

TOWARDS WIDENING THE PHILIPPINE LAWYER'S VISION*

*Ricardo J. Romulo***

Halfway through this decade, on 4 March 2004, Dean Mariano F. Magsalin Jr. of the Arellano University School of Law began his paper entitled "Meeting the Challenges: Philippine Legal Education in a Changing Environment"¹ with:

"The formidable and daunting task at hand for law schools in the Philippines and elsewhere is clear: to provide students the education they need to be able to cope with the fast-changing environment. Though it has been said that there is no blueprint for the turbulent and uncharted waters of the competitive global knowledge landscape, the paradigm shift shall force schools to embrace and implement major reforms to address the need to be, and remain, competitive. This would necessarily include structured innovations in the law curriculum and teaching methods that are necessary for a school to remain intellectually relevant in the evolving global economy."²

I could not agree more. And I further submit that the need of the hour is to broaden the vision and competence of the upcoming Philippine lawyer to include not only the legal landscape of the country but also the legal environment of our ASEAN region. I challenge the College of Law of the University of the Philippines, with the abundant resources it has available to it, to take the lead in meeting that need.

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** Senior Partner, Romulo Mabanta Buenaventura Sayoc & De Los Angeles. B.S. *cum laude* (Georgetown University), J.D. (Harvard Law School). The assistance of my partner, Atty. Reynaldo G. Geronimo, in researching this essay is gratefully acknowledged.

¹ Available at <http://www.aals.org/international2004/Papers/Magsalin.pdf>.

² *Id.*, at 1.

There is no shortage of material on the history of law schools in the Philippines.³ What is clear from these accounts is that the primary focus of our law schools has always been training students to become professionals knowledgeable in Philippine law primarily, if not exclusively. Attempts at understanding the laws and the legal systems outside of the country are at best at the periphery of the law schools' concern, more often than not relegated to electives rather than part of the core curriculum.

This primary focus on Philippine law is reflected in the curricula of the law schools. Of the over 140 subjects offered at the UP College of Law, only Law 143 on Contemporary Developments in International Law, Law 144 on the United Nations & World Order, a seminar course, and Law 146 on Problems of ASEAN Integration, also a seminar course, deal with the legal system outside of the country.⁴

At the Ateneo School of Law, subjects which are part of the "core curriculum" are offered in the first two years; electives are offered only in third and fourth years. The "core curriculum" is, as expected, on Philippine law; you could count with the fingers of one hand subjects that deal with the legal system of other countries.⁵

At the De La Salle University Graduate School of Business–Far Eastern University Institute of Law program that awarded the two degrees of Masters of Business Administration and Juris Doctor, only International Management, an elective that may be taken in the second trimester in fourth year, had some cross-border material.⁶

³ A quick Google search of the net yields just on the first page, for instance, (a) Laserna, Legal Education in the Philippines, at <http://atylaserna.blogspot.com/2007/10/legal-education-in-philippines.html>; (b) Wikipedia, Legal Education in the Philippines, at http://en.wikipedia.org/wiki/Legal_education_in_the_Philippines#History; (c) Salonga, Legal Education in the Philippines: A Appraisal and a Forecast, at http://en.wikipedia.org/wiki/Legal_education_in_the_Philippines#History.

⁴ Based on best available information on the school's offering as of the second semester, academic year 2010-2011.

⁵ Available at <http://law.ateneo.edu/index.php?p=32>.

⁶ Available at <http://www.dlsu.edu.ph/academics/continuing/pdf/cob/GSB-MBA-JD.pdf>.

Compare these course offerings in the Philippines with those in other jurisdictions. Here is just a sampling: In Hong Kong, the Chinese University of Hong Kong offers Business and Law in China, Chinese Civil Law, Chinese Criminal Procedure, and Chinese Law Summer Course at Tsinghua University in Beijing. The City University of Hong Kong has Foreign Investment & Trade Law of China, Law and Business in the European Union, Selected Problems in International Investment Law. The University of Hong Kong similarly has Chinese Law Governing Foreign Investments, as well as Cross-Border Legal Relations between the Mainland and Hong Kong.

Singapore is not to be left behind. The National University of Singapore has an array of Asian Legal Studies & Comparative Law including Islamic Law, Introduction to Indonesian Law, China, India and International Law, and Japanese Corporate Law & Governance. Singapore Management University, for its part, has Chinese Foreign Investment Law, Islamic Commercial Law, Foreign Direct Investment Law & Practice.

The sign of the times, if we read Hong Kong and Singapore law schools correctly, indicates a growing recognition that their students have a future outside their home countries. It therefore makes sense, if the law schools are to properly prepare their graduates for the future, for them to gear their curriculum to opening windows, if not the doors, to other jurisdictions.

I submit that law schools in the Philippines ought now to start preparing their students to be able competitors for the legal work in our immediate neighborhood, the ASEAN region. A quick review of the trade in goods and services in 2009 at the major economies in the ASEAN region bears me out. The total of import and export merchandise trade of Singapore amounted to \$514,882 and trade in services to \$172,976. Thailand, for its part, traded in merchandise for a total of \$282,350 and \$54,378 in services. Malaysia had merchandise trade of \$274,191 and \$55,377 in services. Indonesia was not too far behind: \$213,339 in merchandise and \$41,736 in services.

A better appreciation of these figures can be gleaned from the chart below (Figure 1) which is more comprehensive, including as it does comparative figures for 2008 and 2009 for the volumes of both goods and services:

Trade in goods and services of ASEAN countries

In million U.S. dollars

Region/Country	Merchandise Trade	2008	2009	Trade in Services	2008	2009
Brunei Darussalam	Exports	2,543	6,895	Exports	548	n.a.
	Imports	10,721	1,835	Imports	1,535	n.a.
	Total	13,264	8,730	Total	2,083	n.a.
Cambodia	Exports	4,708	4,302	Exports	1,084	n.a.
	Imports	6,508	5,876	Imports	1,807	n.a.
	Total	11,216	10,178	Total	2,891	n.a.
Indonesia	Exports	137,020	116,510	Exports	12,484	10,825
	Imports	129,244	96,829	Imports	30,016	30,911
	Total	266,264	213,339	Total	42,500	41,736
Lao P. Dem. R.	Exports	1,092	1,005	Exports	n.a.	n.a.
	Imports	1,403	1,414	Imports	n.a.	n.a.
	Total	2,495	2,419	Total	n.a.	n.a.
Malaysia	Exports	199,148	157,204	Exports	30,253	28,146
	Imports	148,021	116,967	Imports	30,204	27,231
	Total	347,169	274,191	Total	60,457	55,377
Myanmar	Exports	6,916	6,673	Exports	n.a.	n.a.
	Imports	3,888	3,951	Imports	n.a.	n.a.
	Total	10,804	10,624	Total	n.a.	n.a.
Philippines	Exports	48,253	37,510	Exports	9,717	10,248
	Imports	61,138	46,388	Imports	8,557	8,698
	Total	109,391	83,898	Total	18,274	18,946
Singapore	Exports	341,682	272,444	Exports	100,816	90,726
	Imports	315,228	242,438	Imports	87,253	82,250
	Total	656,910	514,882	Total	188,069	172,976
Thailand	Exports	175,233	150,883	Exports	33,400	29,941
	Imports	175,125	131,467	Imports	28,573	24,437
	Total	350,358	282,350	Total	61,973	54,378
Viet Nam	Exports	62,685	57,096	Exports	8,298	9,279
	Imports	75,467	65,402	Imports	9,368	11,032
	Total	138,152	122,498	Total	17,666	20,311

*n.a. Not available**Sources: Asian Development Bank's Key Indicators for Asia and the Pacific 2010;**national balance of payments tables; MBC Research estimates as of 15 November 2010*

The figures relating to foreign direct investments in the ASEAN are just as impressive. In figure 2, below, we see the magnitude of the investment inflow into the ASEAN:

Table 25

Foreign direct investments net inflow, intra- and extra-ASEAN

ASEAN Statistics

as of 15 July 2010

value in US\$ million; share and change in percent

Country	2007			2008			2009		
	Intra-ASEAN	Extra-ASEAN	Total net inflow	Intra-ASEAN	Extra-ASEAN	Total net inflow	Intra-ASEAN	Extra-ASEAN	Total net inflow
Brunei Darussalam	62.1	198.0	260.2	0.9	238.3	239.2	0.1	176.7	176.8
Cambodia	271.2	599.7	870.9	240.9	574.3	815.2	170.6	359.3	529.9
Indonesia	1,108.2	5,820.1	6,928.3	3,398.0	5,020.1	8,418.1	1,380.1	3,496.7	4,876.8
Lao PDR	100.4	223.1	323.5	248.7	189.1	437.8	57.3	261.3	318.6
Malaysia	3,780.1	4,758.3	8,538.4	1,607.6	5,710.7	7,318.4	(269.7)	1,650.7	1,381.0
Myanmar	59.9	621.3	681.3	39.5	672.0	711.5	19.6	559.0	578.6
The Philippines	5.9	2,910.1	2,916.0	138.9	1,404.1	1,544.0	18.7	1,929.3	1,948.0
Singapore	1,224.1	34,602.2	35,776.3	815.1	10,085.6	10,900.7	2,183.6	2,218.5	4,402.1
Thailand	2,489.4	8,840.6	11,330.2	1,401.6	7,168.9	8,570.5	585.8	5,371.1	5,956.9
Viet Nam	549.3	6,192.7	6,738.0	2,705.0	6,874.0	9,579.0	422.7	7,171.3	7,600.0
Total	9,682.0	64,713.3	74,395.3	10,461.5	39,038.3	49,499.8	4,428.9	35,194.1	39,623.0
ASEAN s^a	9,602.4	64,822.1	74,424.5	7,363.5	39,233.3	46,596.8	3,752.2	26,666.5	30,418.7
BLCMV^b	1,073.6	7,831.2	8,904.8	3,098.0	8,738.7	11,836.7	676.5	8,527.6	9,204.1

Source: ASEAN Foreign Direct Investment Statistics Database (compiled and updated from data submitted by national statistical offices, embassies of ASEAN Member States, central banks, and relevant government agencies through the ASEAN Working Group on Foreign Direct Investment Statistics).

Symbols used

Notes

- not available as of publication time
n.e.: not applicable/not available/not compiled
0.0: value is below 0.1%
Data in tables are the latest updated revised figures from previous posting.

- Data may not add up to totals due to rounding off errors.
1. ASEAN s consists of Indonesia, Malaysia, the Philippines, Singapore and Thailand, while BLCMV comprises Brunei Darussalam, Cambodia, Lao PDR, Myanmar and Vietnam.

Table 25

Foreign direct investments net inflow, intra- and extra-ASEAN

ASEAN Statistics

as of 15 July 2010

value in US\$ million; share and change in percent

Country	Share to total net inflow to ASEAN, 2008			Share of Intra-ASEAN, 2009		
	Intra-ASEAN	Extra-ASEAN	Total net inflow	Intra-ASEAN	Extra-ASEAN	Total net inflow
Brunei Darussalam	0.0	0.5	0.4	0.1	99.9	100.0
Cambodia	3.6	1.0	1.3	32.2	67.8	100.0
Indonesia	31.2	9.9	12.3	28.3	71.7	100.0
Lao PDR	1.3	0.7	1.0	18.0	82.0	100.0
Malaysia	(6.1)	4.7	3.5	19.5	119.5	100.0
Myanmar	0.4	1.6	2.0	34.0	66.0	100.0
The Philippines	0.4	5.5	4.9	1.0	99.0	100.0
Singapore	48.0	40.1	41.0	12.5	87.5	100.0
Thailand	13.2	15.3	15.0	9.8	90.2	100.0
Viet Nam	9.7	29.4	19.6	5.6	94.4	100.0
Total	100.0	100.0	100.0	11.2	88.8	100.0
ASEAN s^a	94.7	88.8	93.7	12.0	87.7	100.0
BLCMV^b	15.3	14.1	16.3	7.4	92.6	100.0

Source: ASEAN Foreign Direct Investment Statistics Database (compiled and updated from data submitted by national statistical offices, embassies of ASEAN Member States, central banks, and relevant government agencies through the ASEAN Working Group on Foreign Direct Investment Statistics).

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An idea of how the foregoing economic activity spurs a demand for lawyers who are ready, willing and able to cross-borders and share their expertise to companies in the ASEAN can be gleaned from what some of the lawyers who used to work in my law office are currently engaged in. Although the argument is anecdotal, that Philippine lawyers have the ability to cope with the demands of legal practice in the region, including the very competitive environment in the financial and industrial centers, cannot be doubted. They are at home both as organic to their organizations as well as outside and independent counsels.

Among those who are parts of their business or commercial organizations is, for instance, the Chief Executive Officer and President of Lafarge Malayan Cement Berhad. She rose to this position after getting involved in the operations of her employer in India, Bangladesh, Philippines, and Latin America. Another is with IBM Singapore Pte Ltd, from where he shares on his shoulders the responsibility for sorting out the legal complications of his employer's businesses in the region. A third, based also in Singapore, handles the legal division of the internationally recognized brand, Levi's.

Others are members of law firms actively servicing the legal needs of multinational companies. One, for instance, works with Allen & Overy, which was founded in 1939 and has offices not only in all key financial centers world-wide but also in emerging markets. Another one is with the Hong Kong office of Cleary Gottlieb Steen & Hamilton LLP with its headquarters in New York City and offices in, in addition to Hong Kong, Washington DC, Beijing, London, Rome, Milan, Brussels, Moscow, Frankfurt, Cologne, and Paris, which employs over 900 lawyers worldwide. Two are with the Hong Kong office of Sidley Austin LLP that offers fully integrated services to international, regional, and local clients. With lawyers qualified to practice Hong Kong, English, and United States law, they represent international banks and other financial institutions, multinationals, and conglomerates in all sectors of commerce and industry, as well as government bodies and agencies.

In contrast to the task of representing the interests of clients, another instead works as legal counsel in an organization that assists contending parties settle their disputes. He is with the Singapore facility of the Permanent Court of Arbitration ("PCA"). The PCA was established in 1899 as an intergovernmental organization to provide a variety of dispute resolution services to the international community.

Of course, it warms our hearts to see our "alumni" and, I am certain, other Philippine lawyers make a name for themselves and our country. But more than making a difference in the region, the ultimate objective of our lawyers overseas must be to come back home to enable the country to take advantage of their expertise and work habits, thereby improving and expanding the state of legal practice in the Philippines.

The full ratification recently by all the ASEAN of the ASEAN Charter states opens a wide open field for those who may wish to focus their legal practice in the ASEAN region.

The idea of an ASEAN Charter sprouted during the annual meeting in 2004 of the foreign ministers. The Joint Communiqué of the 37th ASEAN Ministers Meeting held in Jakarta expressed the agreement to "to work towards the development of an ASEAN Charter which could, inter alia, reaffirm ASEAN goals and principles in inter-state relations, in particular the collective responsibilities of all ASEAN Member Countries in ensuring non-aggression and respect for each other's sovereignty and territorial integrity; the promotion and protection of human rights; the maintenance of political stability, regional peace and economic progress; and the establishment of effective and efficient institutional framework for ASEAN."⁷

It was reiterated about five months later in the Vientiane Action Programme that asked for the "development of an ASEAN Charter." And a draft text of a declaration on the charter was approved for adoption in July 2005 at the meeting of the foreign ministers.⁸

⁷ Available at <http://www.ascansec.org/16192.htm>.

⁸ Available at <http://www.ascansec.org/17592.htm>.

Producing graduates who are capable of attending to the legal needs of these trade transactions and movement of investments is a major challenge to local law schools. There is a need to move away from the current preoccupation of just preparing students to pass the Bar, to infuse in the law curriculum more subjects than are now being offered on ASEAN law and business, to introduce and promote better methods of instruction than the standard recitation method, to bring in, through exchange and visiting professorial programs, acknowledged experts in the various jurisdictions of the region, and to support the directions set forth in the ASEAN charter.

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