

in-touch

Newsletter



Law, justice and public administration

Professor Gavin Drewry, PAI Workshop Director

‘The law embodies the story of a nation’s development through many centuries’

(US Justice Oliver Wendell Holmes, *The Common Law*, 1881)

Nowadays, when public administrators and policy makers think about their professional roles, they often tend to frame their thoughts around management issues to do, for instance, with improving organisational efficiency and effectiveness, optimising the use of resources, developing and applying key performance indicators, etc. This mind-set is reflected in the content of many training programmes (including a lot of the professional development workshops offered by PAI), which is fine. However, this preoccupation with management does have at least one potential downside – public managers can, if they are not careful, sometimes lose sight of crucially important legal aspects of the subject. There is a wise old saying that ‘ignorance of the law is no excuse’: in public administration contexts, ignorance of the law is not just inexcusable, it can sometimes lead to dire and embarrassing consequences.

It is no exaggeration to suggest that law is the bedrock of public administration and public service. The classical model of bureaucracy (albeit contested to some extent in recent years by ‘New Public Management’ ideas that revolve around markets, business models and supply-side competition) is based upon rules that are grounded in administrative law. Lawyers and judges are the ultimate custodians of those rules. But a good understanding of relevant legal issues is, or should be, a crucial part of the skill-set of all public administrators, policy-makers and managers.

For one thing, a country’s justice system is an important and expensive public service that needs to be properly managed. Much of the legal infrastructure, including prisons, courts and tribunals, is staffed by non-lawyer administrators who need a sound working knowledge of legal principles and procedures. Moreover, throughout the public service – even in areas that have little or nothing directly to do with the administration of justice – both lawyers and non-lawyers who work in Ministries and public authorities need to work closely together and to communicate effectively with one another. Regrettably

this is not always the case: lawyer civil servants sometimes get exasperated with non-lawyer colleagues who ignore their advice; non-lawyer civil servants (and the politicians to whom they are answerable) may get impatient with seemingly nit-picking legal impediments that stand in the way of their objectives.

And we must not forget the importance of the rule of law, a key aspect of which is that decisions made by public office-holders – from Presidents to junior clerks – are potentially subject to appeal or judicial review. Many national constitutions make provision for this and many legal systems feature powerful constitutional and administrative courts and, often, well developed ombudsman systems. Non-lawyers who are not fully aware of the legal and constitutional implications of their decisions may find themselves seriously embarrassed if those decisions end up by being successfully challenged in court or damagingly criticised by an ombudsman! Anticipating the possibility of such challenges is a key skill.

Law does not stand still. Everyone employed in the public service, professional lawyers included, needs to work hard to keep up to date with fast-changing legal developments. Other changes, too - in particular the



Claire Cameron, PAI Director, with Mohamed Niyaz, Judge of the High Court of the Maldives

continuing development of information technology, social media and artificial intelligence - can have major, potentially transformative, effects on law and legal processes. Much can be learned about such developments, and about the continuous quest for the improvement of administrative practice, from looking at administrative and legal systems in countries and jurisdictions other than one's own.

With all these considerations in mind, we have developed an integrated package of professional development workshops, designed both for lawyers and non-lawyers, which offer fresh and illuminating insights into different aspects of law and the administration of justice.

Our workshops include expert contributions from hands-on practitioners in the field and site visits to relevant bodies – such as courts, tribunals, Ombudsman offices and government agencies.

The workshops that we currently have available are:

- Successful Law Reform: Practical issues today

- From Policy to Legislation
- Legislative Drafting: A workshop on the essentials
- Justice, Fairness and the Rule of Law: Improving legal systems and achieving better governance
- Transforming Criminal Justice: Partnership working and multi-agency approaches
- Judicial Administration: Improving people's experience of the justice sector; effective case management, reducing delays and clearing backlogs
- The Judge over Your Shoulder: Understanding legal issues in decision-making
- When Citizens Complain: For ombudsmen, commissioners and complaint-handling organisations

Please take a look at our website: <https://www.public-admin.co.uk/workshops/> There is almost certainly something in this portfolio of law-related workshops that will be of relevance and interest to you and your colleagues. We look forward to seeing you in London – the heart of the UK's legal and constitutional system.

Reviewing organisational capacity with the Ministry of Higher Education (MES), Cuba

Sheena Matthews, PAI Associate Consultant

Who wouldn't want to go to Cuba in October when winter is threatening to arrive in the UK? Under the banner of the FCO, PAI has been working with the Government of Cuba since 2015. In October 2019, I worked with the International Relations Department of the Ministry of Higher Education to explore their capacity needs and share relevant UK and international experience.

The focus of the visit was the Directorate of Finance and Budget, headed by Armando Lauchy Sanido. As their title suggests, the Directorate is responsible for ensuring that the higher education institutes' budgets are planned and accounted for. Education, including leading edge medical research, is a high priority for the Government of Cuba: the state has 22 universities and three Institutes of Science, Technology and Innovation.

Over five days a small group from MES looked at organisational capacity through a number of lenses, starting with a perspective on possible futures and how well the Ministry might be equipped to handle the drivers for change that may have an impact in 2024. The group went on to examine relevant aspects of strategy, leadership and delivery capacities, noting strengths and identifying areas for improvement. This was supplemented by a short questionnaire completed by a larger group of MES staff. The work was reinforced by comprehensive briefings from the Director and participants on the Ministry's financial model and its work on intellectual capital and knowledge management.

The UK Treasury's Public Value Framework and InCISE (the International Civil Service Effectiveness Index) performance tool were used to illustrate transparency and accountability. Both were seen as useful resources from which to draw challenging questions, as well as identifying potential sources for further international exchange and learning. Overall, the week gave the Directorate representatives the opportunity to stand back from the day-to-day technicalities of their demanding jobs.

MES staff were also keen to educate me in the history, food and culture of Cuba. It's no exaggeration to say that there really is music on every corner in Havana!



Sheena (fourth from left) with MES colleagues

Training for judges in North Macedonia

Peter Gjørtler and Jorgen Andersen, PAI Associate Consultants



Participants at the workshop in Skopje

A few months ago, 23 trial judges from across North Macedonia convened in Skopje to follow a two-day training course organised by PAI for the OSCE (Organisation for Security and Co-operation in Europe) Mission to Skopje, focusing on legal writing and legal reasoning. The OSCE had done a great job in arranging the practical details of the training at the comfortable and accommodating Aleksandar Palace Hotel, and PAI staff made it very easy for the trainers to do their job.

The seminar was based on a twin-track approach to the subject. On the one hand, theoretical issues in judicial writing and reasoning were raised and discussed with the participants and, on the other hand, examples were drawn from case law of the Court of Justice of the European Union, so as to demonstrate and discuss the practical application of the theoretical issues.

The participants engaged actively in the discussions and contributed examples of issues of judicial writing and reasoning from current legislation in North Macedonia. This allowed the seminar to reach beyond the learning

of foreign practice and experience, to form the basis for a discussion amongst the participants of important issues currently faced by court members in North Macedonia. These discussions included some points of criticism that had been made in recent reports on the effectiveness and efficiency of the judiciary in North Macedonia. For instance, the way the allocation of cases is done based on specific algorithms had been the subject of quite fierce critical comments. In this context the pros and cons of a strict, numeric principle were discussed. This is an issue which has been hotly debated in many jurisdictions across the world and which is also the subject of international recommendations, and many changes.

The trainers' impression of the seminar was that the participants were fully aware of international standards. If the judiciary in North Macedonia is spared too many unfortunate attempts of political interference, the legal future of the country seems bright.

Job evaluation, pay and grading in The Gambia

Chris Jones, PAI Associate Consultant

Over the next few months, thousands of Europeans will be escaping the winter weather back home by travelling to the small, West African coastal state of The Gambia. They will be there for a week, perhaps two, and they will spend most of their time in glorious sunshine, relaxing by the pool or on the beach. However, three PAI consultants – Dave Partridge, Paul Nartey and I – will not be visiting The Gambia as tourists. We will be working in Banjul, the capital, on a Job Evaluation, Pay and Grading project for The Gambian civil service.

It is a six-month project, involving training a team of counterparts in the Personnel Management Office of the Office of the President and proposing a new pay and grading structure for approximately 15,000 civil servants. The challenge, as always in such projects, is to develop proposals which fit the particular circumstances of the country, its people and its Government. Over the last few years, there has been great political change and the Gambians are determined to make the most of this new environment.

A start has already been made. Civil servants' salaries have been increased and there is a much greater emphasis on Government service delivery. But, in order for individual civil servants to work more effectively, they



need well-defined and accurate job descriptions, as well as job grades and salaries that are fair and consistent across the civil service. The principle of 'equal pay for equal work' is readily accepted, the next step is to ensure that this principle is properly implemented across the whole of Government.

Dave and I had already established good working relationships with most of our Gambian counterparts through a previous PAI project undertaken by us in the country five years ago. Many of the counterparts came to London two years ago for a training course run by PAI. Paul Nartey is a new member of the consultancy team, though he has worked on PAI's projects before. He comes from Ghana and has extensive experience of working in a number of African countries. He has also worked in The Gambia before. All three of us will visit The Gambia several times over the next six months, so watch this space for further developments.

Bangladesh change management team visit London

Claire Cameron, PAI Director

We welcomed a high-level group of change managers from the Cabinet Division of the Government of Bangladesh to PAI in August this year. The tailor-made study visit we designed for the group was part of an EC-funded project called Platforms for Dialogue, currently being implemented by the British Council in Dhaka. The focus of the week was on change management in the public sector and how governments can improve their relationships and engagement with civil society. It was an intensive and varied week, with sessions on performance management, improving the capability of public servants, responding to and managing change, communicating change, human resource management and development and strengthening democracy.



Our participants in the Mayor's Parlour at Tower Hamlets

The group visited key practitioners in the London Borough of Tower Hamlets to hear about initiatives to strengthen democracy and how Tower Hamlets is engaging more proactively with its Councillors and communities. Participants were also very pleased to be able to visit the Cabinet Office to meet the Head of Security Intelligence and Resilience Communications and discuss the UK Government's approach to communicating in times of change.

After a busy week, the group were able to relax and enjoy a sightseeing tour of London and a visit to museums and colleges in Oxford. For PAI, it was particularly nice to be able to work with the British Council in Bangladesh again. Our first ever tailor-made programme was also for Bangladesh, arranged in collaboration with the British Council – in 1996!

All in all, it was a very successful week and we are looking forward to welcoming other groups in the future.

New workshops for 2020

Training of Trainers: Developing talent and transferring skills – 6 to 9 April in London

Getting the Best out of Your People: Developing high performing leaders, teams and individuals – 27 April to 1 May and 30 November to 4 December in London

Negotiation and Mediation Skills – 4 to 7 May and 24 to 28 August in London

Effective Case Management: Reducing delays and clearing backlogs – 18 to 22 May in London

The Judge Over Your Shoulder: Understanding legal issues in decision making – 29 June to 3 July in London

Inspiring Leaders and Managers: Unlocking high performance from individuals and teams – 3 to 14 August in Kuala Lumpur

Sustaining Peace: Methods and tools that work – 1 to 4 September in London

Resolving Cases, Redressing Miscarriages of Justice and Reducing Re-offending – 21 to 25 September in London

Putting People First: Practical ways of improving customer service – 5 to 9 October in Dubai

Translating Strategy into Policies That Work – 23 to 27 November in London