

RESOLUTION 2-15-03

DIGEST

Law School Curricula: Including Study of United States Treaties

Recommends to all law schools that they include in their curriculum information as to treaties entered into by the United States.

RESOLUTIONS COMMITTEE RECOMMENDATION

DISAPPROVE

History:

None known.

Reasons:

This resolution recommends to all law schools that they include in their curriculum information as to treaties entered into by the United States. This resolution should be disapproved because it contains only a vague direction to law schools which is not necessary and infringes on academic freedom.

This resolution limits the freedom of law schools to determine the content of their curriculum. The proponent suggests that information concerning relevant treaties is currently being omitted from courses to which such treaties apply to the detriment of the students. However, the proponent provides no support for its assertion that law schools are refusing to teach treaty law where relevant. Law school professors are best situated to determine the usefulness or relevance of particular issues to a particular course. Academic freedom has been, and continues to be, an important aspect of the free flow of ideas in our country. If, indeed, certain material is not being taught in law schools, we should leave demand for the material to the students who will eventually need the information, and not restrict academic freedom with the heavy hand of legislation.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends to all California law schools the following: law schools shall include in their teaching, where relevant, information as to treaties entered into by the United States, including the United Nations Charter and ratified United Nations covenants and conventions, as part of the "supreme law of the land," under the United States Constitution, Article VI, paragraph 2.

PROPONENT: National Lawyers Guild, San Francisco Bay Area Chapter

STATEMENT OF REASONS

Existing Law: No California law recommends law school curricula.

This Resolution: Recommends to California law schools the teaching of the existence of United States treaties.

The Problem: Knowledge of the existence and applicability of our country's treaties as part of the "supreme law of the land" is often omitted from law school teaching of some subjects to which those treaties apply. These subjects include immigration, juvenile, civil, criminal, business, administrative, and military law, and other areas of law which lawyers may encounter.

The mere fact that such treaties exist and may impact a client's rights and duties should be a part of the

education of every lawyer.

This resolution is related to resolution 4-01-2002 and responds to the problems raised last year by the Resolutions Committee and the Committee of Bar Examiners.

IMPACT STATEMENT

This resolution does not affect any law, statute, or rule.

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COUNTERARGUMENTS

BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY:

If the proponent's goal is to have all law schools include treaty issues in their curricula as elective matters, this resolution is harmless. If the proponent is seeking to create a requirement that every law school student be forced to take courses related to treaty law, this resolution should be disapproved. The law of California and elements of federal law are already so voluminous that one human mind cannot maintain knowledge of it all. International law should not be added to this mix as a requirement.

SAN DIEGO COUNTY BAR ASSOCIATION

Proponents of the resolution seek to recommend to all California law schools the incorporation of the teaching of our country's treaties in all subjects in which the treaties might apply.

The proponents of the resolution vastly overstate the frequency in which treaty issues arise in a standard law practice. Because the average practitioner rarely, if ever, encounters a treaty related question of law, a blanket recommendation to law schools to include such instruction within at least seven separate law school subjects is overkill.

Furthermore, California law schools operate under extensive supervision by the American Bar Association. Within the A.B.A.'s guidelines, each law school develops its curriculum based upon the determination of the best needs of their students. Individual law school deans and the American Bar Association's Accreditation Committee, not the California State Bar association, are in the best position to determine the instructional needs of law students.

SANTA CLARA COUNTY BAR ASSOCIATION

Proponent states "Existing Law: No California law recommends law school curricula." Why start now? Why start here? What is the authority for micro-managing law school curricula? Would this apply to ABA accredited law schools, or all law schools? Who would enforce it? Those are just the start of the questions our delegation had about this resolution. And finding no reasonable answers, we urge that this resolution be defeated.