

REFORMS IN LEGAL EDUCATION?

This is a translation of the original text in Maltese of a **Working-Paper** proposing reforms in the course of Laws at the University of Malta, approved by law students in an Extraordinary General Meeting of the Gh.S.L. on the 19th April 1983.

The Law Students Association (Gh.S.L.) recognises the goodwill shown and the initiative taken by the Minister of Education together with the University authorities, to consult with the law students as a positive step in the right direction, since law students have for a long period of time been expressing their preoccupation with the many problems existing within their course. The Law Society therefore submits this working-paper on the subject, work on which was commenced in December 1982.

Requisite Qualifications for Entry into the Course

It is obvious that for an individual to get through the course successfully, he must be well prepared both academically and intellectually even before commencing his studies of the various branches and aspects of the Law. It is thus necessary that reforms be effected at secondary school level.

It must be said at the outset, that the G.C.E. examinations as obtaining nowadays do not enable students attending Secondary schools to attain such an academic standard as would befit a University which has been traditionally renowned for a level of learning, high enough to lend prestige both to its graduates and to the nation as a whole. It is thus suggested that a matriculation system of a higher level than the present be given importance by students intending to enter the University. Students who reach the fifth year level at Secondary schools should be made to sit for matriculation examinations in the following eight subjects:

- a. Mathematics;
- b. Four language examinations with their respective literatures i.e. English, Maltese, Italian as compulsory subjects and one subject chosen from French, Latin or Arabic (if possible including literature of the same).
- c. Another three subjects to be chosen from the following: Religion, History, Geography, Accounts, Physics, Chemistry, Biology and Economics.

In this way, a student emerging from secondary education would possess a superior academic background to that attained by today's students and would be better prepared to receive a tertiary education.

Having completed his secondary schooling and having passed his matriculation exams, a student would be confronted with an equivalent of the present New Lyceum, where he would embark on a course of advanced studies in three subjects spread over a period of 2 years, which subjects would be chosen from the following classifications:

- a. in the first class, Maltese would stand alone as a compulsory subject.
- b. in the second class, students would be able to choose 2 subjects from the following: English, Italian, French, Arabic, Philosophy, Economics and Political Sciences.

After two years of preparation and at an average age of 18 years, students would sit for three advanced matriculation examinations in the subjects of their choice.

As the academic standard expected from students should be high, a student in order to be eligible to join the course should acquire at least a grade C in every one of the three examinations sat for. In spite of this, a student who attempted more than three examinations would still be eligible to enter the course even though his grades would stand at two C's and two D's.

A very positive step would be the re-introduction of the "maturity clause" whereby individuals possessing a degree or diploma from a University recognised by the Faculty Board would be entitled to enter the course. It would also be at the discretion of the Faculty Board to accept individuals over 25 years of age who do not have the required academic qualifications. Such discretion shall be exercised on the basis of such pre-established criteria as the Board deems necessary. It is suggested that the Board subjects such individuals to a test which assesses not solely the individual's inclination towards the study of Law but also his maturity.

From all that has been said so far, it appears crystal clear that whosoever obtains the necessary qualifications is endowed with an inalienable right of entry into the Law course and therefore, this right should under no circumstance be fettered by any form of 'numerus clausus'. The only acceptable means of control of the amount of students in the Law course should be based on

purely academic criteria: if the Law student, during his years of study, fails to reach the required standard expected of him and his fellow students, he may be compelled to retire from the Course.

The Law Course

Upon obtaining the necessary qualifications for entry into the Law course, a student should not have to find himself in the same situation in which law students presently find themselves.

1. To begin with, the duration of the course should be set at 5 years with the present system of 6 months work and 6 months study periods being done away with completely. Law students require a minimum academic period of 8 months for effective study. The remaining non-academic part of the year should be divided into a 3 month work phase based on a roster system and a one month holiday period.
2. During the course itself, all law students would receive an adequate monthly stipend by the Government and any Gozitan or foreign students requiring accomodation in Malta would be given a special allowance.

Within the first ten years after having graduated, a student would be obliged to afford a period of one year's service as a lawyer in the employment of Government or in that of his private sponsor in consideration of financial aid given during his academic course. If a graduate is unwilling to render such service, he will be subject to a fine.

All this would ultimately result in the student having a sufficient period of time to dedicate to his studies and simultaneously being given a form of financial assistance by Government or by a private sponsor. Besides this, the University should re-open the roads to communication and cooperation with foreign universities in order that the student/professor exchange project may be resumed.

From what has been stated above, it is clear that the sponsorship scheme is, in principle, a good one. However, its application must be more flexible in order to allow entry into the Law course even to those students who fail to acquire sponsorship. If any firm, industry or Government department wishes to provide sponsorships, it must be permitted to do so.

Subjects

The Law Society proposes the following subject division spread over the five year study period.

1st year: Prolegomena
Constitutional Law
Criminal Law I
History of Legislation

and at least one of the following subjects:

Sociology
Psychology
Philosophy
Economics
Accounts

2nd year: Civil/Roman Law I - a comparative study
Criminal Law II
Commercial Law I
Public International Law

3rd year: Civil/Roman Law II
Commercial Law II
Administrative Law
Industrial/Fiscal Legislation

4th year: Private International Law
Civil/Roman Law III
Forensic Medicine/Notarial Legislation

5th year: Criminal Procedure
Civil Procedure
Commercial Procedure and Bankruptcy Law
Philosophy of Law

An LL.M. degree is being proposed to substitute the present Dip.Not.Public degree. Adequate importance will however be given to the subject of Notarial Legislation as indicated above. A student would be able to choose whether to follow a notary's or a lawyer's profession. It would also be of great benefit to the students to include such subjects as EEC Law, Aviation Law etc. in the syllabus. Whenever possible, lectures should preferably be delivered in

Maltese but students should be able to choose either Maltese or English as the language to be used for examination purposes and for the drawing up of the thesis. As regards the thesis, the Faculty Board is to appoint a tutor to assist a student in his work after taking into consideration the subject chosen by the latter. The Board of Examiners must examine the thesis presented and must communicate the results of such examination to the Faculty Board. Thus, after five successful years of study and a final presentation of a thesis, a student may graduate and receive his LL.D. degree.

Finally, the possibility of opening an evening course in LL.B. should not be excluded. Such a course of legal studies would be of untold value to those desiring to acquire a further knowledge of the Law and may therefore assist the future lawyer in his work or may enable students to work as legal procurators if they wish to do so.

The academic capabilities of students should be assessed by means of assignments and/or tutorials in every subject. Such would constitute 40% of the final marks in the subject. The written final examination at the end of each academic year would make up another 40% and the oral exam, 20% of the marks achievable.

The oral examination should not operate on merely a question and answer basis. A form of discussion on certain points arising from the examination paper and on other issues of interest to the student himself should be encouraged. Three selected examiners should sit on the Board of Examiners and should examine all students. At the end of the academic year, the final result of every student should be published by the Faculty on a grade basis and every student should have a right to inquire privately into the separate result achieved in every individual subject.

At every examination session held during the 5 years, a student must obtain at least 50% of the maximum marks in all subjects in order to pass. Nevertheless, if a student does not obtain 50% of the maximum marks in one subject, the marks achieved in other subjects would compensate for the individual failure, provided these marks are over 50%. The subjects, the marks of which may compensate for loss of marks in a subject are:

- 1st year: Constitutional Law; Criminal Law I.
- 2nd year: Criminal Law; Civil/Roman Law.

3rd year: Commercial Law; Civil/Roman Law.

4th & 5th year: all subjects compensate.

The marks obtained in the above subjects may compensate for those lost in other subjects with a below 50% mark. If however, a student fails to obtain at least 40% of the maximum marks in any of the above-mentioned subjects, such student would have failed and no other subject may compensate for such failure. Let's take an example. If a first year student obtains 40% of the maximum marks in Constitutional Law, only those marks achieved in Criminal Law may compensate for the loss of marks in the former subject. If however, a student obtains less than 40% of the maximum marks in Constitutional Law, then such student would have failed and no compensation of marks may operate. The reason for this is that Constitutional Law and Criminal Law are generally considered to be more important than the other subjects met with in the first year.

It must be observed that a fundamental difference distinguishes the first year of the Law course from the following years. During the 1st year, a student is expected to choose at least one of the "secondary" subjects available in addition to the compulsory subjects of Constitutional Law, Criminal Law and History of Legislation. Even if a student were to choose all subjects offered, he would be expected to obtain in every one of these, only 50% of the maximum marks of one subject. This would serve to encourage a student to study as many subjects as possible.

If a student were to fail in an examination in any one year, he should be given the right to resit for such examination in that particular subject or subjects. These supplementary sittings would be held in the form of a written and oral examination and should offer a student the chance of retaining his place in the course.

Other important points worth mentioning are:

1. The need to engage substitute lectures as a means of substituting the main lectures whenever the necessity arises.
2. The importance of granting a larger amount of scholarships for post-graduate studies so as to enable lawyers to specialise in a particular subject. This would ultimately be conducive to a growth in the amount of lecturers available in the Faculty of Law. The Faculty of Law should organise post-gra-

duate courses as well as offer a more varied choice in the course and confer more specialized grades. Mention must be made to the greater importance that must be attached to the doctoral thesis prepared by the student prior to graduation. This should provide an opportunity to encourage law students to carry out more extensive research in a particular legal field. The value of this to the student-body and legal professions cannot be estimated.

No academic faculty may survive without an adequate library service. The need is felt to expand the Law section in the Library and to update the collection of textbooks available therein.

An analysis of what has been proposed in this paper reveals that the much needed improvements in the present Law course would bring about an improvement of the academic level of Law students, who would also benefit from the experience acquired during their work phase. The final result being a more efficient course attended by better students, who in turn would certainly develop into better lawyers for the well-being of the country.

~~SEMINAR - THE LEGAL, SOCIAL AND MORAL IMPLICATIONS OF DIVORCE~~

~~Anna Mallia and Ann Bonnici~~

~~The panel invited to discuss the above theme on the 15th January 1983 was chaired by Professor J.M. Ganado, Head of Department of Civil Law of the University of Malta and included Mr. Mario D'Amato, a law student, Fr. Soler S.J., Mrs. Mary Rose Zahra, representative of the Council of Women and a lawyer, Dr. Anthony Farrugia.~~

~~The subject was introduced by Professor Ganado, who made it clear that the aim of the seminar was not to ascertain who was in favour or against divorce, but to create a forum for an objective discussion of the possible effects and implications of divorce in Malta, were divorce to be included in our Civil Law.~~

~~Anna Mallia and Ann Bonnici study Law at the University of Malta and are both members of the Editorial Board - ID-DRIT.~~