

March 5, 1975

INCREASING NATIVE STUDENT ENROLLMENT IN LAW SCHOOLS

INTRODUCTION:

The native population of British Columbia numbers approximately 110,000 persons representing five to six percent of the total population. There are 2100 lawyers practicing in B.C. (1) In the entire province there is only one practicing native lawyer (and one or two native persons with law degrees). If the proportion of Indian lawyers was equal to the proportion of Indian people in the general population, there would be at least 100 Indian lawyers in B.C. At present, there are seven persons of native origin in the University of British Columbia law school which accommodates 700 students (i.e., one percent). At this rate of enrollment, native lawyers will never become five percent of the law profession.

These figures reflect the well known fact that very few native people receive university level professional training. This situation is particularly detrimental to native people in the case of the law profession. There are specific legal related issues and problems for native people in Canadian society at this time in history.

It is very difficult for most non-native middle class lawyers to appreciate the particular historical, cultural, social and economic conditions which contribute to native problems with the justice system. Many circumstances indicate the need for native lawyers to deal with native problems with the justice system from an informed and empathic perspective:

- (1) The most obvious of these is the need for Indian lawyers to represent the Indian cause in land claims proceedings. This issue will be in the forefront of national politics for years to come and it is unlikely that the native position will be adequately represented by a non-native lawyer. (Especially in the eyes of native people who are aware of a long history of duplicity in dealing with the bureaucracies of the country.)

(1) These figures are based on the 1973 law list and the 1971 Census and include approximately 150 full time government and business lawyers.

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- (2) There is a need for lawyers proficient in other areas of Indian law such as: - the Indian Act
 - hunting and fishing rights
 - jurisdiction of reserve land, etc.of which almost all lawyers are totally ignorant.⁽²⁾ It can reasonably be assumed that native lawyers will not ignore native law.
- (3) Indian organizations need legal advice.
- (4) In non-native society, lawyers provide a large proportion of the political leadership. This possibility is not at present open to the native community. This puts them at a definite disadvantage.
- (5) There are disproportionate numbers of native inmates in Federal prisons in B.C. (twenty-one percent).⁽³⁾ Seventy percent of these are in the maximum security institution.
- (6) In the civil law area, many more children in the care of child welfare services are native (forty-one percent)⁽⁴⁾ than would be expected on the basis of the proportion of native people in the total population of British Columbia.
- (7) Native lawyers will more easily gain the trust of their native clients and people will then use them more readily. This will have the effect of increasing access to lawyers.

Native lawyers (and paralegals and courtworkers) are needed for educational purposes as well:

- (1) Many native people are not aware of the extent to which the law affects their lives.
- (2) They are often unaware of their rights and so do not realize when they are being infringed upon.
- (3) They may not know of laws which protect them, such as consumer and landlord and tenant legislation.
- (4) They may not even realize that they are breaking the law in certain circumstances.

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- (2) A course in Native Law has been taught at UBC only in the last three years.
 - (3) These figures are based on five B.C. prison populations (British Columbia Penitentiary, Agassiz, William Head, Mountain, and Matsqui) and were compiled by the members of the Native Brotherhood of the B.C. Penitentiary.
 - (4) Department of Human Resources figures - Child Welfare Division - personal communication.

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- (5) Lawyers and legal professionals and paraprofessionals among Native people would bring these things to their attention (formally or informally) and act as models.

UNIVERSITY ADMISSION AND THE NATIVE STUDENT:

Native people deserve the same benefits of the affluent society as every other citizen. If this state of affairs is to be achieved past discrimination will have to be balanced with some special consideration now. The expression "There is nothing more unequal, than treating unequals, equally" is particularly appropriate to the Indian persons' situation in our society. There is a well established precedent for special consideration in the society in general (especially as exemplified by government spending programs) and in the discretionary admittance of native students to the faculty of law in particular.

The need to increase the number of native lawyers in B.C. is obvious. It is the case, however, that it is difficult to find native people who meet the high and particular standards of admission to the UBC law school.

The number of native students enrolled in programs leading to a university degree in B.C. almost tripled from 1973-74 to 1974-75, and was still only 274 persons.⁽⁵⁾ Of these, a third will drop out in the first year, and fewer than half will be likely to finish their programs.

Indian people face many problems that most students do not face which interfere with educational attainment:

- (1) Ineligibility for university entrance.
- (2) Economics: The Indian people in B.C. represent one of the poorest groups in the province.
- (3) Inappropriate or poor quality high school education.
- (4) Other responsibilities: Many Indian people who might qualify for university entrance already have families.

(5) Department of Indian Affairs and Northern Development (DIAND) figures - Education Division, Regional Office - personal communication.

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- (5) The demand for skilled Indians influences many to leave before completing university.
- (6) Alienation: Many Indian students find that the more education they have, the less acceptable they are to their own people.
- (7) Discrimination.
- (8) Cultural dislocation.⁽⁶⁾

For these reasons, we request that the law faculty consider increasing the number of native students admitted in the discretionary category.

Information supplied by the faculty of law indicates that it now accepts most candidates with a reasonable chance of success. Therefore, the number of native students will not be increased without some definite action on the part of the admissions committee and the law faculty in general. One way that such increased enrollment might be attained is by altering admissions criteria.

We respectfully request that the law school relax its requirements slightly. This need not entail lowering of the quality of students admitted but instead would recognize more varied backgrounds as of equivalent value. We suggest:

- (1) That mature students with relevant field experience (e.g. police, special constable, justice of the peace, parole or probation officer, courtworker, paralegal, social work, etc.) and some familiarity with writing reports, would be likely to succeed in law school. Such people have already shown an interest in the field and are likely to be highly motivated. They should be accepted provisionally subject to successful completion of the Saskatchewan pre-law program; and
- (2) That any student with two years of university be accepted

(6) The above points are summarized from the "Proposal for Native Indian Teacher Education Program", a Report of the Dean's Committee on a Native Teacher Training Program, April 3, 1974. (See Appendix A for an expansion of some of these points.)

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whether or not he has gone to the Saskatchewan program where there are special circumstances⁽⁷⁾ which indicate that he or she should be accepted.

To a large extent, these suggestions merely formalize present policy. However, such guidelines give individuals a basis to appeal non-acceptance and a firm commitment would give us a basis for recruiting. They do not exclude the possibility of considering cases on individual merit.

We realize that the law school cannot accept any native student who may apply. Not only would this be unfair to other students but it is unfair to accept any person for whom there is not a reasonable chance of success. It seems unlikely that a student with no academic background at the university or college level or some equivalent experience (e.g. in a position involving some white collar duties) would have a very large chance of success.

RECRUITMENT:

There are virtually no native lawyers in B.C., and an inordinately small number of native law students. In spite of impressive growth in the number of native students in university programs in B.C., the number of native law students has not increased, indeed, there is some indication the numbers are not even holding steady.⁽⁸⁾ The number of applications has followed a similar pattern. This indicates that native people with adequate qualifications either do not know about the possibilities of attending law school or do not feel that they could succeed. The experience of native people with the law has not been of the kind which encourages them to view themselves as dispensing legal services.

Since the present policy of the law school is to advertise the special considerations for native students (especially the influence of successful completion of the Saskatchewan pre-law program) only at the time of application to the law school,

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- (7) Such "special circumstances" are outlined in the law faculty pamphlet as follows: physical disabilities, economically deprived backgrounds, etc.
- (8) Personal communication with D.J. MacDougall, Chairman, Admissions Committee, UBC law school.

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few native persons even realize that the possibility of becoming a lawyer exists. Some further publicizing would seem to be in order.

The changes in admission criteria suggested above are likely to result in few if any new applications. An active recruitment program combined with increased advertising is more likely to result in increased numbers of native people applying to law school. Therefore we recommend that the law faculty undertake to establish a recruitment program.

It is likely that most candidates recruited would fall into the discretionary category. Therefore, we would like a commitment from the faculty of law to accept all native applicants at the present level of acceptable qualification. That is, rather than raising admission standards, enrollment would be expanded if this action was warranted by the number of qualified applicants.

We would like to ensure that no formal or informal quota is set on the number of students admitted under the discretionary provisions for native students.

In accordance with past procedure such discretionary students would be provisionally accepted on the basis of successful completion of the Saskatchewan pre-law program. We would like to emphasize however, that acceptance of every native student should not depend on completion of the Saskatchewan program. Native applicants applying as mature students or pleading special circumstances must be considered on the same basis as all others.

It seems likely that the absolute maximum number of students likely to be recruited for the first summer (1976) would be twenty. Dr. Carter at Saskatchewan indicates that his program can accommodate up to thirty-five students. For that year at least, he could accept all we might recruit.

Responses to a recruiting program could be monitored through the Indian newspapers, Indian Education Resources Centre, college student services, etc. At least for a year or two it is to be hoped that Saskatchewan can accommodate the need for pre-law training and this time can be used to assess the growth of demand and need for a pre-law program in B.C.

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RECRUITING PROGRAM:

A recruitment program might be organized:

- (a) under the auspices of the law faculty,
- (b) by another organization with the approval of the law faculty.

Naturally, the law school would want to be in close communication with any other body which might take responsibility for organizing recruitment.

The major concern must be with the appointment of an official co-ordinator for such a program. This position need not involve a large commitment of time but it is very important from the point of view of continuation of the program over a period of time. It is most desirable that printed material be distributed annually at an appropriate time of year to appropriate institutions, Indian newspapers and individuals. A yearly recruiting tour is another possibility. It would appear that a member of the faculty or staff of the law school would be the best choice for the position of co-ordinator due to their close contact both physically and academically with the principal persons involved.

The question of who would do the actual work involved (see below) is a separate one. Again, this could be undertaken by:

- (1) law faculty and/or staff
- (2) law students
- (3) native law students
- (4) some combination of the above
- (5) education personnel of an Indian organization such as the B.C. Association of Non-Status Indians, the Union of B.C. Indian Chiefs, Indian Education Resources Centre.
- (6) The Task Force.

The question of funding the program is a third and separate one. It might be funded by:

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- (1) the law faculty
- (2) a government department
- (3) other

RECRUITING PROCEDURE:

If a recruitment program is undertaken, several options are available:

- (a) direct mailing of brochures to all known native post-secondary students in academic programs.
- (b) Posters and/or brochures to:
 - (i) band offices and BCANSI locals,
 - (ii) Indian education and cultural centres, native information centres, and friendship centres.
 - (iii) Home-school co-ordinator offices and Outreach offices (other BCANSI and UBCIC people).
 - (iv) Community colleges and universities, especially where there are special programs for native people, special native advisors or large enrollment of native students.
 - (v) DIAND education offices.
 - (vi) Native Brotherhood of B.C. and other native organizations.
- (c) Articles in Indian newspapers:
 - Nesika, Non-Status News, Indian Voice, IERC Newsletter, Native Information Centre Newsletter, etc.
- (d) Hire a recruiter, either full time or part time, or employ a native law student, either part time during the year or full time in the summer in conjunction with other work.

BROCHURE:

We have prepared a rough draft of a brochure and given preliminary thought to a poster. The brochure will contain:

- (a) a picture on the cover which would be the same as the poster (if there is one) and would show a lawyer in court with judge and defendant.

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- (b) An orientation pep talk of the "You too can be a lawyer" type.
- (c) A section establishing the need for native lawyers in B.C. by outlining the present situation of native people vis-a-vis the justice system.
- (d) A section outlining what lawyers do.
- (e) Outline of application procedures and funding available. The article in Indian newspapers could be the brochure reworded slightly.

FUNDING:

(1) For Saskatchewan Pre-Law - Status Indians:

It appears that money for Status Indian students is not a problem. DIAND has funded students in the past on the same basis as for all post-secondary courses (\$60 per week plus tuition and books, increasing to a maximum of \$95 per week for a person with four dependents).

(2) Pre-Law - Non Status Indians:

Dr. Carter has indicated that Federal Department of Justice funding is automatically supplied for five non-status persons accepted from all across Canada into his program. Beyond this no funding is available for non-status people from B.C. Some money may be available from the First Citizen's Fund. However, an appeal should be made to the Department of Education to fund some students. Saskatchewan Government funds three non-status students from that province. British Columbia should at least match this. Ideally, they would fund all who were accepted.

(3) Law School - Status:

Considerations are essentially the same as those for pre-law.

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(4) Law School - Non-Status:

Non-Status people may apply for a student grant-loan on the same basis as all Canadian citizens. If they are B.C. residents, they may apply to the First Citizens Fund to have the loan portion repaid. This repayment is automatically granted if the student completes his course or year successfully. The repayment may not be for the total amount of the loan since the fund is limited to \$50,000 for this, its first year of operation under this system, but the officials involved think that demand will not out-run supply by much. The student grant-loan program usually ends up supplying money at about the same rate as Department of Indian Affairs and Northern Development.

University of British Columbia Awards Office supplements student loans beyond the official maximum for people with special needs and they do consider number of dependents.

Each governmental department involved supplies a fixed total amount (\$1600 per student) to Dr. Carter for the cost of the program plus a living allowance equivalent to that provided by the Department of Manpower in their education programs.

FOLLOW-UP TUTORING FOR DISCRETIONARY STUDENTS:

The Saskatchewan program is designed to identify students likely to be successful in law school and to give them an introduction and small head start in a new area of study. It is hoped that the program will help to compensate for less complete formal training. However, all discretionary students still enter first year at a disadvantage academically compared to others. Therefore, a first year tutoring program would be a good idea.

It is suggested that one professor teaching each first year course either volunteer or be designated to provide a weekly tutorial in that course. There are several possibilities for this tutorial:

- (1) The professor might simply make himself available for questions in his office at a specified time each week.

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- (2) The professor might prepare supplementary material of some kind (problems or essays). He might concentrate on areas which he knows from experience to be the ones with which students have most difficulty.
- (3) The professor might provide an ongoing review of the week's course work.
- (4) The professor might engage a third year law student to assume some of these duties.
- (5) The law school might attempt to match each first year discretionary student up with a third year student willing to help him over difficulties in classes and possibly other areas (e.g. administration and student services as well).

The last of these would likely involve some monetary compensation as may any or all of the others.

When any student is accepted into the law school under the discretionary provisions he should be notified that additional help is available to him if he wishes to take advantage of it. It should not be mandatory.

IN CONCLUSION:

This brief has drawn attention to the shortage of native lawyers and law students in B.C. It has outlined historical, social and economic conditions which contribute to this situation. It has suggested some ways that the situation may be altered with the co-operation of the University of British Columbia law school in the areas of admissions, recruitment and tutoring. In closing, we request that this committee take the following action:

- (1) Support the establishment of a recruitment program for native students.
- (2) In conjunction with the recruitment program, support wider publicizing of the Saskatchewan pre-law program and

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the existence of special admissions considerations for native persons.

- (3) Adopt the changes in admissions criteria suggested above.
- (4) Adopt the position that all qualified native students who apply will be accepted. This implies:
 - (a) that no official or unofficial quota on native students will be set,
 - (b) that admissions standards will not be raised as more applications are received.
- (5) Adopt the position that a tutoring program for discretionary students should be established.

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APPENDIX "A"

The following points are from the "Proposal for Native Indian Teacher Education Program", a Report of the Dean's Committee on a Native Teacher Training Program dated April 3rd, 1974.

PROBLEMS FACED BY NATIVE INDIANS WHO WANT TO BECOME [LAWYERS] ⁽¹⁾

1. Ineligibility for University entrance:

Approximately five to fifteen percent of Indian pupils complete high school. Of those who complete high school almost none are on an academic program. The reasons for this include inappropriate curricula, poor teaching, value difference, differences in priority of schooling and many other reasons. Nevertheless there are many Indian people who have the potential for becoming excellent [lawyers] and who have the academic potential to complete a university program, but who do not possess the usual university entrance requirements.

2. Economics:

The Indian people in British Columbia represent one of the poorest groups in this province. Status Indian people do have their tuition and living allowances paid by the Department of Indian Affairs if they attend university. However, even this support is often not sufficient to overcome the economic difficulties. Non-status Indians are not eligible for this support and so are often in an even worse economic position.

5. The Demand for Skilled Indians:

Many Indian students who complete their high school or even take one or two years of university training do not complete their training because their skills are needed so desperately at home or in the various Indian organizations. When one considers

(1) Square brackets indicate the change of the word "teacher" to "lawyer".

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that the average educational level of Indian people in U.C. is approximately Grade 8, it is easy to see how the demand for these students to leave university becomes so great.

6. Alienation:

Many Indian students find that the higher their level of educational attainment the greater the social distance between them and their people. This particularly affects those already at the university and often causes a premature dropping out.

7. Discrimination:

There is a legacy of discrimination (both conscious and unconscious) against Native Indians by the educational system.

8. Cultural and Geographic Dislocation:

In order for an Indian person to take a university program he often must move a great distance geographically and socially from his present surroundings. Many Indian people are unwilling to do this, and many of those who are willing to do this find themselves unable to cope with it.

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