Buffalo Law Review

Volume 20 | Number 2 Article 5

1-1-1971

Concessional Admission of Underprivileged Students

D. A. Ijalaye
University of Ife, Nigeria

CONCESSIONAL ADMISSION OF UNDERPRIVILEGED STUDENTS

D. A. IJALAYE*

The law schools are already serving the various communities in many spheres. This article will examine the possibility of extending such service to cover the concessional admission of underprivileged or minority students into the law schools. The discussion will proceed under two headings: (1) the admission of students from the underprivileged areas or classes without regard to grades, and (2) the admission of minority students with good grades but who, as a result of family obligations, do not have the privilege or opportunity to pursue regular day courses because they have to be gainfully employed during the day to sustain themselves and members of their families.

I. ADMISSION OF UNDERPRIVILEGED PERSONS WITHOUT REGARD TO GRADES

The problem of concessional admission was recently considered by the City College of New York. A plea for the admission of a substantial number of high school graduates from the slums to City College of New York was made on May 30, 1969 by Professor Bradford Menkes, one of the faculty members who helped to negotiate the controversial dual admissions proposal.[1] Professor Menkes urged that the City College should adopt a trimester system that would keep the school open all year long. He argued that this would permit an increase in the overall student body and would allow a much larger number of underprivileged high school students to be admitted on a non-competitive basis. It was suggested that under the dual admission proposal, half of the freshman class would be composed of students from underprivileged areas and would be admitted without regard to grades. The other half would be accepted on the basis of scholastic require-

* On leave as Lecturer in Law, University of Ife, Nigeria. LL.B., Hull University, 1963; LL.M., University of London, 1965. Presently, J.S.D. candidate, Columbia University.

1. N.Y. Times, June 1, 1969, § 1, at 69, col. 3.

ments. On June 2, the City College Faculty Senate rejected this controversial dual admission proposal.[2]

Should the law schools, in an attempt to serve the nearby underprivileged communities, try the type of concessional admission attempted at City College? It is not desirable for the law school to do so for the following reasons:

1. Allocating a particular quota to people from slum areas prevents, to some extent, the admission of good students (on a competitive basis) from other parts of the United States and other parts of the world, thus destroying the basis for the well-merited premise that the university is meant to serve not only the local community, but the whole world.

A university whose students are drawn from the various nations of the world no doubt contributes to the promotion of better understanding between the various nationalities thus represented. In this way, the university is helping the United Nations in its task "to develop friendly relations among nations based on the respect for the principle of equal rights and self-determination of people."[3] In an attempt to foster the lofty ideal that the university is meant to serve the whole world, the recent Edict of the University of Ife (Nigeria) provides:

> Membership of the University shall be open to all persons of either sex and of whatever race, ethnic group or place of origin, religion, political or other opinion, nationality or class. . . .[4]

2. Such a system of admission is entirely unfair to the best students because it would severely diminish their chances of entering the law schools with high academic standards; and at the same time, it would clearly destroy those standards in the levelling out process. Proponents of the open or dual admission systems justify it in the interest of what they believe to be the larger social good, ignoring the warning that in the long run, nobody benefits from "an educational policy growing out of mistrust of reason and intellect."[5]

---

2. Subsequently, City University of New York adopted a policy of "open access" for all its campuses. *See Open Admissions: American Dream or Disaster?*, TIME, Oct. 19, 1970, at 63-66.

3. U.N. CHARTER art. 1, ¶ 2.

4. U. of Ife (Nigeria) Edict § 6 (1970). *See* W. St. of Nigeria Gazette, June 26, 1970, at A62.

5. N.Y. Times, Oct. 16, 1969, at 46, col. 2.

If there are two hundred places in a law school and one hundred of them are reserved for underprivileged persons, it might mean that some of those to be admitted will have just the minimum entry requirements while some of the competitors for the remaining one hundred places might be rejected even if they possess far higher qualifications.

The fear that this type of concessional admission might lower or even destroy academic standards led to great demonstration and rioting by students at the Ahmadu Bello University (Northern Nigeria) in February 1967. During that year there was a move in the University to introduce the "mature students programme" under which civil servants and administrators were to gain admission for a two-year degree course at the University. The students of the University felt that this type of concession would not only lower academic standards but would open the University to contempt and ridicule because the normal admission requirements were to be relaxed. The students therefore demonstrated and rioted against the plan. The demonstration and the rioting eventually led to a closing of the University for sixteen days and the suspension of 950 students.[6] Because of this stiff but justifiable opposition, the University dropped the plan.

It should be noted that the "mature students programme" was still at the proposal stage when the students rioted so that it was difficult to know the details of the programme. It would appear, however, that the "mature students programme" is working satisfactorily elsewhere in Africa. The University of East Africa (Associating Makerere University College, University College Nairobi, the University College Dar Es Salaam) has what is called the "mature age entry scheme." In order to give an opportunity to exceptionally well-qualified candidates who wish to study for a degree from the University of East Africa, and who do not possess qualifications which satisfy the University's general entrance requirements, the University of East Africa offers an alternative method of entry by the mature age scheme for persons who satisfy, *inter alia,* the following conditions:

(a) candidates must be 25 years of age or older on July 1st of the year in which they seek admission;

6. The University was closed from February 18 to March 6, 1967. *See* New Nigerian (a Nigerian daily newspaper), Feb. 20, 1967, at 1.

(b) candidates must have completed their formal school education not later than June 30th, five years before the year in which admission is sought;

(c) candidates must give the name and full address of a referee, preferably a graduate himself and who is well-placed to assess the candidate's potential as a university student;

(d) if in the opinion of the University, candidates have complied successfully with the above requirements, they will be required to take a special entrance examination consisting of papers in general character for which specific preparation is not possible.[7]

3. If, however, standards continue to remain the same, many who come in under the concessional admission scheme may drop out because of their poor educational background. Those who drop out in this way are likely to be frustrated and such frustrated citizens, would no doubt, create fresh social problems.

A few years ago, the Council of Legal Education in England altered the eligibility requirements for taking the English Bar examinations. The earlier lower qualifications were changed to conform to the entry requirements to degree courses in English universities. In addition to the new entry requirements, the Council also promulgated a new regulation stipulating that any student who failed to pass any part of the bar examination after a particular number of attempts had to withdraw. Although this regulation is of general application, it would appear that it was devised to disqualify the students who entered under the old scheme and who were finding it very difficult to pass their examinations owing to their poor academic background. Most of the students affected by this new regulation are Asians and Africans. Those who are asked to withdraw in this way are always faced with what to do next. Having spent three or more years studying for a particular profession, they would not find it easy to switch over to a new course.

4. Law practice, by its nature, requires people with a sharp intellect that will enable them to withstand the demands and strains of practice. The demands of legal practice have increased considerably in recent years. The great increase in statutory regulation means additional work for lawyers. Moreover, a lawyer now performs more than his conventional legal functions; he at times

7. The University of East Africa calendar for 1967-68, at 13.

acts as a confidant and in some instances as a psychiatrist, since clients now, more than ever before, bring nearly all their problems to their lawyers for solution. It is therefore necessary, in the interest of the profession, to continue to ensure that only the best students are allowed to graduate from the law schools. One writer has put this point succinctly:

> One of the chief duties of the law schools it to dissuade from entrance upon the practice of the law all persons who come to them unable to meet severe requirements. It is better for students, better for the profession and better for the public at large. . . . We should not be graduating young men by merely inquiring into the length of their residence nor because of their regular attendance and peaceful demeanour and nor because they have already graduated from college [or because they come from poor social background]. By insisting on severe application thoroughly tested, and in no other way, shall we justify the belief that the law school is the best place for the prospective lawyer.[8]

Another writer has even gone so far as to designate the lawyer as an embodiment of justice. After admitting that no one has been able to provide a satisfactory definition of justice, he offers the following suggestion:

> The nearest we can get to defining justice is to say that it is what the right-minded members of the community believe to be fair. . . . They [the lawyers] represent the right minded members of the community in seeking to do what is fair between man and man and the state.[9]

It cannot be over-emphasized therefore that people who have this important role to perform in society should be people of honesty and integrity who are intelligent and well-motivated and who possess sufficient intellectual calibre so as to be able to thoroughly weigh and consider the sometimes cumbersome literature and legal technicalities involved in the process of a legal decision.

It should be noted, however, that some law schools are already giving far-reaching concessions to minority or underprivileged students. The University of Chicago normally required an applicant

8. Curtis, *Examinations in Law Schools,* A.A.L.S. HANDBOOK 41, 47 (1903).

9. A. DENING, ROAD TO JUSTICE 4 (1965). Dening is a famous English law lord.

to score at least 650 (out of possible 800) on his Law School Aptitude Test; but a few blacks have been admitted with scores as low as 420. Stanford University allows some low-scoring blacks to earn law degrees in four years instead of the usual three. When several minority-group students and a few whites failed to achieve a passing average of 64 in their first year at the University of California at Los Angeles Law School, the faculty lowered the minimum to 62 for all first year students in order to allow these students to remain in school on probation.[10]

5. The concessional admission of underprivileged persons without regard to grades has been designated as a breeder of inferior products. The Vice President of the United States of America, Spiro Agnew, recently denounced, in very strong terms, colleges and universities that admit minority groups on the basis of quotas rather than aptitude for learning. The Vice President said that by "some strange madness" some educators now believe that the "exigencies of society" demand that attendance at universities should be determined by ethnic or racial quotas rather than solely by the applicant's ability to learn. He warned that no university should discriminate among applicants upon any basis other than aptitude for learning. For those who think there should be racial or socio-economic class quotas in college admissions he posed the following rhetorical questions:

> When next you are sick do you wish to be attended by a physician who entered medical school to fill a quota or because of his medical aptitude? When next you build a house, do you want an architect selected for school by aptitude or by quota?[11]

One would have thought the Vice President was confusing the standards of graduation with the standards (or criteria) of admissions but for the fact that he justified his position by saying that the practice of concessional admissions has the pernicious result of creating a vested interest in seeing that those admitted this way should succeed, since "the same pressures which operated to bring about the favored admissions status of those admitted because of race, socio-economic class or ethnic background continue to operate in favor of their successful completion of studies undertaken."[12]

10. *Learning the White Man's Law*, TIME, Jan. 5, 1970, at 33, col. 2.
11. N.Y. Times, Feb. 13, 1970, at 20, col. 6.
12. *Id.*

The Sensible Way Out

It is conceded that there may be individuals who have the potentialities to be competent lawyers but who are barred from the opportunity of attending law school on the basis of a low test score. Concerned about this problem, the University of Georgia during the summer of 1968 initiated a program designed to give an applicant with a good academic record (whose performance in the Law School Admission Test was below the normal standards of admission) an opportunity to study law during the summer and, if successful, to continue as a member of the entering class in the fall. Twenty students took part in the 1968 programme but only nine of them were considered by the faculty as qualified to join the incoming first year class.[13] It is too early to judge the success of this experiment but it is surely a good solution to the problems posed by the open or dual admission systems.

The above suggestion, however, skips over a compromise solution which may be important. It is arguable that the extremes are repugnant, namely, to have only a single rigid standard of admissions or to admit by quota without regard to quality. A compromise solution resting on the premise that the law schools have a social and professional obligation to correct the racial imbalance in the profession but not by becoming inferior or remedial educational institutions is possible. What can be done is to identify minority applicants who can make it decently through the law schools under the usual academic graduation standards of the school. To do this would require changing admission criteria.

One solution might be the introduction of preliminary courses at the law schools for those candidates from the underprivileged classes who do not satisfy the normal admissions requirements. These minority students would come to the law schools for two semesters or one calendar year and undergo intensive preliminary courses designed to foster their aptitude and sharpen their intellect. At the end of these courses there would be a series of examinations and those who pass them would be admitted to degree courses at the law schools.[14] This solution has at least one virtue. It would ensure that those underprivileged students, who are good in themselves but who failed to acquire the necessary admissions require-

13. *See* Murray, *The Tryout System*, 21 J. LEGAL ED. 317, 319 (1969).
14. This proposal is similar to several already existing programs such as CLEO.

ments, either as a result of having attended bad schools, or having been taught by bad professors in good schools, would have another opportunity to qualify for admission.

It may be worthwhile to mention that the University of Ife (Nigeria) recently introduced concessional admission which now operates side by side with the direct entry or admission. There are two statements in the University Calendar concerning concessional admission. The first provides that:

> A candidate may seek direct entry to a degree course or concessional entry to the University to pursue a preliminary course of studies in the University which will enable him to qualify for admission to the degree course of his choice.[15]

The second provides that:

> . . . Until such time as Senate may otherwise direct, a candidate who wishes to pursue a course of study for which his previous education has not provided an adequate preparation may qualify for concessional entry to the University under such conditions as are prescribed for the purpose by Senate, and shall pursue an additional course of study in the University which will be devoted to preliminary work including the completion of any Faculty requirement that may be needed for admission to the selected degree course.[16]

At the University of Ife, concessional admission is granted to holders of valid school certificates or persons who have passed five General Certificate of Education Ordinary Level subjects all at the same sitting; the five subjects must include the English language. It would appear that concessional admission was introduced partly because of the realization that not all students attending the Higher School Certificate Courses[17] were doing so at good schools. The University therefore introduced the preliminary courses which last for one year. During this year, the student-concessionaires undergo preliminary courses and those who pass the examinations conducted at the end of the courses are admitted to degree courses of their choice.

15. The University of Ife calendar for 1967-68, at 62.

16. *Id.* at 74.

17. These courses are of two years duration and they are offered to students who have passed the School Certificate. Those who score high grades in the required number of subjects in the final examination (which is equivalent to the G.C.E. "A" Level Exam) are admitted directly to degree courses at the University.

It should be noted, however, that some people hold an outrageous view of open admission: "[A] school or university [should] be like a museum, a library, concert hall, a lecture hall or sports facility."[18] According to this view the student, and not the university, is to be concerned with the problem of admission. Such a view is outrageous because it appears to dispense entirely with any admission requirements. It would appear that under this scheme, a prospective student subjectively decides for himself whether or not he has the ability to pursue a stated course. It is not unlikely that people with exceptionally poor backgrounds would come in under this generous scheme, and not obtain any substantial benefit from the programme. The programme would even appear to be unfair to the professors in that it would waste their time and efforts. Instead of wasting time to teach law to these ill-prepared students, a professor can gainfully employ his time on research or any other rewarding academic exercise.

II. Admission of Underprivileged Persons with Good Grades but Who Are Unable to Pursue Regular Day Courses

There is another class of underprivileged persons. This class consists of people from the minority groups who have the minimum qualifications to enter the law schools but who do not have the privilege or the opportunity of reading law as day students because they are in full-time employment which, due to family obligations, they cannot abandon. The only thing that can be done to help this class of underprivileged persons is to establish evening or part-time courses which they can take without having to resign from their jobs. As has been previously suggested, the law schools have a social and professional obligation to correct the racial imbalance in the legal profession (but not by lowering graduation standards). One way of achieving this objective is to limit admission to the evening or part-time courses to people from the minority groups who have the requisite qualifications.

In a metropolitan area like New York, there are able, highly-motivated persons from the minority classes who cannot attend law schools on a full-time basis even with generous scholarships or

18. Holt, *The Radicalizing of a Guest Teacher at Berkeley*, N.Y. Times, Feb. 22, 1970, § 6 (Magazine), at 75, col. 2.

interest-free loans. Some of them are graduates from very good colleges and universities, often with high academic records and high aptitude scores. Most of them attended college as full-time students, but because of family obligations or other reasons, they must be gainfully employed. It is for this type of experienced person that the evening law courses ought to be provided. It is an old theme that experience and maturity are important factors in legal training since older men of everyday experience, well-qualified intellectually, get more out of law school than their younger, less-experienced fellow students. This assertion is borne out by the experience at the New York University School of Law, in respect of which the following has been said:

> The quality of the students in the two divisions [*i.e.* Day and Evening] is about the same, but with a slight edge in favor of the evening division in legal aptitude scores and college records.[19]

The critics of evening law schools have, however, argued that the problems of such schools far outweigh their advantages. They say that serious matters of fatigue and lack of dedication to the law are endemic in evening law schools and that consequently many evening law schools turn out inferior legal products.[20] On the other hand, supporters of the evening law schools say that it is important in a free society to have lawyers who come to the profession from different social backgrounds. They acknowledge the problem of fatigue, but point out that many thousands of fine law students have overcome this handicap and have become good lawyers despite the fact that they obtained their law schooling the hard way. Supporters of the evening law schools also point to the fact that evening law students infuse knowledge of other professions and occupations into the legal profession as most of them are often persons of some achievement before entering the law school.

An entirely different reason has also been given in favor of evening law courses. It is said that:

> Whether critics of evening legal education like it or not, the 'Plowboy to President' idea is not yet dead in the United States. Most Americans still think that the 'Abraham Lincoln tradition'

19. Niles, *The Extended Program for Employed Law Students*, 14 J. LEGAL ED. 361 (1962).

20. *E.g.*, Oleck, *Facts and Fictions about Evening Law Schools*, 12 CLEV.-MAR. L. REV. 1 (1963).

> is a good thing and worth keeping. In their minds the evening law school is more directly in that tradition today than the day law school. The truth is that the evening law school literally keeps alive the possibility that a poor man as well as a rich man may realistically aspire to the highest post in the nation.[21]

It may be mentioned that the Law School at the University of Ife in Nigeria offers evening courses in law but admission is not limited to the minority groups. At the beginning of the 1963-64 session, evening courses leading to the LL.B. degree were instituted for the benefit of people of mature age who were qualified for entry into a university and who, hitherto, had not had the opportunity of reading law as day students in a university in Nigeria because they were in full-time employment which for family and other reasons they could not forsake. The syllabuses, admissions requirements and examinations are the same for the evening students and their day counterparts, but the duration of the evening courses is normally four years. The University started to move from Ibadan to its permanent site at Ile-Ife (a distance of about 56 miles) in January 1967 and the Faculty of Law was one of the first to move. Since that time, most of the law teachers have been traveling once a week to teach law to evening students at Ibadan. Because of the distance, the bad roads and the expenses involved, the University decided, in October 1970, to discontinue the evening courses at Ibadan. This decision provided some controversy for the press. A few critics felt that by discontinuing the evening courses, the Law School was doing a disservice to some members of the Nigerian community who might have continued to benefit from such services. One of the critics cited as an example, the case of one evening student who did so well in his final examinations in 1967 that he was appointed an Assistant Lecturer in the Law Faculty.

III. Conclusion

Admission of underprivileged persons without regard to grades probably creates more problems than it resolves, and threatens to undermine some of the traditional values of the university. A sensible solution to extending legal services to various communi-

21. *Id.* at 6.

ties whose needs are manifest should never jeopardize the concern for quality. Concessional admission, as described in the foregoing discussion, offers the opportunity for maintaining quality both in the legal training conducted in the law schools and in the subsequent practice of law.[22] Resorting to greater use of evening law school courses, especially for qualified, usually older persons, who need to be gainfully employed during the day, would also preserve quality and at the same time extend the reach of legal services.

No facile solution is recommended, but any solution to the problems raised by concessional admission of underprivileged students must not neglect the kind of quality which must continue to be associated with the legal profession.

22. It must be recognized that the implementation of any form of concessional admission necessarily involves additional funds and manpower. A law school which tries to do too many things may end up doing nothing well. The danger in a small, young law school (or even a large, old law school) is that its limited budget may be spread too thin by adding new programs or expanding existing ones.