

A LAW SCHOOL FIT FOR THE NEXT 100 YEARS*

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INTRODUCTION

There seems to be collective agreement among law schools that the way legal knowledge is imparted remains unaffected by changes outside the academe. Lately however, foreign law schools have come to realize that this shoe no longer fits. It is high time that this happened. A rigid curriculum and academic structure is a guarantee that an educational institution will consistently offer fossilized knowledge.

Perhaps this impelled the New York University (“NYU”) School of Law to launch its Hauser Global Law School Program (HGLSP) in 1994.¹ Accompanied by reforms in its curriculum, faculty and student practices, the HGLSP soon came to be known as the leading International Law-centered graduate program in the United States of America. Arguably, its success played a critical role in catapulting NYU's ranking in periodical law school surveys from being a small player to a frequent member of the Top Ten (10). Judging by the age and “old-school” prestige of its counterparts in that elite circle (*i.e.* Yale, Harvard, Michigan, Stanford, and Columbia), NYU's feat of penetrating the Top Ten is not the most remarkable fact in the story – it is the speed by which it did so.

Whether its rivals admit it or not, NYU was a leader in successfully establishing the “global” law school strategy. Other schools were quick to take note. The Law School of the National University of Singapore (“NUS”) for example has taken steps to establish links with NYU, a synergy pursued by other schools in China and Europe. The European law schools have offered multi-university scholarships, such as the Erasmus, to provide links between member universities.

So where do these movements in the international stage leave us? Legal education in our country has remained largely unchanged since it was instituted at the turn of the 18th Century. We currently operate through a model primarily

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¹ See New York University School of Law, *Bringing the world to NYU and NYU to the world*, available at <http://www.law.nyu.edu/global/index.htm> (last visited Mar. 30, 2011).

designed to address American needs and culture. Our first Supreme Court after all was composed of US citizens applying US Law. That model has served us well in the past. But is this still true?

This article explores the rationales we have come to accept regarding the way we teach law. From there, it evaluates the “truth” of these rationales, and proposes that we have reached the stage where other “truths” impel that we change. I advise that we do so, not for the sake of change, but as a mode of maintaining our level of excellence and to prevent our slide to obsolescence. We have a distinct advantage. Since our system of legal education is largely inherited, we should have less sentimental baggage to impede reforms.

A HEAD START IN THE SOUTHEAST ASIAN REGION

Formal legal education was introduced early in the Philippines, compared to other countries in Southeast Asia. The Faculty of Civil Law and Canon Law was established in the University of Sto. Tomas in 1733,² while the La Escuela de Derecho de Manila was founded in 1899.³ By 1911, the College of Law of the University of the Philippines (UP College of Law) became the country's first state-supported law school, under the auspices of the American Regime.⁴

The UP College of Law is the leader of legal education in the country. Merely five years after the College of Law was established, its curriculum has already been copied by the Philippine Law School,⁵ and its graduates organizing and teaching in private law schools. By the 1970s, the UP College of Law's curriculum was used as basis for the Department of Education and Culture Memoranda Nos. 16 and 30, Series of 1971, which prescribed the curriculum to be followed by law schools in the Philippines.⁶

The UP College of Law was also the first to publish an English-written law journal in the Orient, through the Philippine Law Journal in 1914.⁷ By 1962, the College began conducting faculty lecture programs for law practitioners, government lawyers, and law professors, as well as research projects that complement the short courses. The scope and functions of these programs were expanded and institutionalized in 1964, when the Congress of the Philippines

² Florida Ruth P. Romero, *The Challenges to Legal Education in the Philippines*, 52 PHIL. L.J. 487, 488 (1977).

³ Conrado Benitez, *The Private Law Schools*, 2 PHIL. L.J. 315, 317 (1916).

⁴ Romero, *supra* note 2, at 488.

⁵ Benitez, *supra* note 3, at 317.

⁶ Romero, *supra* note 2, at 490.

⁷ The Philippine Law Journal, *A Brief History of the Philippine Law Journal*, at <http://law.upd.edu.ph/plj/index.php/a-brief-history.html> (last visited Mar. 30, 2011).

passed Republic Act No. 3870, or the UP Law Center Charter.⁸

While the UP College of Law and its associated legal entities were already well-established institutions in the Philippines, the rest of Southeast Asia were still laying the groundwork for formal legal education in their countries. In 1924 the study of law in Indonesia was upgraded from being a secondary school that trained clerks of district courts (*Rechtsschool*) to a school for higher education (*Rechtshogeschool*). It took almost three decades for the *Rechtshogeschool* to become the Faculty of Law at the University of Indonesia in 1950. On the other hand, the Faculty of Law and Political Science in Chulalongkorn University, Thailand's first law faculty, was established in 1933.⁹

Legal education in Singapore and Malaysia started only after the Second World War. An independent Department of Law was instituted in Singapore's University of Malaya in 1957, while the University of Malaya in Malaysia constituted its Faculty of Law only in 1972. Prior to the establishment of these schools, all lawyers in Singapore and Malaysia were trained in England.¹⁰

Formal legal education in Vietnam started only after the fall of Saigon, through a small law faculty at the Hanoi University in 1976.¹¹ In Hong Kong, the first law school started out in 1969 as a Department of Law in the University of Hong Kong's Faculty of Social Science. It then attained the status of a law school with an independent Board of Studies in 1978.¹²

SIGNS OF FATIGUE AND FALTERING?

Legal education in the Philippines may have had a head start over other countries in the region, but the past decades sadly show how it has remained stagnant and unresponsive to the changing nature of the legal profession.

Law schools in the Philippines mushroomed after the second Second World War. Between the 1950s and the 1960s, thirty-seven (37) law schools were registered with the Department of Education, and this increased to forty-five (45)

⁸ The University of the Philippines College of Law, *The UP Law Center*, at http://law.upd.edu.ph/index.php?option=com_content&view=section&id=19&Itemid=400 (last visited Mar. 30, 2011).

⁹ Tan Cheng Han, *Legal Education in ASEAN*, 1 available at http://www.aseanlawassociation.org/9GAdocs/w2_Singapore.pdf (last visited Mar. 30, 2011).

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² The University of Hong Kong Faculty of Law, *About Us*, at <http://www.hku.hk/law/faculty/index.html> (last visited Mar. 30, 2011).

by 1977.¹³ Currently, there are 110 law schools accredited with the Commission on Higher Education (CHED).¹⁴ Then, and up to now, the low passing rate in the bar examination, the licensing examination for lawyers in the Philippines, has haunted our law schools. On the average, passing rates since the 1960s have remained around 30% of those who took the examination. The consistent dismal performance in the bar examinations has been a much debated topic since the 1970s. During this time, a proposal to abolish the bar examination process cropped up. Instead, only graduates of duly-accredited law schools will be licensed to practice law.¹⁵ Others, on the other hand, called for a review of the bar examination process and the improvement thereof, focusing on what examination questions actually test of the applicants and how it could best approximate the applicant's proficiency in the law.¹⁶

However, the drawn-out, obsessive pre-occupation with the bar examinations has, to a large extent, veered attention away from any other significant reform in legal education in the country. Admittedly, the licensing process for lawyers is a crucial area for reform.¹⁷ It was to be expected that it will not just determine who are qualified to become lawyers, but will also guide law schools on what composes "basic legal knowledge" that should be imparted to students. But, when a simple licensing examination has morphed into the law schools' way of life, the formula has clearly gone wrong. We now operate in a community where countries see lawyers crossing borders, moving freely between legal systems. While this community is interested whether a lawyer has passed the bar examination of his home State, or the State he wishes to work in, it finds

¹³ Romero, *supra* note 2, at 487.

¹⁴ Commission on Higher Education, *Commission on Higher Education*, at <http://www.dbm.gov.ph/OPIF2010/OEO/CHED.pdf> (last visited Mar .30, 2011).

¹⁵ Vicente V. Mendoza, *Towards Meaningful Reforms in the Bar Examinations*, 77 PHIL. L.J. 239, 240 (2003).

¹⁶ Romero, *supra* note 2, 495-496; Irene R. Cortes, *Legal Education: the Bar Examination as Qualifying Process*, 53 PHIL. L.J. 130 (1978).

¹⁷ In 2004, the Supreme Court issued Bar Matter No. 1161, which outlined changes to be implemented in the bar examination process. These were based on the final report submitted by the Special Study Group on Bar Examination Reforms, which the Supreme Court constituted in 2001, as well as proposals and comments from the Integrated Bar of the Philippines, the CHED, and reputable law schools and law associations. Notable changes sought to be introduced include:

Adoption of objective multiple-choice questions for 30% to 40% of the total number of questions;

Formulation of essay test questions and "model answers" as part of the calibration of test papers;

Introduction of performance testing by way of revising and improving the essay examination;

Designation of two(2) examiners per subject depending on the number of examinees ;

Appointment of a tenured Board of Examiners with an incumbent Supreme Court Justice as Chairperson;

Creation and organization of readership panels for each subject area to address the issue of bias or subjectivity and facilitate the formulation of test questions and the correction of examination booklets; and

Adoption of the calibration method in the corrections of essay questions to correct variations in the level of test standards.

nothing interesting in his ranking in those examinations.

More to the point, this obsession with the bar examinations has not been fruitful. Indeed, if the results of the bar examinations were to be used as the only gauge for the quality of legal education provided by schools, then many are performing below par. The last decade saw the average passing rate further slipping down to twenty-six *percentum* (26%) of the applicants, with only around fifteen *percentum* (15%) of the law schools¹⁸ doing well.¹⁹

This myopic approach to legal education has left crucial issues neglected. The last time the model curriculum for law schools has been updated was in 1989, through Department of Education No. 27 Series of 1989.²⁰ The Legal Education Board (LEB), which I authored and which became Republic Act No. 7662, or the Legal Education Reform Act of 1993 to supervise law schools in the country, was constituted only in 2009, almost two decades since the law was passed. The board became fully operational upon the appointment of its Chair, former Court of Appeals Justice Hilarion Aquino, and three regular members: Dean Eulogia M. Cueva, representing the Integrated Bar of the Philippines, Retired Justice Eloy R. Bello from the Philippine Association of Law Schools (PALS), and Professor Venicio S. Flores from the Philippine Association of Law Professors (PALP). Together with CHED Chairperson Patricia Licuanan, the five present members constituted a quorum; although the representatives from the law practitioners and the law students have yet to be appointed.²¹

Since it was constituted, the LEB has approved the Rules on Administrative Sanctions of Law Schools with very Low Performance in the Bar Examinations, and has started preparing the proposed Policies and Standards for Legal Education and Manual of Regulations of Law Schools. It has also started supervising²² and accrediting law schools^{23,24}

¹⁸ In 2009, the CHED released the passing rate of top performing law schools in the Philippine bar from the year 1999 to 2009. Only ten law schools had an average passing rate of 50% and above.

¹⁹ Mariano F. *Meeting the Challenges: Philippine Legal Education in a Changing Environment* (2004), at <http://www.aals.org/international2004/Papers/Magsalin.pdf> Magsalin Jr., (last visited Mar. 30, 2011).

²⁰ CHED, however, has authorized several law schools to implement a Juris Doctor Program, such as Ateneo de Manila University, and the University of Batangas. The UP College of Law is also implementing a JD Program. For a comparison between the Bachelor of Laws Degree and Juris Doctor Degree, *See* CHED Memorandum Order No.17 Series of 2008, *available at* http://chedregion1.info/policies/CMO2008/CMO_17_s2008.pdf (last visited Mar. 30, 2011).

²¹ Fact Sheet of the Legal Education Board (copy on file with author).

²² For the year 2010, the LEB has approved the revised law curriculum of two law schools and the change in the curricular law degree from LIB to JD of the Angeles University Foundation, Central Philippines University, Iloilo city; and San Sebastian College-Recoletos, Manila. It has also inspected several law schools and issued cease and desist orders to law schools operating without permit.

²³ For the year 2010, it granted conditional permits to operate six law schools (Eastern Central Colleges, Catarman, Samar; Mariano Marcos State University, Batac, Ilocos Norte; DMC College

To be fair, the rest of Southeast Asia seems to be also grappling with issues concerning their respective jurisdictions. The low passing rate in the bar examinations is a problem in Malaysia. This, however, is only taken by graduates of foreign law schools with common law jurisdictions to be able to practice in Malaysia.²⁵ The core curriculum of law schools in Indonesia has been resistant to reform. The same subjects taught during the colonial government period prevail to this day, with modest changes through the application of the credit semester system.²⁶ Moreover, law schools in Indonesia lack the necessary infrastructure such as lecture rooms, law journal resources, and libraries, among others.²⁷

In Vietnam, the methodology of teaching law has been criticized to be ineffective in developing skills necessary for legal practice. Classes are conducted mainly through lectures and seminars, which do not train students with the analytical and problem-solving skills. Instead, students are geared towards passing examinations, which merely test the capacity to memorize.²⁸

Despite these setbacks, law schools in Southeast Asia are becoming increasingly aware of the interconnectedness of legal systems, and the need for legal education to adapt accordingly.²⁹ Legal practice is no longer confined within the limits of one's national borders, but now transcends multiple jurisdictions with different laws and cultures. Within Southeast Asia alone, both the common law and civil law traditions of the Western legal system have been entrenched in different countries, and exist along with Islamic Law in predominantly Muslim nations such as Malaysia and Indonesia. Law schools today do not just train lawyers to practice within his or her State, but to become global lawyers who can deal with cross-border transactions involving multiple jurisdictions.

Foundation, Dipolog City; Saint Mary's College of Tagum, Tagum City; Centro Escolar University, Makati City; and Saint Thomas Moore School of Law) and conditional government recognition to six others (Southern Bicol Colleges, Mabini, Masbate; College of Maasin, Maasin City, Leyte; Pampacific University North Philippines, Urdaneta City, Pangasinan; Angeles University Foundation, Angeles City, Pampanga; New Era University, Quezon City; San Beda Alabang Law School, Muntinlupa City).

²⁴ Legal Education Board's Accomplishment Report for 2010 (copy on file with author)

²⁵ Noor Aziah Mohd Awal, *Legal Education in Malaysia: Where is it Heading?* (2004), at <http://www.aals.org/international2004/Papers/Awoioal.pdf> (last visited Mar. 30, 2011)

²⁶ Hikmahanto Juwana, *Legal Reform in Indonesia*, 5-6, http://www.aseanlawassociation.org/Hikmahanto_Juwana.pdf; Nyoman Nurhaya, *Legal Education Reform: A Case of Indonesia*, 120 (2007), at <http://www.ialsnet.org/meetings/enriching/nurjaya.pdf>.

²⁷ Juwana, *supra* note 26, at 9.

²⁸ Bui Thi Bich Lien, *Legal Education in Transitional Vietnam*, 145-146, at <http://epress.anu.edu.au/as/pdf/ch07.pdf>.

²⁹ Tan Cheng Han, *supra* note 8, at 1.

The National University of Singapore and the University of Hong Kong have successfully built their reputation as leading law schools in Asia. Key to their success is adapting a global perspective. These law schools have evolved along with the global trends in legal education, offering degree programs that respond to the changing legal profession through specialized degrees, tie-ups with other law schools abroad, and an internationalized faculty and studentry.

Many law schools in the region thus provide courses that give a comparative perspective of different legal traditions. Law schools in Indonesia and Malaysia, for instance, introduce their students to Islamic Law, aside from their Civil Law and Common Law, respectively. Vietnam offers courses on Roman Law and foreign constitutional law. The National University of Singapore, on the other hand, has been experimenting with introducing civilian concepts to their students.³⁰

IN THE AGE OF NEW PARADIGMS: INNOVATION IS KEY TO RELEVANCE, IF NOT SURVIVAL

Allow me to begin this portion with a simple truth - We largely produce lawyers with the thought they are entering the same profession that we faced years, decades, even centuries ago. There is a dearth in comprehensive thinking regarding the state of the profession today, as compared to what it was in the 1960s or even the 1980s. We all seem to assume that it is the same world out there. Over the past decade alone, we know this to be largely untrue. For instance, did we seek to police the internet ten years ago? Did we even fully grasp its existence then? How about new forms of energy? The impact of rapid change on the way lawyers now practice, and more importantly, how they are perceived, is far-reaching.

Law has always been a “credence good,”³¹ the quality assessment of which is difficult, if not impossible for consumers. Ethical rules shielding the profession from the usual economic forces other fields experience make the market for legal services more skewed compared with other credence goods.³² This has led to observations (whether they be true or not I do not advance an opinion) that lawyers tend to price their services higher than they would in an unsheltered market.³³ The internet changed this. The deluge of information makes it harder to maintain this cozy arrangement. It allows a massive exchange of

³⁰ *Id.*

³¹ Gillian Hadfield. *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 MICH. L. REV. 953, 961-962, 969 (2000).

³² *Id.* at 961-962, 970.

³³ *Id.* at 961-962.

information, which has undoubtedly de-mystified the practice of law. As one commentator notes, while books about the law have been around for years, the appearance and prevalent use of blogs and sites like Wikipedia now makes the previously “exotic legal information” broadly accessible.³⁴ These technological developments enable more market “transparency.”³⁵ As legal services become “de-mystified”, consumers become more capable of appreciating the differences between providers of the legal services, and are able to compare the quality of their products, as well as their prices.³⁶

So where should this lead us? I insist that current trends in the practice of law be given a larger focus in the way law is taught. The UP College of Law for instance, loves to quote and emulate Oliver Wendell Holmes. If so, then we should take heed of his most quoted lines - “The life of the law has not been logic; it has been experience.” And that is precisely my point. Legal education must be responsive to current sentiment. Amongst the professions, lawyers promise the general public essentially one thing – the ability to refashion rules to reflect the needs and demands of both the individual and the organizations (be it a state or a business) they operate in. It is ironic that in terms of both philosophy and application, the legal profession stands as the least changed among all professions. We cannot afford to retain this level of complacency. Unlike the past decades, change in the present world has intruded into the legal realm, influencing, if not demanding a revision of the way lawyers practice their craft. Allow me to illustrate.

First, legal practice has become distinct in its emphasis on Specialization. One account tracks how the legal profession has become reliant on lawyers establishing core specialties in order to edge out their competitors.³⁷ To illustrate, the report cite:

“Mr MacGregor says, Eversheds’ strategy in its London offices, will be to focus on key areas such as banking, corporate and financial services litigation. For LL.M. graduates hoping to follow that career path, he adds: ‘What will be key for the legal market is what is still considered to be technical and worth paying a lot of money for...If you’ve got an LL.M. that specialises in some of those areas and is quite technical, then that will still

³⁴ Thomas D. Morgan, *The Last Days of the American Lawyer*, Paper prepared as the Lane Foundation Lecture at Creighton Law School, Oct. 1, 2009. Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1543301. (Last visited Apr. 10, 2010).

³⁵ Jon T. Johnsen, *Vulnerable Groups at the Legal Services Market*, in ACCESS TO JUSTICE AND THE JUDICIARY: TOWARDS NEW EUROPEAN STANDARDS OF AFFORDABILITY, QUALITY AND EFFICIENCY OF CIVIL ADJUDICATION, 31-43 (2009).

³⁶ *Id.*

³⁷ Maria Crawford, *Careers: Specialisation Might Be The Key to Long-Term Success*, FINANCIAL TIMES GLOBAL EDUCATION REPORT 2010, Nov. 21, 2010, available at <http://www.ft.com/cms/s/0/39620bd2-f271-11df-a2f3-00144feab49a.html>.

be worth something in five, 10 years' time."³⁸

Another factor, Globalization, exerts influence by fashioning an increasingly demanding clientele. Lawyers are expected to be more than just a combination of theoretical expertise and practical experience. Competence and practicality have to be streamlined, focused on a field that interests the client or its main areas of activity. In today's world, a "Superman-lawyer" – one who knows everything about anything (or at least claims to) – is viewed with skepticism and disregarded in favor of the specialist. Targeted expertise is the new currency of today's battle for the legal services market.

Aside from emerging trends, the international legal community has also recognized how one particularly significant event has forcefully intruded into the way it functions – the Economic Crisis of 2007. The crisis, which peaked in 2008, did not make things easier for lawyers. The crisis made corporations realize how much they were spending in legal fees. They no longer wish to do so. Consider Cisco Systems Inc., a USD \$32.8-billion corporation operating in 80 countries with employees totaling some 51,000. As early as a year before the crisis peaked, its general counsel went on record that unlike the previous years, the approach to legal costs is cut, cut and more cuts:

"As Cisco gets bigger, the share of revenue devoted to legal expense needs to get smaller,' says Chandler, adding that operating expenses are currently at 35 percent of revenue and falling. 'The performance-cost ratio increases every year. We must get more and pay less, becoming more efficient every year."³⁹

The same sentiment appears to resonate across most boardrooms. When the crisis hit, the first to go in corporations' spending programs, after the advertising budget, was the legal budget.

Why is this happening? We need to consider the shifting role of lawyers in society and business. Lawyers no longer monopolize the ear of top officials and businessmen; too often, we work with a diverse team. In his book *The End of All Lawyers*,⁴⁰ acclaimed "legal futurist" Richard Susskind speculates on the effect of technology on the nature of legal services. He opines that since legal service is a "line of service" that is routine and repetitive, it "can be standardized or computerized." If a service can be performed several times by following essentially

³⁸ *Id.*

³⁹ Leslie A. Gordon, *Meet an In-House Cost-Cutter Who Believes in Fixed Fees*, GC CALIFORNIA MAGAZINE Aug. 29, 2007, available at <http://www.law.com/jsp/cc/PubArticleCC.jsp?id=900005489791>.

⁴⁰ RICHARD SUSSKIND, *THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES* (2008).

the same steps, then it is capable of “commoditization”. As clients become more tech-savvy, the awareness of this phenomenon in relation to legal services becomes faster, more prevalent.

This in turn tracks the path of another development – the Rise of Multi-Disciplinary Practices. Law has come to be recognized as only part of a solution, and no longer THE solution. True, non-lawyer participation in the practice of law through Multi-Disciplinary Practices (MDPs)⁴¹ is a problem that has been thoroughly debated in the American Bar Association for decades.⁴² But its current manifestations are not through formalized associations like MDPs, rather intra-corporate teams made up of individuals with different competencies where the lawyer is no longer the leader, but a member. As an Oxford University professor notes, “(t)he financial crisis means that those who can combine knowledge in both disciplines will be valued in companies and regulatory bodies.”⁴³ There appears to be no reason why legal education systems should not take this into account.

Of all the developments tracked so far, perhaps there is nothing more pertinent to the future of our legal education system than the advent of “Global Law Schools.” Consider the degrees and programs of the leading US law schools, and the United Kingdom.

Harvard Law School emphasizes its ability to offer “joint degree programs,” which allows students to earn another degree from any of Harvard’s other professional schools. Yale Law School employs a similar strategy, boasting of the fact that it “encourages an interdisciplinary approach to the law”, which unlike Harvard, even allows the joint degree to be pursued in another university. Is there a demand for this? If enrollment numbers are to be relied on, there appears to be so, as far as Oxford University is concerned. Oxford has been offering a joint degree in Law and Finance, which continually earns the “highest number of applicants per place” among all of Oxford’s postgraduate degree offerings.⁴⁴ That is a statistic we cannot afford to ignore.

All of these law schools also offer opportunities to study abroad, not as a part of a grant or as a prize in a contest, but as a component of their mainstream curriculum. Harvard Law School has exchange programs with the University of Geneva Faculty of Law and the Graduate Institute of International and

⁴¹ Bret Adam Beldt, Student Commentaries, *Inevitable Change of America's Archaic Limitations on Public Ownership of Law Firms*, 33 *Journal of Legal Profession* 117, 120 (2008).

⁴² *Id.* at 120.

⁴³ Tim Jenkinson as cited in *Masters of Their Own Destiny*, FINANCIAL TIMES GLOBAL LEGAL EDUCATION REPORT 2010, Nov. 21, 2010, available at <http://www.ft.com/intl/cms/s/0/4e1a4df6-f17b-11df-8609-00144feab49a.html#axzz1Q751mMv4>.

⁴⁴ *Id.*

Development Studies in Geneva, the University of Sydney Law School, the Fudan University Law School in Shanghai, the University of Tokyo Graduate Schools for Law and Politics, the Fundação Getulio Vargas Schools of Law in Rio de Janeiro and São Paulo, the University of Chile School of Law in Santiago, and the University of the Witwatersrand School of Law in Johannesburg.⁴⁵

International tie-ups have also been observed to be rapidly occurring between the East and the West. While some may argue that exchange programs are nothing new, the relaxation of licensure barriers (*i.e.* the bar examinations) for the graduates of these programs should give us a pause. For instance, the New York University School of Law's tie-up with the National University of Singapore allows the graduates of their joint degree program to sit in the New York Bar examination.⁴⁶ Take note that the NYU-NUS degree is taught mainly outside the United States. As the report notes, this arrangement is "a sign of their acceptance – and that the world is becoming smaller."⁴⁷

There is no secret formula to these "success" stories. The information here is readily accessible just by visiting these schools' websites. It is interesting to note that no law school in this country has formally adopted similar approaches. This is unfortunate. It would be folly to view the openness by which these leading international schools treat their reforms as chest-thumping. It is an invitation to the rest of us to look at our own systems and see what can be improved.

Still, how much should legal education emulate the trend of the profession it seeks to supply? The scope might be an interesting case for debate, but consider this example as far as specialization is concerned - Georgetown University Law Center has begun offering an LL.M. (Masters in Law) in National Security. Whether this is in response to the increasing number of US armed personnel taking up further studies in law, or possibly the need to cater to the US's post-September 11 experience, it serves as a key indicator of what works. Georgetown, a perennial member of the top tier of US law schools, has also seen a rise in its international enrollment.

⁴⁵ Harvard Law School Study Abroad Program, *available at* <http://www.law.harvard.edu/academics/degrees/special-programs/study-abroad/index.html> (last visited Apr. 12, 2011).

⁴⁶ *Masters of Their Own Destiny*, FINANCIAL TIMES GLOBAL LEGAL EDUCATION REPORT 2010, Nov. 21, 2010, *available at* <http://www.ft.com/intl/cms/s/0/4e1a4df6-f17b-11df-8609-00144feab49a.html#axzz1Q75ImMv4>.

⁴⁷ *Id.*

A FORMULA FOR REINVENTION

The model of legal education has moved from the purely insular towards the need to provide future leaders of “global citizens.” The lowering of borders between states consistently emphasizes the emergence of a “global village.” That village will require leaders. It is our job to make sure that our corner of the globe gets a seat on that table. This task requires us to swallow a bitter pill. We need to stop boasting about who is the best nationally. That contest is over. The true benchmark of a successful law school has shifted towards comparisons with those of other nations.

A global village requires a core of competent individuals who know how to “speak” the emerging language of international transactions. Whether we like it or not, legal work continues to become transnational. The rise in power and prominence of aggregated political entities like the European Union, and our own ASEAN guarantee that the transnational legal work will rapidly increase. Having a well-trained, globally-conversant legal workforce is essential. In the short-term, this may require a strong emphasis on exchange programs. Students who study abroad acquire knowledge and exposure to different insights. They establish networks. They come back home equipped to handle cross-border transactions. For the medium and long-term however, the reforms have to be more incisive.

Our first step should be to survey our market. Law, stripped of the “holy” trappings we lawyers like to pile on it, is essentially a service. And like all services, we need to know whether we are meeting the demands of our “clients.” By clients, I refer not just to the individuals and entities that retain our services, but to society as a whole. Are lawyers providing a service that is relevant to the needs of society, or are we imposing a service that we think society needs? In my view, we need to take a step back and check – objectively – what the situation really is. I suspect there is, to some extent, dissonance. Consider the rapid rise of alternative dispute resolution and the tendency to shy away from litigation. This trend has led entire countries to shift their educational and economic agenda. Take note of Malaysia and Singapore’s new strategies to retain relevance in a shifting global economy – the battle to become regional arbitration centers. Similar shifts on the issue of who can be allowed to practice law have caused similar adjustments in at least two other major States. In the United Kingdom, the passage of the Legal Services Act (“LSA”) indisputably evokes a stark change in the mindset of how legal services are to be provided. Within certain rules, the LSA allows corporations to “practice” law. Other states, such as Australia, are now allowing non-lawyers to have a stake, an “investment,” in law firms themselves.

Simultaneous to an introspective look on our services, we need to prepare the people who are in the frontlines of the coming battle – our law school faculties. In my view, the faster we “credentialize” our faculty, the better we become in producing graduates who will stake their claim in the international stage. The job of a faculty member is two-fold – to innovate and to research. It would be ideal to have a dedicated core of faculty members who can afford to do both tasks without need of taking on non-academic legal work. The less saddled they are with client concerns, the more focused our faculty members become towards their academic tasks. We are a country brimming with legal talent. The academe should have a significant portion of those individuals joining their ranks.

But beyond recruitment, we need to fashion a compensation scheme that will make sure that they *stay* as professors. There are initiatives along these lines. In my work with the UP Law Centennial Commission, we are allocating a significant portion of our efforts to giving the faculty the resources to do their academic work full-time. A good portion of our fund-raising activities are geared towards faculty development, prioritizing endowments and other forms of mechanisms to ease the financial burden on our law faculty and inspire them to lead our students in innovative thinking. Our efforts in the UP Law Centennial Commission should be emulated and applied throughout the nation. The better equipped our law schools are in providing its professors a stable and comfortable income, the greater its chances to win the war for talent.

However, faculty development has another side that we must not neglect. In every organization, it is always important to get rid of the deadwood. I see no reason why a law faculty should be insulated from this reasonable principle. At the very least, to be able to produce and inspire the best thinkers in students, the professor himself must set the example. A lackluster professor inspires no one, but instead gives truth to the unfortunate saying that those who *can't*, teach. It is also a public responsibility. Non-performers do not just fail our expectations; they take up resources which can be used to accommodate better professors. Preparing a law faculty that can stand side-by-side with the best of their international peers requires pruning, as much as cultivation.

Next, I advise that we “Fix the Curriculum” of our law schools. By “fix” I do not propose creating a standardized curriculum to be adopted by all law schools. That is a formula set for disaster. Legislating curricula ensures that our graduates are exposed to ossified ideas. The rapid adjustments in technology virtually ensure that what we teach will always be two years behind. Rather, what I propose is this: once we have identified the true composition of the market, and its needs, we need to adapt our service to meet those needs. I used the word “fix” because it evokes a more incisive approach, which I think is in order.

Our law school curricula are either staid outlines of legal approaches originating from the past century, or bar-oriented learning aids. Some curricula even “excel” in being both. What we need is not a mere tweaking, like inserting a couple of electives here or there. What we need is an overhaul. By the sheer fact that they intend to prepare our graduates for a changing legal market, these curricular reforms must be drastic and far-reaching. It is both a practical and philosophical undertaking. Hard questions should be asked. For instance, should we allot only one or two subjects on international law or should we expand it to a full-blown component? Should we allot proper time and credit to apprenticeship programs, not as “extra-curricular” activities, but as a factor of the formal learning process itself? Do we allow our students to fashion their own, individualized set of course offerings, provided a core subject plan is adhered to?

In my experience, there is a culture within our universities that seem to abhor “tampering” with a curriculum. This notion is even more palpable in law schools. I find this unfortunate. Changing the way we teach law to reflect societal demands is a key obligation of the profession. We should embrace the task, not shun it. For instance, when Harvard Law School revised its curriculum last 2009, it made sure that its efforts were well-publicized in the international law school community. I believe we would benefit from the same attitude.

Related to this, we must devote some time into thinking about expanding the scope of extra-curricular activities we recognize and encourage. We must foster exchange programs, perhaps first with law schools in the region, then later on to other law schools. Doing this helps us “internationalize” our student populations. This is a necessary step. Diversifying the student body internationally exposes our own students to different viewpoints. In law, there is no one truth. In a law school, the more “truths” a student knows about or exposed to, the better he is able to discern later on, what truth he will adhere to or advocate for. International students also bring “third-party insight” that helps us in developing our own worldviews. Criticism within the classroom setting is undoubtedly useful, allowing us to distill its applications to future problems before they arise. It also helps in keeping professors on their toes. An international studentry will have particularly different learning demands that a lackluster professor will almost always fail to meet. It will be easier to spot stragglers that either have to shape up, or ship out. Finally, as a practical matter, international students represent a key investment in maintaining diplomatic relations. A good number of law students inevitably end up in various positions in their respective governments. Our former students thus may serve as future ambassadors or contact persons in the international stage, offering a more informed view of our nation, its culture, even its politics in future multi-state discussions.

My final suggestion is actually the lynchpin – we need to revise our mindset on two key ideas. First, we must “lower our borders”. The worst thing an educational institution can do right now is to be isolationist. But, the unfortunate combination of our definition of the “practice of law” and the doctrine of *Cayetano v. Monsod*⁴⁸ has turned the prospect of foreign law professors teaching in our law schools into an “illegal,” if not criminal, act. I wonder how we remain content in being hog-tied in a landscape where the best law schools in South East Asia are supplementing their law faculty by “importing” foreign law professors who are international experts in their fields. The practice of law is indeed one that concerns the national interest. But I no longer see how it serves our nation’s best interests to deny law graduates of other jurisdictions the chance to practice their craft here.

This distrust on, if not paranoia against, foreign lawyers is counter-productive. Is law a profession like medicine, where the “best” is not the doctor with the most brilliant mind, but the one with access to the most advanced equipment or training? This would be odd. As far as I know, a lawyer’s best investment is his brain, plus a sharp pen, and paper. With the internet, any lawyer has access to almost any legal resource in the world. Or is it an unconscious admission of our own lawyers’ inadequacies, and their inability to survive in a battle of legal talent against foreign practitioners?

The policy is also unfair. We revel in the fact that our graduates pursue masteral and doctoral law degrees abroad, a lot even utilizing foreign-funded scholarships, eventually taking up positions in various countries. Yet, we deny the same opportunity to their graduates. What if the other countries turn around and start preventing our graduates from practicing in their jurisdictions? Our countrymen working in New York and the European Union might suddenly lose their places.

The other issue where we need to refashion our thinking concerns the question of *who* we are serving. Our law schools have a tradition of supplying future governments with capable officials to lead them. This is an observation most often made in the public universities like UP Law. There is thus the sentiment that we must always prime our students in these schools to “serve the people.” This is a worthy sentiment. But, I wish to tweak it so that it conforms to the new reality we face. The tradition of “service” can no longer be confined to fields that we have come to commonly associate it with, such as *pro bono*, indigent work, and government work. “Service” has to evolve in order to also address the new sector,

⁴⁸ *Cayetano v. Monsod*, G. R. No.100113, 201 SCRA 210, Sep. 3, 1991.

the globalized landscape. I already made the argument that in order to maintain our relevance in this new society, we need to be able to field leaders to sit on the multi-state conference tables that will run it. This is a form of “service” we must also prioritize, without forsaking the traditional sectors. I am aware of the thinking that by being concerned with “international” matters, we are in effect neglecting the everyday citizen. That is not true. To have every Filipino lawyer serve informal settlers is a shallow objective. I prefer that all Filipino lawyers be internationally-competitive, and then they should serve our countrymen in the slums. I want capable lawyers for the poor who can brush off high caliber practitioners employing the latest international techniques and tactics in court. That cannot happen if we keep our heads in the sand and instinctively disdain any effort to introduce international practices in the law schools.

In sum, my proposal is two-fold. While we shall continue to “serve the people,” we should realize that first, we need to “internationalize” our educational system to serve them better, and second, the term “people” has now come to mean citizens of the world, not just our own.

CONCLUSION

The Philippines is a country blessed with a competent professional workforce with an as yet unrivaled aptitude for English and other international languages. However, resting on our laurels is a recipe for disaster; it allows mediocrity to thrive by giving it a safe harbor. The world has changed while we slept and the need to adjust accordingly is paramount. Fifteen years ago a cellphone was a luxury. Now, it is essential for meaningful existence in the professional world. The world has changed so much in the past decade. It seems foolish to think that the legal profession has not been affected. It is definitely not business as usual.

So what are we training our students to become? If we fail to adapt, we might soon be guilty of a great disservice to the nation – providing professionals who are incapable of adequately servicing the world they enter. We end up providing a product that is no longer “sellable” to the market. With borders going down, it has become increasingly easy to study, and work, abroad. We *will* lose our best students if we stand still. Finally, if our lawyers do not prove themselves relevant in a “non-legal” solutions-based market, they will be seen as superfluous, obstinate roadblocks.

The need for reform is obvious. And the best place to start is the law school. It is apt that I write this on the 100th year of the UP College of Law. I say

this not just for posterity, but rather because of the fact that it was also a century ago that Dean Roscoe Pound observed that while the law must be stable, "it cannot stand still." Those words have a century's worth of wisdom behind it. Only the foolhardy close their eyes to change.

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