

10-1-1970

Legal Education

M. Minnette Massey

University of Miami School of Law

Follow this and additional works at: <http://repository.law.miami.edu/umialr>



Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

Recommended Citation

M. Minnette Massey, *Legal Education*, 2 U. Miami Inter-Am. L. Rev. 507 (1970)

Available at: <http://repository.law.miami.edu/umialr/vol2/iss3/12>

This Report is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Inter-American Law Review by an authorized editor of Institutional Repository. For more information, please contact library@law.miami.edu.

LEGAL EDUCATION

M. MINNETTE MASSEY

*Professor of Law
University of Miami*

COLOMBIA

Two Presidential decrees (Nos. 970 and 971 of June 18 and 20, 1970 respectively) have regulated law studies in Colombia. The first decree provides rules for law faculties while the second sets a basic plan of studies.

Decree No. 970 defines the mission of law faculties as "research, instruction and popularizing the national legal system" (Art. 1). Legal education, according to Art. 2 is "aiming at the formation of lawyers, i.e., citizens informed in law and imbued by the social spirit, with broad technical ability and strong moral foundation, thus provided with balanced ability to interpret and apply rules of law, conscious of the fact that the function of law is not only its maintenance of the social equilibrium but also in furthering the general development of the nation." Law faculties offer two degrees: that of *abogado* and that of doctor of law (Art. 7). The approval of plans of studies and related programs will be regulated by regulation and requires consultation with the National Council of Law Faculties, Superior Council of Judicial Administration and the Colombian Academy of Jurisprudence (Arts. 8, 9). The teaching of law shall combine theoretical explorations (*disertación magistral*) and general information, with active participation of students in seminars, workshops, clinics, etc. (Art. 14). The grading (*calificación*) shall take into consideration the personal effort of the student, the degree of his development, his progressive advancement in the respective subjects, maintaining sufficient guarantee of seriousness and impartiality (Art. 15). Law faculties will offer courses of specialization for attorneys as well as officials in the judicial and administrative services (Arts. 18, 20).

Decree No. 971 distinguishes required, elective and free courses (Art. 1). These offerings must include also informative courses, study groups, seminars and practical work (clinics) (Art. 1). Required courses include: Introduction to Law, Roman Law, Economics, Political Law (Constitutional and Administrative Law), Criminal Law, Labor Law,

Civil Law, Commercial Law, Procedural Law (Civil and Criminal), International Law, Public Finances, Legal Philosophy, also Spanish and Writing (*redacción*) and Legal Deontology (Art. 3). Elective courses present special topics within these basic subjects, e.g. in Private Law: Notarial Law, Agrarian Law, Water Law, Patents and Copyright, Comparative Law, etc. Under International Law the following electives are foreseen: American International Law, Economic Development, Conflicts Law, International Organizations (Art. 6). Every student must take at least one elective (Art. 7). In addition to the basic (required) courses, faculties will offer courses in "*activa pedagogia*" and opportunity for legal practice and consultation and other subjects related to law (Art. 8). Legal studies will be completed when the student has taken the required courses, seminars and *prácticas* and earned the minimum number of academic points (*valores*) as required by the University according to the regulations (Art. 11).

The degree of doctor of law requires proof of academic and scientific qualifications through examinations in the following subjects: political, criminal, labor, private law; theory of procedure and probate proceedings. The candidate also must complete special (doctoral) courses and research during no less than one year, and must submit and defend a thesis (Art. 12).

A *Consejo Nacional de Facultades de Derecho* is established with a membership of: the Dean of the National University, the Faculty of the public universities (*seccional*, probably in various provinces) and two representatives from private universities as well as of all deans of law faculties — members of the Colombian Universities Association (Art. 16). This Council will maintain relations with similar international institutions, advise the government in its supervisory capacity over law schools, revise plans of studies, establish minimum plans of studies and support law schools in their maintaining and elevating academic levels (Art. 16). The Ministry of Justice and the Ministry of Education will sponsor the establishment and functioning of the Association of Faculties of Law in order to further the coordination of legal education to establish a better cooperation among them and stimulate a healthy competition in their performances (Art. 17).

AMERICAN INDIANS

For the fourth year, the University of New Mexico School of Law offered a Special Scholarship Program in Law for American Indians. The purpose of the program is to encourage American Indians to attend

law school and to assist them during their law school career. Students received grants sufficient to defray expenses (including living expenses for themselves and their families) during the summer portion of the program and the first year of law school. It is anticipated that the scholarships will be renewed during the student's second and third year of law school.

Approximately 35 applicants were selected to participate in the summer portion of the program which consists of a special eight-week session during which the students received an introduction to legal studies. Regular law school courses were offered along with special courses designed to develop skills necessary for superior law school performance. Legal writing was emphasized and a course on the current legal problems of particular interest to the Indian community was given. Individual attention was given each participant to assure that he was obtaining the maximum benefit from the program.

The summer session commenced on June 15, 1970 and ran through August 7, 1970. Participants were expected to participate in regular classes and to attend regularly scheduled meetings with faculty and upper-classmen advisors. A special extra-curricular program was arranged to enrich the normal educational curriculum and to provide additional opportunities for each student's individual development.

For the summer session, single students received a stipend of \$500 for living expenses. Married students received \$800 with additional allowances for married students with children. There was no charge for books or tuition and a travel allowance was available.

For the academic year, the living expense stipend will be based upon need but will not exceed \$2400 for a single student. Allowance for each dependent will not exceed \$500. Thus, a married student with 3 children would be eligible for an amount up to \$4,400 for living expenses during the academic year.

During the academic year, those selected to continue may enroll as regular law students at the University of New Mexico School of Law or any other accredited law school to which the participant has been accepted. During subsequent summers, the students will be invited to work with agencies or law firms having an interest in Indian affairs.

Forty-one of the students who attended the summer program in one of the past three years are presently in law school as regular students. They are enrolled in 24 different universities: University of New Mexico, Arizona State University, UCLA, University of North Dakota, University

of Tulsa, University of Washington, University of Iowa, University of California at Davis, Harvard, Yale, North Carolina Central University, Loyola of Los Angeles, University of Utah, McGeorge College of Law, Stanford, University of Chicago, University of Oklahoma, Notre Dame, University of Colorado, University of Denver, University of Montana, University of Tennessee, and the University of Arizona.

DISTRICT ATTORNEYS' COLLEGE

The first class of National College of District Attorneys on the campus of the College of Law at the University of Houston graduated June 9, 1970.

Some 68 lawyers were enrolled in the first class of the new college, established to train prosecuting attorneys in skills not normally taught in law schools.

It is being co-sponsored by four organizations — the American Bar Association, National District Attorneys Association, American College of Trial Lawyers, and International Academy of Trial Lawyers.

"The College will play an important role in the ABA long-range program for improving all aspects of the administration of criminal justice," said the president of the ABA in announcing formation of the college.

At a news conference in Houston, the president-elect nominee of the American Bar Association, said, "This college will bring a new professionalism to the prosecutor's role. Lawyers too frequently become prosecutors with little if any prior experience in criminal law and without formal instruction."

RAMSEY CLARK, ESQ., SPEAKS

He has been referred to as the "late-Attorney General" and has been considered unqualified as a witness during one of the most controversial trials of our times, but Ramsey Clark found a receptive audience at the University of Miami School of Law.

In an address that marked the beginning of Law Week 1970, Clark presented a definite challenge to the University students and to the members of Miami's legal community.

In discussing the problems facing our nation today, the former Attorney General presented his ideas concerning the purpose of our legal system and the function of today's attorney.

Clark pointed out that the social problems of today are unlike those of any other era. If the law fails to provide the framework for the solution of these problems, a solution may never be found. In Clark's words, "The law must be an effective instrument for social change. In today's mass society, urbanized and technologically advanced, the one effective way for man to influence his destiny is through the law."

In Clark's opinion the two major needs of our society today revolve around:

1. The need for a science of institutional change to meet the essentially new ideas of our people.
2. The need for a science of attitude change of individuals to condition violence from the human character.

These necessitate the formulation of new thoughts and actions and are areas along with the law that will provide the instrument by which society can answer the question presented by youth today.

Does the younger generation have a future? Clark believes that the law must break away from the traditional concepts of the past and address itself effectively to problems facing America today and tomorrow.

He also feels that the law must be powerful and respected to face the years ahead. "The law essentially can set goals for nations and people, but it cannot fulfill them." The law must meet the needs of people to be respected and followed, because the responsibility of the fulfillment of goals established by law rests with the people.

Directing his attention to the reasons for the recent attacks on the Supreme Court of the United States, Clark stated that the attacks are based primarily on the Court's sensitivity to the need for change. A little over 20 years ago the Supreme Court began the isolation of what Clark believes to be the three major areas of public concern.

First, the line of reapportionment cases which applied the law to "liberate institutions from the 19th Century." These cases reflect the idea that our democracy can work if the representatives of the people are sensitive to the actual needs of society.

Second, the line of cases which attempted to deal with the problem of racism in America. Clark believes that racism exists in America today because "history and other circumstances have ingrained strains of racism in our culture." The Court has attempted to establish equal protection for all, regardless of race, as provided for in our Constitution.

Third, and in Clark's words, "The central issue of our times," the area of human dignity. As the Bureau of Census finds it hard to count the people today, "It's hard for the people to believe they count." This arises from our depersonalized society and lack of respect for the individual. The court has been most sensitive in the area of criminal law, recognizing that the rich man and mobster will have the benefit of legal representation when confronted by the law enforcement agencies, but the poor, unintelligent individual has no rights unless the law upholds human dignity.

In a question and answer period following his lecture, Clark became more specific in dealing with the areas of legal responsibility. He emphasized the need for a better system of judicial administration, enlightened law enforcement programs, and professionalism within the legal system.

He also discussed the background information concerning the "Chicago Seven" trial and the various problems that should have been corrected by our existing legal system. He stated that this trial was an example of the challenge facing today's attorney. The law must be responsive to all needs no matter how popular or unpopular they may be.

Clark presented a challenge for all students of the law. Will the law and individuals within the system be responsive to the needs of the people? Our legal system needs the best equipped persons available to meet the various problems we face. Today's attorney must have courage and compassion combined with a firm but enlightened sense of values. The role of an attorney is changing and the legal system must present the forum for all people to come together.

Clark presented his views in a consistent and extremely intelligent manner. No matter what political philosophy one had when he entered the lecture hall, most left with a deep feeling of respect and appreciation for Clark's time and effort. The students were somewhat pleased to discover that an individual who worked closely with a political administration could present ideas without reference to political ambitions.

LEGAL SPECIALIZATION IN CALIFORNIA

A pilot program for legal specialization, covering the fields of workmen's compensation, criminal law and tax law is expected to be initiated in California in August.

The program, approved by the Board of Governors of the State Bar in May, has been held in abeyance until July for members' comments.

The Governors also passed related amendments to the Rules of Professional Conduct, but the California Supreme Court must approve the amendments to make them effective.

The program—which will be for five years—would set up a nine-man California Board of Legal Specialization to regulate, publish standards, test and investigate the qualifications of candidates, and issue certificates. Lawyers holding certificates could practice in all fields of law; those without certificates could practice in a specialty field if they wished.

Benefits of specialty certificates go to the individual lawyer and not to a law firm; the number of specialties is governed by a rule of practicality.

Law schools and continuing legal education committees will be encouraged to promote courses and seminars to fit in with specialty fields.

Qualification for a certificate under a "grandfather clause" would require that a lawyer be a member of the State Bar, have a minimum of 10 years practice, present a satisfactory showing of a substantial involvement (actual practice) in the field of specialty, and request certification within a two-year period of initiation of the plan.

Qualifications—outside the grandfather's clause—would require a minimum of five years practice, a satisfactory showing of substantial involvement in a specialty field within a reasonable time limit, satisfactory showing of special educational experience in the particular field of law and a written and an oral examination.

Recertification would be required at least every five years. Lawyers refused certificates have right of appeal.

To protect general practitioners, the program states: "When a client is referred to a certified specialist by another attorney, the specialist shall not take advantage of his position to enlarge the scope of his representation, and shall not represent the client in other matters without notifying the referring lawyer."

BLACK LAWYERS

The National Association for the Advancement of Colored People Legal Defense and Educational Fund, Inc., has launched a program to

double the number of black lawyers in the United States within the next seven years.

The Fund's Director-Counsel estimates that there are only 3,000 black lawyers in the country today, which is less than 1 percent of the national total of 325,000 lawyers.

The Director-Counsel and the Vice President of the Fund's Board of Directors feel that the Nixon Administration is not pressing desegregation cases. The new black lawyers would help the community to document racial isolation, develop integration strategy and mobilize public support in "medium-size" urban school district where integration is technologically feasible.

A campaign to raise \$16,250,000 has been launched to support the program. The program will provide scholarships, summer jobs, special training and subsidies to help young blacks become lawyers with direct experience in human rights.

Three hundred new law students will be granted three-year scholarships each year for the next five years, which should result in the graduation of 1,500 black lawyers by the end of seven years. Fifteen hundred other black students are expected to enter law school independently during the same period, totaling 3,000 new black lawyers in seven years.

Summer jobs with experienced constitutional lawyers should help the law students become familiar with many of the serious civil rights problems in America today.

The Legal Defense Fund will help the young lawyers to begin their practices in areas where their services are desperately needed by subsidizing them at a diminishing rate for the first three years.

Black graduates of law schools in the South are already bringing about major changes in the legal arm of the civil rights movement in the region. The young black lawyers are beginning to replace white volunteer lawyers from the North who used to come South by the hundreds to work a month or two at a time.

The black lawyers and many of their white colleagues, are beginning to strike in a more systematic way at the basic causes of racial injustice in the South.

Dwindling financial support from private sources, declining moral and political support from the Government and a slackening of interest among the Northern liberals who supported the Southern rights move-

ment during the nineteen sixties have put a damper on many projects initiated by the new lawyers, however.

Though the overworked civil rights lawyers still have to deal with violence and its consequences more often than is generally known outside of the South, the emphasis of their work has altered significantly.

These lawyers now spend most of their time filing and arguing lawsuits that attack the deeply rooted grievances that cause the violence that commanded most of their time previously.

They still write their briefs late at night in unkempt offices with naked light bulbs, but instead of working to free 50 or 100 angry black demonstrators who have been put in jail by an angry white sheriff, the new breed of lawyers mostly go to court over problems such as job discrimination, racism on draft boards, unconstitutional state and local laws, voting law violations and school segregation.

Even 4-H Clubs have been described by the Lawyers Committee for Civil Rights Under Law to be havens of segregation, and are being sued, along with their sponsoring agency, the Extension Service of the Agriculture Department.

Hundreds of such lawsuits, many of them far-reaching in their implications, are in various stages of prosecution in Federal and State courts across the South.

And at just this point, when quiet but important legal gains are being made, the Southern civil rights legal movement is caught in a pincer of political and private pressure.

The civil rights lawyers see themselves left to carry an enormous burden of work because of what they believe to be the relaxed attitude of the Nixon Administration toward blacks in America. However, they see the private sources of financial contributions that support their work drying up for various reasons—a diversion of liberals' money to the peace and ecology movements; anti-Semitism among some militant blacks; a decline with what might be called the "sex appeal" of civil rights law, and, perhaps most important, a new myth that Southern Blacks no longer need much help and that the action is all in the Northern cities.

As a consequence, all the organizations that support civil rights lawyers in the South are short of money.

The need for more black lawyers is, however, increasingly evident and repeatedly stressed by older black and white lawyers who have

carried the civil rights load for the last decade. Most of these men and women have suffered physically, mentally and financially, and many of the whites have paid added price of social and political estrangement from the sources of power in the South.

(Excerpts edited from A. H. Lubash 5/15/70 and Roy Reed 6/14/70—The New York Times)

HARVARD WOMEN LAWYERS

Another minority group is heard from in an excellent survey, 21 Harvard L.S. Bull. 22-35 (June 1970). After 130 years of operation, Harvard Law permitted women to enroll. In the past seventeen years, 240 women graduated. An interesting survey comparing the ladies to their male counterparts is explored. Areas of investigation and comparison include background, placement, employment, mobility patterns, clients, income and attitudes.