

LEGAL EDUCATION ^{AT} MARYLAND



UNIVERSITY

OF MARYLAND

SCHOOL OF

LAW



Michael J. Kelly, Dean

The law degree has become such a pervasive and popular credential in American higher education that those who are interested in the degree and those who award it often fail to examine its meaning. I would like to explain how I unpack the baggage of legal education, or describe, from the perspective of the school principal, what in the world I think I am doing.

First, an introduction. In professional terms I am both a lawyer and an educator. As a lawyer, I have a limited private practice, working primarily with other lawyers who need advice on the law, the profession, or legal ethics—a subject I also teach at the law school. Like most American lawyers, I am an office lawyer. I write opinion letters and

rarely, if ever, appear in court. I have a strong allegiance to my profession, I care deeply about serving my clients and have opinions about the profession that range from pride, to embarrassment, to a desire to change things. As a lawyer, my goal at the law school is to create the formative experience for the future leadership of the legal profession in Maryland.

My pride as an educator stems from a belief that legal education at Maryland is a **superb education**—a “liberal” education in 19th-century (not 20th-century political) terms. Law school teaches thinking far more effectively than do most undergraduate curricula in this country. Law school challenges students to think on their own, to argue with faculty and fellow students, and to develop a skill called “legal reasoning,” that is, the ability to analyze from analogy and disaggregation of issues. Legal education immerses a student in a reasoning different from scientific or deductive logic—a reasoning aimed at convincing others.



Some argue that the law is **the** best preparation for people interested in business and government, far better than the graduate training specifically designed for those ca-

reers. Legal education is a form of challenge, an initiation to the world of give and take. It is hard, demanding, and exhilarating. Usually critical, rarely complimentary, it is designed to develop intellectual self-reliance.

A good legal education also is an education in justice. It develops the ability to make decisions about the way things ought to be in the law (and society), whether or not they are that way at present. This is not a purely aesthetic point, for many students will not be practitioners who represent one interest or another; they will be government officials (including judges) who will have the opportunity to make things the way they ought to be. So, legal education is education in a kind of citizenship, an education that enables people to make choices for society.

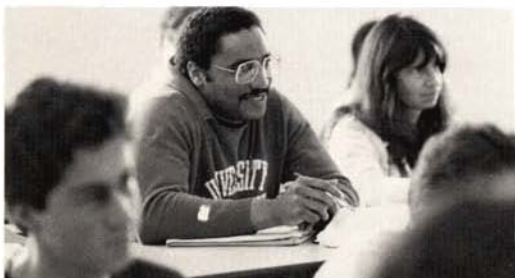
If the primary function of the University of Maryland School of Law is the teaching of thinking, the content of that thinking involves a grasp of doctrine in traditional subject areas such as property, torts, and contracts, as well as important byproducts such as facility in using the research tools of law libraries, philosophical/historical understanding of the development of the law, and experience in expository writing about the law. But the crucial skill taught in law school is the ability to think through problems with analyses that lead to constructive action.

We have made a substantial investment, compared to most American law schools, in the most demanding mode of legal reasoning, the demand of a real client.

One of the exciting developments at Maryland in the past ten years has been the enlargement of this curriculum of thinking. A significant set of assumptions and skills lies at the heart of the lawyer's ability to elicit the trust and respect of a client, to investigate and discover evidence called "facts," and to present facts in such a way as to resonate or connect with legal norms. The contexts of litigation, negotiation, mediation, counseling add much complexity to thinking about legal issues. So the idea of law must be enlarged to include not only interrelationships and the perceptions of people, but also the art of the lawyer characterizing those perceptions.

We have enriched our curriculum at Maryland by an infusion of settings in which performance thinking must occur. We now have some 16 sections of courses in trial planning and advocacy, litigation, negotiation and counseling, and arbitration and mediation. They are "how to" courses: how to think in the contexts of the many diverse roles of a lawyer. We have made a substantial investment, compared to most American law schools, in the most demanding mode of legal reasoning, the demand of a real client. Our clinical law office is the equivalent of a small in-house law firm of 8 lawyer-professors who supervise some 50 or 60 students each semester. Their active case-load requires students to think about

their clients' needs and the strategies or methods for achieving the best result for the client within the realities of "fact" and "law." Service to the client provokes a high form of legal reasoning. It raises special complexities of defining and weighing the various interests of client and lawyer and opponents and tribunals—all of which crystalize in the special reasoning of decision-making and "thinking under pressure," the special province of the lawyer.



Two other contexts of teaching at Maryland lend depth to the curriculum of thinking. First we have an unusual array of upper-class course electives for a school of our size, in particular, seminars and independent writing possibilities. These electives encourage extensive study of (and writing about) a single problem in much the same way as the best forms of traditional graduate education in the arts and sciences. Second, we offer in the clinical law office an analysis of the impact of law on society that stimulates thinking about alternative strategies for effective social action. Our clinical program teaches not only the skills of representing individual clients, but also the skills needed to accomplish effective law reform. This exposure to public interest law requires students to think about fascinating problems created by having to choose among legislative lobbying, litigation, and negotiation in the political context of group representation.

A feature legal reasoning shares with moral reasoning is that one learns best (or only?) by doing. One learns to write by writing, to argue by arguing, to counsel by counseling. It is crucial, therefore, to learn these skills with people who are themselves accomplished. The example set by the teacher is critical to the student's success. And here Maryland, in my not unbiased opinion, can boast of a combination of traits of institutional character which are unusually effective for teaching thinking.

We rank high nationally among schools of our size in the number of full-time faculty available for students. This extremely favorable faculty/student ratio would be of little consequence were it not for an ethos at Maryland of caring about students, of being accessible to students and of taking advantage of our faculty resources to reduce the size of our classes.

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For example, for first-year students we use small sections to ease the sometimes stressful beginning of the law school experience. But even this attention to the correct scale for effective learning would not be of value if our faculty were not themselves engaged in the thinking that is at the heart of our excellent teaching.

Law school teaches thinking far more effectively than do most undergraduate curricula in this country.

Our commitment to teaching entails a commitment to scholarship and practice of a high order. This past year our faculty published books on subjects ranging from the first amendment to criminal law, torts, contemporary Chinese law, domestic relations appellate advocacy, law for retarded people, environmental law, conflict of laws, securities regulation, and legal history. Others on our faculty played leadership roles in the growing controversy over the remedies for the poisonous effects of lead paint on children, overseeing state-supported legal services for the poor, defending persons facing capital punishment, and representing those unable to defend themselves in mental institutions and institutions for the retarded. Maryland plays an important role in the professional life of our region, a role we expect to impart to our students. Thinking in law often entails action, and our active faculty makes Maryland an exciting place to learn the law.

We are also beginning a new type of interaction between active practitioners and the law school through development of the Maryland Bar Center. In a restored school building adjacent to the law school, the center will house the Maryland State Bar Association, a progressive and effective voluntary association of the



lawyers who care about the structure and future of the profession of law in Maryland; the Maryland Institute of Continuing Professional Education for Lawyers (MICPEL), the post-law school educational program for the legal profession in Maryland; and a varied group of lawyers who have moved their practices to the University of Maryland School of Law, much in the way that some physicians have their practices in university medical schools and teaching hospitals. We expect these lawyers to work with our clinical law program and practice courses, teach in the traditional classroom, and to perform a variety of roles engaging them in legal education and providing our students models of law practice. The Maryland Bar Center is an important experiment for American legal education. Although we cannot predict precisely how the interaction of active practitioners and the law school will develop, we are confident it will enrich the experience of all. The Maryland Bar Center is yet another example of the way we think about legal education at Maryland; with a willingness to take risks to provide an exciting environment for our faculty and students.

Of course, the coherence and success of our program depend on the choices (which means the risks) assumed by students who work here. The splendid thing about Maryland is that it offers students the opportunity to achieve excellence, and encourages them to do so by "trying on" the varied roles of the lawyer. It all goes back to the curriculum of thinking. For, in my view, thinking cannot be understood or taught without answering the question: thinking in what role? The lesson learned by answering that question is the heart of the special learning that is legal education.

**Call or write our admissions office if
you'd like to know more about legal
education at Maryland.**

University of Maryland
School of Law
500 West Baltimore Street
Baltimore, Maryland 21201

(301) 528-3492

