

FOREWORD

THE PHILIPPINE LAW JOURNAL AND THE CENTENNIAL YEAR OF THE UNIVERSITY OF THE PHILIPPINES*

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I could still vividly recall the time when I first entered the august halls of Malcolm. The blaze of intellectual passion borne by our College's esteemed law professors instantly ignited whatever initial fascination I had with the law. The flame was so contagious, I had to stay late at night burning the midnight oil. In some ways, we all have a "Malcolm experience" to tell. From the realm of the uninitiated, we similarly went through a turbulent rite of passage. The initially humiliating yet humbling learning experiences may have impaired our eyesight but lent us with a clearer vision. Our eyes may have grown weary but our viewpoints grew notable.

These legal views and perspectives must see the light of print, in the same way that a lamp must be placed on top of the table to illuminate the entire room. They must not be kept in the dark within the confines of an academic exercise. Either they perish in the dark or be published for distillation in the agora of ideas.

In this Centennial Year¹ of the University of the Philippines (UP) with the theme "*UP: Excellence, Service, and Leadership in the Next 100 Years*," it is but fitting to recognize the University's role not just as the cradle of future national leaders but as an incubator of innovative legal ideas.

It is in this context that we regard the role of the Philippine Law Journal (PLJ) as the country's pre-eminent law review. Under the aegis of

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¹ By Proclamation No. 913, the whole of 2008 was declared the UP Centennial Year by President Gloria Macapagal-Arroyo. The celebration of the UP Centennial has officially begun on July 18, 2007 and will last through the December 31, 2008.

the UP College of Law, the PLJ has become an institution within an institution.

Today, almost all major law schools have a law journal or law review. As one author² observes:

Law schools depend upon law journals for publicity and prestige. Law professors depend upon law reviews for publication and promotion. Law students depend upon law reviews for education and employment.³

Far removed from this utilitarian reflection is the enviable and invaluable role of the PLJ. For one, it is the only law journal in the country that carries the name of the Republic. A publication audacious enough to bear the national banner must discharge its functions in the name of excellence, service, and leadership.

The PLJ does not only provide necessary background research to legal practitioners but also expresses the ideas of legal experts with regard to the direction the law should take in certain areas. It has the potential to chart the course of jurisprudence on a given body of law. PLJ articles have proven influential in the development of the law, and have been cited as persuasive authority by the Supreme Court in a number of cases.⁴

Yet in light of contemporary developments in the legal arena, the imperative for relevance has never been greater. The PLJ takes on the more fundamental role of distilling both traditional concepts and alternative solutions for questions encountered by the bench and the bar. This is indeed a tall order: to continually look for fresh perspectives and responsive answers to present-day problems plaguing the legal community and the country. For the real value of a law journal is far-reaching: it does not just influence decisions or the enactment of statutes, but it advances discourse. It aims to stimulate readers, and spark dialogues on unsettled issues.

² Prof. Bernard J. Hibbitts, Professor of Law at the University of Pittsburgh School of Law, *Last Writes: Reassessing the Law Review in the Age of Cyberspace*.

³ Bernard Hibbitts, *Last Writes: Reassessing the Law Review in the Age of Cyberspace*, 71 New York University Law Review 615 (1996), available at <http://faculty.law.pitt.edu/hibbitts/lastrev.htm#intro>.

⁴ *Morales v. Subido, et al.*, 135 Phil. 346, 355 (1968); *Macandile v. Judge Macalino*, 174 Phil. 557, 572 (1978); *De Morales v. CFI of Misamis Occidental, Br. II, Ozamis City*, 186 Phil. 596, 598-599 (1980); *Republic v. Peralta*, No. L-56568, May 20, 1987, 150 SCRA 37, 46; *Tano v. Hon. Gov. Socrates*, 343 Phil. 670, 710 (1997); *Ople v. Torres*, 354 Phil. 948, 978, 985 (1998); *Lim v. NLRC*, 363 Phil. 52, 64 (1999); *Secretary of Justice v. Hon. Lantion*, 397 Phil. 423, 432-433 (2000); *Uy v. Sandiganbayan*, 407 Phil. 154, 167 (2001); *Labom v. Sibulo*, 453 Phil. 987, 995 (2003); *Herrera v. Alba*, G.R. No. 148220, June 15, 2005, 460 SCRA 197, 216; *inter alia*, cites the PLJ in the Court's Decision. The enumeration does not include concurring or dissenting Opinions that made reference to the PLJ.

Alongside this comes the challenge for the Journal and its editors to maintain its independence and identity. While striving to be innovative, the PLJ must not lose its voice as a publication led by an editorial board composed of students. At present, the Journal showcases writings from scholars and law professors, and products of supervised research in the college.⁵ It must continue to act as a vehicle for independent legal writing.⁶ Not only will this furnish practical training to students as they embark on their careers, but more importantly, it encourages them to participate in a community of freethinkers.

Needless to say, the PLJ has several hurdles to overcome. For a publication that endeavors towards discourse on national affairs, it admittedly has limited circulation. According to an eminent jurist, this is not so much a problem as the heavy competition it encounters from well-known authorities who write in simple, non-academic language in columns read by lawyers and non-lawyers in newspaper dailies.⁷ Relevance is thus intertwined with readability: both language and subject matter have a bearing on the capacity of the PLJ to have real, meaningful impact. To counter these concerns, the PLJ and its editors face the task of striking a balance: in terms of content, by targeting readers not just from the legal profession but from the entire community, while never losing its identity as a legal publication.

With the emergence of new areas of legal specialties, it is not far from reality that the UP College of Law will soon breed “satellite” or specialty law journals, with PLJ as the main or flagship journal. In other jurisdictions, separate journals on Asian comparative law, environmental law, public interest law, gender law, law and technology, law and public policy, *inter alia*, abound. Notably, the UP College of Law’s purpose “to produce lawyers who are not only superior legal craftsmen but also socially conscious leaders” is avowed to be achieved “*by viewing the law as part of the social process and by studying it in relation to related social services and disciplines.*”⁸

Even as scholarly writing in other fields have used an interdisciplinary approach as a novel tool in problem-solving and analysis, legal publications in the Philippines have yet to catch on. This also applies to the empirical method of research, which has not yet taken root in the field

⁵ Oscar Franklin Tan, Foreword, *Sisyphus’ Lament, Part I: The Next Ninety Years and the Transcendence of Legal Writing*, 79 Phil. L.J. 7, 12 (2004).

⁶ *Id.*

⁷ Jovito R. Salonga, *Foreword on the Philippine Law Journal*, 79 Phil L.J. 541, 543 (2004).

⁸ UP College of Law Website, at <http://law.upd.edu.ph/about.html>.

of law.⁹ Given the constant demand for expedient, judicious solutions, and the need to understand issues within a broader social sphere, it is well worth considering alternative research tools and perspectives from related disciplines. The quest to breathe life into the law would truly be enhanced.

As Justice Oliver Wendell Holmes stated in 1886 before the Harvard Law School Alumni in his speech entitled "The Use of Law Schools" where he also uttered the famous lines¹⁰ etched in the lobby wall of Malcolm Hall.

The main part of intellectual education is not the acquisition of facts,
but learning how to make facts live.

...

The mark of a master is that facts which before lay scattered in an
inorganic mass, when he shoots through them the magnetic current
of his thought, leap into an organic order, and live and bear fruit.¹¹

To the incoming editorial board who will work on Volume 83 of the Philippine Law Journal, may you live and bear fruit and may your pen infuse the life of the law into the most pressing concerns of the nation. May you stand in oblation before the altar of justice to assert your future role as the finest leaders this promising nation deserves. For at the end of the track is the clarion call for you to become not only legal theoreticians but also torchbearers of justice, and not only legal technicians but also trailblazers in every human endeavor.

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⁹ Irene R. Cortes, *Legal Education in the Philippines The Role of the Philippine Law Journal in the 1990s*, Lecture delivered during the 75th Anniversary Symposium of the Philippine Law Journal.

¹⁰ [T]he business of a law school is not sufficiently described when you merely say that it is to teach law, or to make lawyers. It is to teach law in the grand manner, and to make great lawyers.

¹¹ OLIVER WENDELL HOLMES, COLLECTED LEGAL PAPERS 36-37 (1920), *The Use of Law Schools*, Oration before the Harvard Law School Association, at Cambridge, November 5, 1886, on the 250th Anniversary of Harvard University.