a degree of forward planning.

It is now five years since the original NZLJ article was published so an update seems timely. (Once again I have been greatly assisted by comments from an outstanding

group of my former Canterbury University law students whose names appear at the end of next month's article.) Over that time, however, three main developments stand out. First, since 2000 we have experienced a pronounced and compressed "boom to bust to boom" wave in the business cycle. A key consequential lesson is that, as regards offshore options, legal career planning must be even more sensitive to the wave pattern of the business cycle. There is little to be gained moving offshore if the market is not hiring. Hence, while a move to the US in the buoyant economy of the late 1990s was feasible, a move after the "tech wreck" of March 2000 and the terrorist attacks of 11 September 2001 was more difficult. A similar point applies to the UK legal services market which nose-dived in 2001-2002: see *Lawyers Weekly*, 22 July 2005, 13. Second, we need to consider the rise of China and the resurgence of the East-Asian economies post their 1997-1998 financial crises. For this reason, I have ranked two Asian jurisdictions (Singapore and Hong Kong) slightly ahead of the UK as potential overseas destinations. Third, there is now a great deal of quality intelligence on the global market for legal services. So, for example, the New Zealand legal services market was analysed in *Australasian Legal Business*, Issue 2.10 (2004). The Australian publication, *Lawyers Weekly* www.lawyersweekly.com.au and its New Zealand counterpart, *NZ Lawyer*, now offer regular updates on the state of the legal services market offshore; see, for example, "The London Report: The Capital's Calling", *Lawyers Weekly*, 15 July 2005, 16.

The first part of this article discusses the general problem — the lack of a legal career strategy as regards overseas options. The second part sketches a way of using the tools of corporate strategy to create a personal strategic plan to address overseas legal career options; the third part introduces strategic analysis for the individual. The fourth part of the article looks at the question of strategic choice. Overseas destinations such as Australia, UK, US and Asia are examined in next month's piece, and some issues regarding strategic implementation are assessed with particular reference to the US.

LACK OF CAREER STRATEGY

Few New Zealand law students focus on any medium-to-long term career strategies during the first years of law studies. Interest grows in the last two years of university study when law students interview for summer clerkships and first year associate positions in New Zealand. However, there is little collective student or "institutional" memory about overseas options because there is no

recording. (This article is an attempt to remedy that deficit.) Knowledge about offshore options can arise within a given law school year but, because there is no recording mechanism or other means of transmission, such knowledge has a limited shelf life. By contrast, information is more readily available in the US and Australia.

Law degrees in Commonwealth countries follow a broadly similar pattern; however, law is always a post-graduate degree in the US. After gaining an undergraduate degree, US students sit the Law School Admission Test (LSAT) for entry to a Juris Doctor (JD) degree programme, three years of law studies broadly equivalent to the LLB in New Zealand. From first year onwards, US law students are thinking about career paths. One compelling reason is the level of debt assumed by US law students to finance their law studies. (A "ball park" figure is US\$150,000.) In any event, there is abundant institutional memory amongst US law students about global career options via handbooks and in-school career services operations (most big US law schools operate in-house employment units): see R Montauk *How to Get into the Top Law Schools* (New York: Prentice Hall, 2004).

In Australia, Dolman Legal Search and Recruitment has a website which gives basic data on the move to Australia (for New Zealand lawyers) and career moves to London, New York, Hong Kong and Singapore for Australians: see www.dolman.com.au or email dolman@dolman.com.au. Similar intelligence can be found in Taylor Root, *Guide to Working Overseas* (2005): see www.taylorroot.com.au. This information does not appear to be widely known among New Zealand or Australian law students.

Information about offshore options, however, is not sufficient on its own. Information must be deployed in a meaningful fashion. In short, a strategy is required.

STRATEGY

Strategy is a subject taught in business schools where the obvious focus is on corporate strategy: see generally, Johnson and Scholes *Exploring Corporate Strategy* (6th ed, 2002) ch 1. However, the strategy formulation process has direct relevance to individuals who seek to attain medium-to-long term goals: for a brief review of key concepts, see (1999) 17 C&SLJ 467. As with corporations, individual strategy formulation has three elements:

- *Strategic analysis*: Here, the individual seeks to understand his or her strategic position. A typical tool is the so-called "SWOT" analysis (strengths, weaknesses, opportunities and threats). This level of analysis focuses on individual capabilities. The aim is to get a clear understanding of the individual's present strategic position (the analysis looks inwards). Strategic analysis then looks outwards to the "micro" operating environment (New Zealand and the local legal services market) and the "macro" operating environment (the outside world and the global market for legal services).
- *Strategic choice*: Here, the individual formulates, evaluates and chooses between the possible courses of action. The aim is to achieve some advantage for the individual through effective positioning (eg do I practise in New Zealand or elsewhere?). Matching individual capabilities with the operating environment is called achieving "strategic fit".

- *Strategic implementation*: The individual plans how the choice of strategy can be put into effect and manages the changes required.

STRATEGIC ANALYSIS

Ask this question: what business am I in? The answer is not as simple as it might first appear. For example, on reading this article you might say that I am in the law teaching business. I might reply that I am in the transportation business. (Gerry Garcia is supposed to have said about his band, the Grateful Dead, "We're not in the music business; we're in the transportation business.") Similarly, although you are studying to be a lawyer and hope to practise law, on close examination it may appear that you are not in the law business at all. The relevance of the question is that it forces one to think about outcomes and exit strategies. Thus, one might reason as follows: "I am in the law business for the purposes of capital accumulation and I hope to own a vineyard in Marlborough in the South Island of New Zealand at age 40". In strategy terminology, the answer to the question defines the mission (overriding purpose). Thus, let us suppose the mission is capital accumulation not law (to this extent you are not in the law business). The next question is, why? The answer might be to realise the personal vision of owning a vineyard. We then ask: how do I realise the vision? The answer is by formulating a strategy and here the first task is strategic analysis.

Individual SWOT analysis is relatively straightforward. *Strengths* include such items as superior law grades and language abilities. *Weaknesses* are average law grades (which might be remedied by an LLM) or simple lack of knowledge about opportunities in the legal services market. The salient *opportunity* is the arbitrage or pricing asymmetry between compensation packages paid in New Zealand and those offered offshore. (An arbitrage arises when an identical commodity is priced differently in two markets. Thus, if a second year associate can earn \$50,000 in Auckland but \$75,000 in Sydney then — all other things being equal — an arbitrage opportunity arises.) A *threat* is the length of time such an arbitrage opportunity or "window" might remain open.

Strategic analysis then turns to the operating environment. The first step is a comparison of the immediate and medium term status of the New Zealand economy vis-à-vis that of Australia, the UK and the US: see current country reports by the OECD and The Economist Intelligence Unit. As to New Zealand, there is little reason to disagree with the earlier conclusion of the *New Zealand Porter Report* — New Zealand is an anomaly in the global economy because first-world living standards are largely supported by a third-world export pattern: see Crocombe, Enright and Porter, *Upgrading New Zealand's Competitive Advantage* (1991), 55. As of 2005, it is hard to find compelling evidence that actions for the requisite structural adjustment have occurred. A second step is to examine the state of the market for legal services in New Zealand and elsewhere.

The legal debate about the market for legal services has been concerned with tensions between notions of "social trustee professionalism" and law as a commercial activity: see D Dawson, "The Legal Services Market" (1996) 5 J of Judicial Admin 147. From a management or economic standpoint, however, law is a service industry. A striking phenomenon of the contemporary, "globalising" world

economy is the spectacular growth of the services industries: see Dicken, *Global Shift: Transforming the World Economy* (4th ed, 2003), 43. For example, the global financial services industry is an industry that requires high-level legal inputs. Financial market globalisation is also a paradigmatic example of the globalisation process since it is a factual process based on the observable dynamics of the market. A salient aspect of globalisation is the irrelevance of national borders in markets that can truly be described as global. So, for example, there is evidence to suggest that some large corporations with a presence in New Zealand are shifting their legal work out of New Zealand: see *Lawyers Weekly*, 10 September 2004, 1. There is hence good evidence to suggest that the market for legal services is truly global: see Lee, "The global players revealed", *International Financial LR*, November 1998, 23; McArthey, "A Global Law Firm" [1999] NZLJ 358. Indeed, high status US law schools actively promote themselves as "global" law schools. The Legal Education and Training Committee of the International Legal Services Advisory Council in Australia recommended in 2004 that strategies be adopted to promote the development of an internationalised legal education that prepares Australian graduates for the provision of legal services in a global market: see Council of Australian Law Deans Briefing Paper (5 July 2005).

It is now notorious that legal service providers look globally to recruit personnel (here, "global" connotes OECD countries). The first wave of this phenomenon hit New Zealand in the mid-to-late 1990s when London-based and Australian law firms stepped up recruiting from New Zealand. The anecdotal evidence is that some major New Zealand law firms experienced a "hollowing out" of substantial layers of fourth year associates attracted by higher pay offshore. In 2000, a second wave of offshore recruitment occurred; for example, Sydney-based Australian law firms recruited first year associates and summer clerks from New Zealand law schools. This wave broke with the "tech wreck" of March 2000. Hence, after March 2000 (and even more so post-September 11 2001) recruitment dried up. The current "window" opened when the business cycle began to head upwards in 2004. As of 2005, New Zealand lawyers are again in demand in Australia and London: see Ruffell, "Aussie firms to hunt Kiwi lawyers", *Lawyers Weekly*, 22 July 2005, 1, 9.

Why are offshore law firms recruiting from New Zealand? First, because good New Zealand trained lawyers are valued and appreciated. A second reason is international arbitrage or pricing asymmetry between salaries paid in New Zealand and offshore. For example, a first year associate in a top tier Sydney law firm attracts a salary of about A\$58-74,000 (includes employer contributed superannuation portable within Australia) and relocation expenses as against about NZ\$40-55,000 at a similar firm in Auckland. A third year associate in Sydney in a top-tier firm could reasonably expect a package of A\$100,000. In New York, a first year associate can expect about US\$125,000 plus bonus: see www.nyji.com under the heading "Associate PayWatch" for details. When thinking about pricing differences, factor in the drop in the exchange rate of the New Zealand dollar; the additional tax imposed on graduates by the student loan scheme, offshore living costs, and tax rates. A third and less obvious reason is the arguable oversupply of lawyers in New Zealand.

The case for oversupply is best founded on salary differentials between New Zealand and offshore. There is also a structural reason — as the *New Zealand Porter Report* (at p 103) stated in 1991, "New Zealand graduates more lawyers each year than it graduates students in agriculture, forestry, horticulture and veterinary science combined ... This latter group of industries makes up over 85 per cent of New Zealand's exports and needs skilled individuals to improve their competitive position". On this view, the stream of lawyers going offshore comprises an export industry with no obvious benefit to New Zealand. Oversupply means lower compensation packages overall (but particularly in the provincial centres) because supply outstrips demand. Oversupply may also lead to domestic arbitrage. A first year associate doing tax law with an accountancy firm in Auckland may well earn more than his or her counterpart in legal practice.

When undertaking a personal strategic analysis regarding offshore options, note there is no necessary link between post-graduate study and practice offshore. A third year associate from New Zealand may go direct to Sydney or London and join a law firm and pursue no further tertiary education. Indeed, if the ultimate aim is practise in the US, a "knight's move" to a US or UK firm in London and then across to New York is one way of entering the US market without incurring the tuition costs associated with a US LL.M. In reality, however, there is usually a link between study and practice in the case of the US. A typical entry path to the US is an LL.M from a top tier US law school followed by the New York Bar exam. This is because an LL.M from a top tier US law school greatly enhances hiring prospects and gives standing to take the New York or California State Bar exams. Elsewhere, enhanced hiring prospects are the usual reason for post-graduate study and this course is more often pursued by new graduates seeking to acquire knowledge about "sunrise" subjects not taught in New Zealand law schools such as IT outsourcing.

After completing a personal strategic analysis, the next question that arises is choice. As stated, the task here is to evaluate the various options and choose the one that best fits your personal circumstances. For the purposes of this article, the immediate choice appears to be between various offshore destinations offering opportunities for lawyers. As of 2005, major UK law firms may hire direct law graduates from law school in New Zealand. Certainly, the Australian evidence is that top law graduates are being directly hired by the so-called "magic circle" UK firms. Details may be found on the various firm websites. In next month's article, we look at Australia, the UK, the US and Asia as possible choices. In practice, of course, these choices are not mutually exclusive; indeed, the choice may involve a decision to move to three jurisdictions in a sequence — a legal version-of the 19th century "Grand Tour". So, for example, one might choose to go to Australia for two years in order to upgrade legal professional experience, obtain permanent residency status and take out Australian citizenship, then to the UK to access the under 28 Highly Skilled Migrant Programme (and possibly UK citizenship), then to Hong Kong to access favourable tax rates and save and — ultimately — back to New Zealand or Australia.

Next month Gordon Walker gets down to the nitty-gritty of the various destinations. □

Overseas legal career destinations

Professor Gordon Walker, La Trobe University, Melbourne surveys the major overseas opportunities following on from his article at

[2005] NZLJ 401

I will not discuss opportunities in Europe. This is because a move to Europe involves special considerations relating to citizenship status and language ability. In this section, we first consider a number of over-arching considerations.

A first issue is sequencing or timing. Thus, because there is reciprocal admission between Australia and New Zealand, it is possible to be admitted in Australia immediately after New Zealand admission. It is easier to find work in Australia if you have one or two years' experience but this is not essential, especially if an Australian LLM is contemplated. UK or Hong Kong admission, on the other hand, requires four to five years' post-qualification experience and this experience is best achieved in New Zealand or Australia. The lesson here is that you are best to prepare yourself in New Zealand or Australia before a move elsewhere. Going direct to the UK, Hong Kong or the US is harder and may well require local qualifications (eg an LLM from a good US law school).

A second consideration is more practical: you must obtain duly notarised copies (or originals) of your degree testament, academic transcript and admission order. Overseas admissions bodies will demand these documents and it is prudent to take them with you.

Third consideration: if you have language skills (eg Mandarin or Japanese) then leverage that ability to the utmost. The same point applies to those who have sporting ability — recently, two Canterbury Law students defrayed the costs of their Cambridge studies by playing rugby for Cambridge.

Fourth consideration: if you are deciding to go overseas, look at the recruiters' websites and note the areas in which they are hiring. These will be areas such as banking, project finance, capital markets, private capital, IP, telecoms and so on. (You will not see many advertisements for lawyers in public international law.) If you want to appeal to firms in these areas, then direct your resumé towards them by working in the area or choosing the relevant LLM subject.

Finally, keep a re-entry strategy in mind. Although your overseas strategy may require repeated modification as events unfold, you may well wish to return home one day. Thus, as your offshore career evolves, ask yourself how it will "fit" on the return home.

Destination: Australia

Australia is the most popular migration destination for New Zealanders. According to the Melbourne newspaper *The Age* (3 September 2005) there are about 415,000 New Zealanders living in Australia and that number is growing by about 630 a week (a total of 20,000 moved in 2004). The average weekly wage in Australia is 30 per cent higher than in New Zealand. As stated, Australian top tier law firms are once

again recruiting lawyers from New Zealand in 2005. The usual criteria apply. In the past, Bar admission could be obtained only via Victoria or qualifying exams: see Walker [1983] NZLJ 188, [1984] NZLJ 34. Now, due to the extension of the Closer Economic Relations Agreement, New Zealand admission is sufficient for admission in Australia pursuant to the Trans-Tasman Mutual Recognition Act 1997: see www.lawsofnsw.asn.au. Admission to the Australian Federal Courts via the High Court of Australia flows from admission in an Australian state. Prudence dictates that New Zealand admission is gained prior to a move to Australia since automatic entry to Bar admission programmes in Australia is not assured. Sydney, the most "porous" (and expensive) of the Australian big cities, has a number of New Zealand lawyers in all the large law firms. Many practise for two or more years in Sydney and then move on to Hong Kong, Singapore or London.

New Zealand citizens cannot access Australian federal government loan schemes for LLB or LLM programmes: see www.goingtouni.gov.au. However, doctoral programmes (SJD or PhD) in law are fee-exempt for New Zealanders and most law schools offer competitive scholarships and tutoring or Teaching Fellowships for doctoral students. As regards LLM programmes, only Australian citizens can access the FEE-HELP federal loan scheme. FEE-HELP is an interest-free loan programme indexed to the Consumer Price Index where repayments are made via the tax system. International students taking LLM programmes in Australia pay tuition fees ranging from A\$16,500 to A\$24,000. One way of defraying LLM fees is to work as a solicitor in New South Wales and take an employer-paid LLM course in order to satisfy mandatory continuing legal education requirements (MCLE), which attach to annual renewal of practising certificate. Some LLM or doctoral students choose to take a Residential Associate (RA) position in a hall of residence at a university as a means of defraying costs and this course has definite attractions for those who have few other social contacts in Australia.

Australia may be a short or long-term destination. If the UK or the US is a long-term destination, then Australia is a convenient "half way house". This is because top tier Australian firms typically have strong offshore connections. If the US (or the NY Bar Exam) is the next step after Australia, then the LLM in Global Business Law at La Trobe is a good option as this programme offers intensive classes in US law at competitive rates: see www.latrobe.edu.au/law/gbl. Another good reason for going to Australia initially is that some persons who go on to the UK or US wish to return to the Southern Hemisphere and Australia presents as a prime return destination. New Zealanders who decide to spend

some time in Australia often seek to take Australian citizenship after two years' permanent residence in Australia before leaving for London or Hong Kong.

There are good and cogent reasons for taking out Australian citizenship. For example, as stated, only Australian citizens can access Australian federal government loan schemes for university education. There is no bar to holding dual citizenship in New Zealand and Australia: see further www.citizenship.gov.au. As of 27 February 2001, however, Australian citizenship rules changed. New Zealand citizens who arrive in Australia after February 2001 must now apply for and be granted Australian permanent residence (usually under the Skilled-New Zealand Citizen category) prior to applying for citizenship. In effect, this means that New Zealanders now rank the same as any other immigrant and must qualify on a points system. It is advisable to apply when under 45: see further www.immi.gov.au/facts/17nz.htm and www.immi.gov.au/migration/skilled/nz_visa.

Another good reason for thinking about Australian citizenship flows from the introduction of a new visa category for Australians wishing to work in the US. In May 2005, the US created a new visa category (the "E-3" visa), for Australia which allows up to 10,500 Australian business people and professionals to live and work temporarily in the US. Before this change, Australian were rolled up into global quotas under different visa categories and had to compete for the 65,000 H1B work visas competed for by nationals of other countries. The new "E-3" visas have two salient advantages: first, they can be renewed indefinitely (there is no six year limit), and, second, they allow for a spouse to work in the US: see further www.austrade.gov.au.

Destination: UK

The law degree in England takes three years. Some background data follows:

Solicitors: After the law degree, new graduates undertake a one-year legal practice course (LPC). They then proceed to law firms for two years on a training contract followed by admission. Non-law graduates can do a one-year conversion course (CPE or PGDL) and then proceed to law firms for a two-year training contract followed by admission.

Barristers: New graduates apply for pupillage at chambers and then do a one-year Bar Vocational Course (BVC). They are called to the Bar after BVC and then do a one-year pupillage followed by tenancy. At the Bar, the Cambridge LLM or Oxford BCL is an unspoken prerequisite for students from other common law countries.

Visas: Generally, a work permit is required. A work permit for the Bar is difficult to come by for non-EU passport holding New Zealanders given self-employment status at the Bar. Generally speaking, special visas may be obtained if one grandparent was from the UK ("grandparent visa"), for two years if you are from a Commonwealth country and between the ages of 17-30 ("working holiday visa") or, if under the age of 28, via the Highly Skilled Migrant Programme: see S Moons, "The Antipodean Lawyer's Rough Guide to UK Immigration Rules" (2001) 75(1) ALJ44 and www.workpermit.com. Restrictions on the "working holiday visa" to the UK were introduced on 8 February 2005: see further www.workpermit.com/uk/working_holidaymaker.htm. In practice, this means that young lawyers on the working holiday visa who wish to stay on in the UK must shift to the Highly Skilled Migrant Programme visa.

The UK is a traditional destination for New Zealand trained lawyers. The main options are study, law firms ("private practice"), industry and commerce ("in-house").

Tuition and living expenses for an LL.M in the UK are around NZ\$60,000. There has always been a trickle of New Zealand lawyers taking the Oxford BCL or the Cambridge LL.M and then going on to practise in London. Some then go across to New York. Some exceptional New Zealand candidates go straight from the Oxbridge LL.M/BCL to New York without practising in London. This pathway has opened via US law firms in London conducting interviews for New York positions.

UK law firms actively recruit senior and middle ranking associates from New Zealand. If recruitment is done while in employment in New Zealand, then the UK firm will normally offer a transfer package. The London legal market is much larger, more diverse and specialised than New Zealand (only New York is comparable). As a result, one needs to pay close attention to the skill set one seeks to gain in London with a view to subsequent career development. New Zealand lawyers with post-qualification experience (PQE) bargain for recognition of that experience. Typically, New Zealand lawyers suffer a one-year discount (justified by the English training contract period). Conversely, the BCL or LL.M from Oxbridge is counted as one year PQE. The UK market is more open to lawyers with two or more years' experience.

US law firms in London have pushed up pay rates at English law firms beginning with first year lawyers at about £48,000-£51,000: see www.rollonfriday.com and *Lawyers Weekly*, 15 July 2005, 21 for salary rates. Consider also working hours, training and support available in UK and US firms: typically, working hours are lower and training and support is greater in UK firms. This trade-off is a perennial point of discussion in the London branch of the New Zealand legal diaspora.

Industry and commerce ("in-house") opportunities are much broader in London. Avenues include financial institutions, public retail, energy, manufacturing, telecoms, property/construction and media: for a market overview and salary details, see www.michaelpage.co.uk. As in New Zealand, working hours are lower, the work less "academic" and more closely involved with the client business.

The stream of recent graduates going to London as paralegals is less well known. Here, New Zealand admission is critical because New Zealand Bar admission enables qualification as a solicitor in England by way of the Qualifying Lawyer Transfer Test (QLTT). This exam can be done in the UK or offshore. The New Zealand Lawyers' Society in the UK provides helpful information: see www.nzls.co.uk. For example, a New Zealand solicitor in Sydney can sit the QLTT in Sydney prior to departure to the UK: see www.lawsociety.org.uk.

A New Zealand paralegal in London (whether working for a law firm or a company) is typically a recent graduate who has been admitted in New Zealand. Temporary paralegals in London typically earn around £15.80 per hour (less 25 per cent if an agency is involved) and time-and-a-half to double for weekend work. Banks and other financial services firms offer similar short-term contract work. A number of professional agencies (often staffed by New Zealanders or Australians) in London specialise in placements (eg Robert Walters). The anecdotal evidence is that a permanent paralegal can easily earn up to £35,000 plus per annum in London and up to £800-£1000 a week. Some paralegals

graduate to positions as salaried solicitors with large London firms after sitting the QLTI. In turn, this may provide an opportunity to work in the Asian offices of the UK firm and thereby attract low Asian personal tax rates (eg Hong Kong).

Destination: US

A brief discussion of New Zealand lawyers who went to the US as graduate students can be found in (1998) 18 VUWLR 327, 331-333, where the author estimates that about 80 New Zealanders undertook post-graduate work in the US. They were mainly graduates from Auckland, Wellington and Otago. Until the 1990s, few Canterbury law students went to the US for post-graduate study. Beginning in 1994, however, ten of my former Canterbury law students have gone to the US to take the LLM at Duke University School of Law. Five went to take the LLM programme at Georgia University School of Law — four on Georgia Rotary Scholarship Programme (GRSP): see www.grsp.org. (In passing, note that one must be under 25 to take a GRSP place and there is a pronounced bias in favour of female applicants.) Others went to Harvard, NYU and Boston. At present, two New Zealanders hold full law professorships in New York: Benedict Kingsbury (ex-Canterbury) at NYU and Jeremy Waldron (ex-Otago) at Columbia. There are a number of New Zealanders practising in the US, especially New York.

The JD is a post-graduate degree in the US. Generally, only foreign lawyers take the LLM or the SJD (doctorate in law) degrees. The US SJD is broadly similar to a PhD in New Zealand (the Australian SJD is not). An LLM from a good US law school is the usual prerequisite for entry to an SJD programme in the US although waivers may be obtained. Entry to SJD programmes is limited (for example, Duke Law only takes one or two SJD students a year). Generally speaking, foreign students enrolled in an LLM programme in the US take the same classes as JD students with the addition of a class on an introduction to US law. A foreign student is well-advised to construct a package of LLM classes that includes corporations and other relevant commercial subjects if practice in the US in the ultimate aim. (An LLM comprised of classes on public international law will not secure a position in a US law firm.) Exams are usually open book or take home. An LLM from a good school will generally give standing to take the New York or California State Bar exams. These two Bar exams are the only two State Bar exams that are readily accessible by foreigners. As of 2005, commercial providers in Australia offer preparation programmes for both these Bar exams: see www.nybar.com.au.

Although LLM programmes are typical means of entering the US, an interesting alternative has arisen recently. Some US law schools (such as University of Kansas School of Law) are now offering a two-year JD programme for appropriately trained foreign lawyers.

Most US LLM programmes run from September to late April each year. Preparation programmes for Bar exams are conducted by the commercial providers such as BARBRI, whose services are regarded as essential. BARBRI is undertaken in July-August after graduation from the LLM programme in May: see www.barbri.com. Most international applicants seek to take the NY Bar exam in preference to California where the pass rate is lower.

A first question is choice of school. A good guide is the annual publication, US Law School Admission Council, *The Official Guide to US Law Schools* (2005). This guide provides a two-page outline of all accredited schools. As a

preliminary matter, distinguish “national” law schools (eg Harvard), from state law schools (eg Georgia). Most national schools are private and have the highest tuition fees (around US\$35,000) for the LLM. State schools tend to have slightly lower tuition fees. The best quick reference is the website www.llm-guide.com. This website has a bulletin board function where one may post queries regarding a particular school.

Next consider the rankings of the 180 or so American Bar Association accredited US law schools: see the *US News and World Report* rankings at www.usnews.com, which ranks all the accredited schools in four tiers. The relevance of tier ranking is that major US law firms only recruit from the first twenty schools in the top tier. Generally, employment opportunities rise in a direct relationship with the school ranking. One can start winnowing out schools in the top tier fairly quickly. For example, although Yale and Harvard usually rank one and two respectively there is little point in applying to these schools unless you satisfy special entry criteria. Yale only takes actual or prospective law professors and Harvard operates a geographical quota. Leaving aside Yale and Harvard, here is an indicative list of top tier (first 15 rankings) US law schools which offer the LLM: Stanford, NYU, Columbia, Chicago, Virginia, Duke, Michigan, Cornell, UC Berkeley, UCLA and University of Texas at Austin. As a general rule, accommodation costs are lower in the South or South-West (Virginia, Duke or Texas).

As stated, in the last decade or so, ten ex-Canterbury Law School students have taken the LLM at Duke. The LLM at Duke comprises 21 credit points, six of which can be taken at a July-August summer school in Hong Kong or Geneva if one is going straight on to the Duke LLM that year: see www.law.duke.edu. If one goes to Duke Law, the summer school option is highly recommended because it either lowers the course load or enables additional courses, but, more importantly, provides a prospective employer with evidence of Duke awarded grades when one first arrives in the US. Some Canterbury law students have used the Duke Hong Kong summer school (results may be credited to the LLB or LLM at Canterbury) to scope the Duke LLM programme. La Trobe Law will also credit Duke summer school results to the LLM in Global Business Law: see www.latrobe.edu/law/gbl.

Foreign LLM students typically interview at the New York job fair in January after first semester results are posted. This job fair is attended not only by US law firms but also UK firms. The US student visa for an LLM student may enable a further year working in the US after graduation.

Destination: Asia

A period in Asia is a consideration in any personal strategy. The key factor is the ability to save. The reason is simple: low tax rates enable rapid capital accumulation. The big US and UK law firms have regional networks in Asia and tax rates are very low thereby providing a significant “kicker” to the compensation package. The Asian networks of “magic circle” UK law firms have been a traditional destination of New Zealand trained lawyers (eg, Hong Kong). Accessing the Asian networks of US firms implies either study or practice in the US. As to pay, the evidence is that some UK law firms are paying London rates plus a loading. So, for example, a New Zealand solicitor moving to Sydney might contemplate a subsequent period in Asia for capital accumulation purposes because the top marginal tax rate in Australia is 47 per cent applicable at A\$95,000 (A\$125,000 in 2006) as opposed to

16 per cent flat in Hong Kong and on a sliding scale of up to 22 per cent (for salaries over S\$320,000) in Singapore: see www.iras.gov.sg.

To get admitted in Hong Kong, lawyers from common law countries must pass four Overseas Lawyers' Qualification Exams unless they can demonstrate five years' post-qualification experience in which case they need only pass Conveyancing. A substantial proportion of candidates (over 50 per cent in some years) fail the exams. Hong Kong admission is not always necessary. Many foreign firms employ foreigners as Registered Foreign Lawyers, without the expectation that they will seek Hong Kong admission, on the basis that they are practising the law of their home jurisdiction in Hong Kong.

Admission in Singapore as an Advocate and Solicitor of the Supreme Court of Singapore will depend on the law school attended in New Zealand. Only some New Zealand law degrees are recognised for admission purposes in Singapore: see www.lawsoec.org.sg/bblefaq.htm. However, lack of Singapore admission does not prevent New Zealand law graduates from working in Singapore. Foreign law firms in Singapore are typically engaged in cross-border transactions. As such, foreign law firms in Singapore employ Registered Foreign Lawyers who hold a practising certificate in another jurisdiction.

Making the choice

Australia presents as a natural first choice for reasons of proximity and ease of access. Today, Asia ranks as the second choice. Although it is harder to get in to Asia, remuneration is the same or better than the UK or the US and tax rates are lower. The recent anecdotal evidence is that the US firms in Asia are hiring Australians and New Zealanders. Hiring is strong in Hong Kong as a result of the booming Chinese economy. Overall, Singapore and Hong Kong present as the best Asian options. The UK is ranked as a third choice. Here, common law tradition and culture appear as salient advantages. The US is the fourth choice as it is the most difficult destination for New Zealand trained lawyers. The consensus of those who have taken either the UK or US route is that two to three years in practice in New Zealand or Australia and good grades (graduation in the top 10 per cent of the particular New Zealand law school) is normally required. Generally, accessing the network of New Zealand trained lawyers who have already moved offshore for current love is advisable.

Suppose, however, that the choice is between the US and the UK (all other things being equal). Now, global legal practice can be viewed as a competition between the US and UK law firms. In this context, there are some reasons for preferring the US. First, a New Zealand trained lawyer can readily adapt to UK law. By contrast, US law cannot be picked up as easily and so one gains a "premium" by acquiring a new skill set in the US. Second, study or practise in the US means exposure to another dominant legal system and salary levels are higher. Third, UK law firms may pay a premium for a New Zealand trained lawyer who has gained US experience. Fourth, US training means access to the international offices of US law firms. In this regard, UK firms have a stronger presence in Europe and the Middle East, are equal with US firms in Asia, and are less prominent in the Americas.

It is pertinent to discuss the option of an academic exchange year in the US. Some New Zealand universities offer students

an exchange year in the US whereby the New Zealand student pays New Zealand tuition fees. This option is taken at undergraduate level. Thus, a Canterbury University law student might undertake a year at UC Berkeley and credit results to the LLB. The cost saving is US tuition. However, living costs in the US roughly equate with tuition and a New Zealand student might spend, say, NZ\$20,000 plus living costs in an exchange year. This sum is better spent on a US LLM because the LLM formally qualifies the student within the US system.

Questions arising at this level involve closer consideration of the long-term strategy. For example, the risk/reward ratio for doing an LLM in the US and returning immediately to New Zealand is not good. If higher salary or abridging the career path is the aim, a period of practice in the US is required since this improves the risk/reward ratio and enables positioning for a similar level compensation package or fast track to partner on return to the Southern Hemisphere. A question which might arise (typically, with a third or fourth year associate in New Zealand) is whether or not to skip an LLM in favour of an MBA if, for example, investment banking is a long-term goal. This option has relevance for students with quantitative skills (eg LLB, B.Com with a major in finance). As to MBA programmes, see www.registration.ft.com/CareerAdvisor/MBARankings/reception.htm.

STRATEGIC IMPLEMENTATION

Strategic plans are fine but implementation is critical; better a second-rate strategy and first-rate implementation than the converse.

If one is hired as a solicitor in Australia or the UK, questions of implementation are minimal as a relocation package will accompany the offer and salary commences upon arrival. As the path to study in the UK or Australia is well known, this part of the article focuses on post-graduate study leading to practice in the US. Here, a commonly expressed view amongst young lawyers is that 60 per cent of the effort was expended on getting to the destination. Long time horizons and careful planning are required. In addition, there is a significant level of stress involved in planning the move.

The cost of an LLM in the US consists of two components — tuition (university fees) and living costs. Tuition fees vary from about US\$20,000 to US\$39,000. Living costs for a nine month LLM are in the range US\$15,000-20,000. At one end of the scale, an LLM at the University of Texas at Austin costs US\$24,000 tuition plus US\$15,000 living costs. Current costs at Duke Law School for the LLM are about US\$35,000 tuition fees plus US\$17,000 living costs. However, some LLM programmes offer full or partial tuition waivers. In addition, some universities offer Residential Associate (RA) positions (comparable to tutors in New Zealand halls of residence) which largely solve the living cost issue. In theory, it is possible to obtain a tuition waiver and an RA position.

Applications for US law schools and New Zealand sourced scholarships are made in December the preceding year. Offers are made March-April and can generally be deferred for one year without cost if necessary. (The same time-frames apply to UK law schools.) US law schools offer few scholarships, but partial or full tuition waivers and RA slots fulfil the same purpose. The richest scholarship is the Hausser Scholarship offered by NYU Law School. Apply for a number of schools and review offers in March. At that time, cost questions will predominate. In New Zealand dollars, a US LLM may cost

