

## THE RESEARCH PROGRAM OF THE U.P. LAW CENTER

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### INTRODUCTION

#### *The Function of a University Law School*

The primary task of a university is to advance the frontiers of knowledge. This, Professor James Willard Hurst states, "is the work for which society . . . lets it live and give it means."<sup>1</sup> On the other hand, the primary function of a *professional school* is to train men "to practice particular knowledge and skill."<sup>2</sup> In the case of a *law school* this "primary function" is "to provide professional training in law."<sup>3</sup> Nevertheless, "a professional school which has any title to belong within a university should share the university's task of adding to what we know."<sup>4</sup> Association with a university, in other words, imposes upon a law school what Dean Bayless Manning of the Stanford University Law School calls the additional duty to "join all scholars in philosophical inquiry."<sup>5</sup>

This two-fold function of a university law school has been aptly expressed by Dean Erwin Griswold of the Harvard Law School as follows:<sup>6</sup>

A law school is a center for thought and development on legal problems, as well as a center for the instruction of young men and young women in the law as it has been, is today, and should become.

#### *The Objectives of the College of Law*

This precisely is how the College of Law of the University of the Philippines conceives its functions. Its statement of purposes reads:<sup>7</sup>

The principal objectives of the College of Law are: (1) *to prepare students for the practice of law*; (2) *to train persons for leadership in*

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<sup>1</sup> James Willard Hurst, *The Research Responsibilities of a University Law School*, 10 *Journal of Legal Ed.* 147 (1957).

<sup>2</sup> *Ibid.*

<sup>3</sup> James Parker Hall, *The Next Task of the Law School*, 24 *Mich. L. Rev.* 42 (1925).

<sup>4</sup> See note 1, *supra*.

<sup>5</sup> *TIME*, October 30, 1964, 37. Until his appointment as dean of the Stanford University Law School, Dean Manning was a professor of law at the Yale Law School.

<sup>6</sup> Dean's Report, Harvard Law School, 1959-1960, 4.

<sup>7</sup> Bulletin No. 29 (Catalogue and Announcements, College of Law), University of the Philippines 8 (August, 1964), emphasis supplied.

different spheres of service; (3) to develop men and women for technical or policy positions in the civil service and outside; and (4) to contribute in the development of Philippine jurisprudence and legal literature.

For an established institution like the College of Law, a reaffirmation of objectives immediately invites assessment of performance. To be worthwhile, such an assessment must be forthright, critical, rigorous. To be constructive it should include an account of circumstances and difficulties which may have impeded or hampered honest effort, for the clarification of such limiting circumstances and difficulties can point the way to needed reforms.

### *The Status of Research in the College of Law*

Looking back to the school's past record in research, without going into details, the situation may be summarized as follows:

*Firstly*, that up to the present time, research has served almost exclusively as a handmaid of the schools' *instructional* function. Hence, it is not surprising that faculty publications have consisted almost wholly of textbooks and course materials. If some of these have in fact proved useful to members of the profession, this result has been merely incidental, and in some, completely unintended.

*Secondly*, that the total research output has been meagre, both in volume as well as in quality, and that faculty effort, as the Dean has so neatly summarized the situation, had been "mostly sporadic, occasional, unorganized."<sup>8</sup>

The sum of all these is, of course, a dreary and a dismal picture.

So much for the indictment. Now for the limiting circumstances and difficulties. Of these, two are the most prominent and only these need be pleaded for purposes of mitigation.

*Firstly*, it should not be forgotten that the school was originally conceived and established almost exclusively to provide professional instruction.<sup>9</sup> Hence, the almost total commitment of available resources, such as faculty, library, facilities, etc., to the *teaching* function, to consequent or even deliberate neglect of the purely *research* function. In this connection it is perhaps pertinent to note that this emphasis was true not only in the College of Law but in all other units throughout the University.

While this choice of emphasis may now seem narrow and unbalanced, it is well to remember that it was prompted by a very

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<sup>8</sup> Vicente Abad Santos, *U.P. Law Center: Challenge and Opportunity*, 4 (preprinted from the Dean's Annual Report to the President, University of the Philippines, 1963-1964).

<sup>9</sup> Vicente Abad Santos, *Golden Jubilee Dean's Message*, 35 Phil. L. J. 1253 (1960).

real and a very urgent need: namely, for the establishment of a law school genuinely committed to high academic standards, in the face of rampant commercialism among private law schools. In this connection, it may perhaps be appropriately noted that so far as its purely *instructional* function is concerned, many will agree that the College of Law has done well and worthily.

*Secondly*, it should not also be forgotten that "research is expensive business."<sup>10</sup> It is of course true, as Professor Hurst has so correctly pointed out, that "however grand the mobilized money, only applied individual intelligence will turn out a research worth anything."<sup>11</sup> Even so, he himself recognizes that to make research of significant value possible at all, "there is need to buy free time for work, and in some measure, to buy supporting service, facilities, or supplies."<sup>12</sup>

In this connection, it is perhaps unnecessary to point out that the money needed "to buy" all these essential requirements of research has never, till now, been available—and even now is available only in limited measure. Accordingly, until lately all research activities in the College of Law had to be conducted on an independent, individual basis, with each faculty member, doing research on his own time, with his own facilities and with his own resources—and always under a staggering teaching load of from 15 to 18 units per semester.

However, during the early part of 1963, the law faculty, in a determined effort to improve the condition of research in the College of Law, adopted an organized research program. This program is part of the Five-Year Development Plan for the College of Law. This research program is discussed elsewhere in this report.

## ORGANIZED RESEARCH IN THE COLLEGE OF LAW: BACKGROUND SKETCH

### *Contributory Factors*

This new emphasis on *research* in the College of Law is, however, not attributable solely to the dissatisfaction with the past record in this area. Rather, it was the product of many factors.

#### (1) *Law Reform and the Law Schools*

One of these factors is an increasing awareness of a broadening conception as to the obligation which a law school—especially of one which is supported from public funds—owes to the task of improv-

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<sup>10</sup> See note 1, *supra*.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

ing the law and the administration of justice. Whereas formerly it used to be thought that a law school could claim complete fulfillment of this duty so long as it continues to provide high-grade professional instruction, this view no longer commands general acceptance. Consciousness of this fact has, in turn, led to the clearer perception of the many ways and the many opportunities in which a law school can contribute to the accomplishment of this task.

It is precisely the increasing awareness of this new responsibility which has evoked expressions of self-doubt by many leaders in American legal education. Thus, more than a decade ago, the late Chief Justice Arthur T. Vanderbilt of the New Jersey Supreme Court, who was formerly Dean of the New York University Law School, asserted: "It is not enough for a law school in these days simply to teach law and teach it well."<sup>13</sup>

At first, Chief Justice Vanderbilt was a lonely voice, but it was not long before he was joined by many others. Of these perhaps the most persistent and the most eloquent is Dean Griswold. "If a law school simply teaches," he has admonished, "it does a useful task, but it will not be a great law school."<sup>14</sup> He then adds: "A law school is a center for thought and development on legal problems, as well as a center for the instruction of young men and young women in the law as it has been, is today, and should become."<sup>15</sup>

## (2) *Law Reform and the Professional Law Teacher*

Side by side with this broadening conception as to the responsibilities of a university law school has also evolved a changed conception as to the proper function of a modern university law teacher. What this proper function is has been best defined, it would seem, by Dean Griswold.

Dean Griswold's starting point is an emphatic repudiation of the prevalent misconception that a position in a law school faculty is a convenient refuge for the timid and the unworldly. "A law school," he tells us, "is *not* a retreat where persons who do not want to practice may withdraw from the world."<sup>16</sup>

He then proceeds to ask the question:<sup>17</sup>

What is the place and the responsibility of the law teacher in the stream of legal history? *Is he simply an observer, recording the currents and eddies, and passing them on to his students? Or does he have not merely the opportunity but also the responsibility to affect the stream,*

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<sup>13</sup> Quoted in a brochure of the Southwestern Law Center, 1950.

<sup>14</sup> See note 6, *supra*.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, 14.

<sup>17</sup> *Ibid.*, 2.

*perhaps in substantial ways, and to aid in diverting and controlling it so that our legal system may make the contribution it should toward the establishment not merely of order but also of a just and tolerant society?*

Dean Griswold's answer is at once inspiring and sobering.<sup>18</sup>

The law teacher is in an unusual position. Though subject to great demands from his teaching work, he has extraordinary freedom and independence. He is not tied to the demands or importunities of clients, and he need not keep a time chart. He has no office overhead to meet, and the intricacies of management are of little or no concern to him. He can devote his time and attention to ideas and to problems, and he is in an excellent position both to expound ideas in which he is interested, and to coordinate the work of others who labor in the fields in which he is interested.

*Thus, the law teacher has a remarkable opportunity to exert leadership in the development of the law, and of thought about our legal system—in short, to be a publicist, in the first and basic sense of that term. This does not mean merely writing to meet a dean's demands. It means the exercise of active effective leadership of thought and effort in the many fields and ways where a law teacher is qualified to exercise such leadership.*

*Leadership of this sort may be merely professional, dealing with technical areas of the law, where lawyers require better understanding, or where legislators need to be shown the way toward improvement. Or, the leadership may be designed to guide the thinking of the intelligent general public, with respect to social and political problems, federal or state, domestic or foreign. This leadership may be exercised, through speaking and writing, through effective work in committees and meetings, through books and articles, through bar associations and other professional groups, and in many other ways . . . His work will be thorough, careful, accurate. There is no need for hack writing. But there is great need for sound legal leadership, for the development of new thought and ideas and methods and solutions to legal problems. Law teachers cannot expect to supply all the leadership on these matters. But they should supply a substantial part of it through their work, inspiration and devotion."*

To be a "publicist", "to instruct and aid the popular and professional understanding" of legal problems, to be "a practical cooperater in the work of advancing knowledge and good will" on legal and social problems—these are objectives which a law teacher may well ponder.

Dean Griswold, of course, realizes that this role—the role of a "publicist"—is undoubtedly "a high ideal to place before law teachers." Nevertheless, he insists that "it is one which (they) should gladly accept," not only "because of the opportunities for service which it provides," but more so "because of the responsibilities inherent in the modern law teaching profession."<sup>19</sup> "Law teachers," he explains, "are a special group. *They work in a dynamic field*

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<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

*of knowledge with a long history, a field where continuity with the past is necessary but where developments in the future are equally inevitable if our legal system is to meet the social, economic, and moral needs of our society."*<sup>20</sup>

### *Impact of the Law Faculty*

Increasing awareness by the law faculty of these broadening conceptions as to the responsibilities of law schools and of the law teaching profession inevitably resulted in a gradual awakening from complacency and lethargy, and in the impairment of their feeling of self-assurance and smugness. The immediate effect of these was a deepening feeling of unease about the adequacy of the school's single-minded preoccupation with the teaching function throughout the first half century of its history. And it was not long before the crisis of conscience which once gravely troubled American law schools was to distress them and ultimately breed a new spirit of change and renewal. This new spirit was first noted by the Dean in his Annual Report to the President for the school year 1962-1963.<sup>21</sup>

### *The New Impetus to Vigorous Research in the College of Law*

But to nurture and sustain this new spirit it is necessary to create an environment friendly to it. In the development of such an environment, the timely emphasis placed by the present University Administration on research, and the active support which it gave to the research programs of the various units, including the College of Law, has been a crucial factor. So also has been the Dean's policy of encouraging greater faculty involvement in public affairs, particularly in the improvement of the law and the administration of justice. Five years ago, for instance, on the occasion of the celebration of the Golden Jubilee anniversary of the College of Law, he urged a re-examination of our legal system with a view to its improvement in a spirit which anticipated the clamorous nationalist temper which has now become the fashion of the hour:<sup>22</sup>

Our legal system can stand further improvement. I refer particularly to anchoring our laws to our traditions and cultural heritage. As it is, the bulk of our law is alien. There is still in us a colonial mentality which make us unduly lean on foreign law. We have our own good legs but we still insist on using imported crutches. We must dig into our own history so that we can attain a unique identity. This task of scholarship can be incident to the study in the College of Law.

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<sup>20</sup> *Ibid.*, emphasis supplied.

<sup>21</sup> Dean's Report, 1962-1963, 38 Phil. L. J. 405, 408 (1963).

<sup>22</sup> See note 9, *supra*.

And more recently:<sup>23</sup>

Today—and indeed for sometime now—the country looks to the College of Law for leadership not only in the field of legal education, but also in promoting the improvement of law as the crucial instrument of order and justice. Of necessity, these expectations pose the difficult but challenging obligation for heroic effort, and more, for assertion of the duty to innovate, to experiment, to break new ground in these fields—with boldness, resourcefulness and vision.

*The Objective of the New Research Activities in the College of Law*

The Dean's preoccupation with "the improvement" of "the legal system," or law reform, as a new and promising area of activity for law schools is not the result of random or accidental choice. Rather, it is a concern which manifests a keen sensitiveness to the crying needs of the moment. For it is a fact that in many areas of our law the need for reform is not only pressing but long overdue. Moreover, the work that needs to be done is of staggering magnitude—and the work has yet to be begun. And the work must be done "if our legal system is to meet the social, economic, and moral needs of our society,"<sup>24</sup> "... if it is to make the contribution it should toward the establishment not merely of order but also of a just and tolerant society."<sup>25</sup> Or, as the Dean prefers to put it, "if the law is to be truly the servant of humanity and justice."<sup>26</sup>

It is, of course, not suggested that the responsibility for this tremendous task should be assumed completely by the law schools and the law faculties. For in the final analysis, the task of reforming our law is the collective responsibility of the community as a whole. Nevertheless, it is now widely accepted that law schools and law faculties have a special obligation to furnish the needed leadership for this task. It is precisely the increasing awareness of this obligation which has prompted such exhortations as: "The responsibility for the law *today* rests primarily on the bar and only to a slightly less extent on the bench. The responsibility for *tomorrow* rests heavily on the law schools."<sup>27</sup> "Leadership in the great task of adopting the law to the needs of the latter half of the 20th century and of simplifying it in the process must center in our law schools."<sup>28</sup> "Aside from teaching future lawyers, the law schools are ideally

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<sup>23</sup> See note 21, *supra*.

<sup>24</sup> See note 6, *supra*.

<sup>25</sup> *Ibid.*

<sup>26</sup> See note 9, *supra*.

<sup>27</sup> Arthur T. Vanderbilt, *The Doctrine of Separation of Powers and its Present Day Significance*, 143 (1953).

<sup>28</sup> Arthur T. Vanderbilt, *The Responsibilities of our Law Schools to the Public and to the Profession*, 3 *Journal of Legal Ed.*, 207, 216 (1950).

suited to an even more direct part in the program of improved administration of justice.”<sup>29</sup> “The third mission of a law school, especially within a state university, has to do with legislation. . . . Penal law, family law, land-use planning law are amenable to imaginative, resourceful, resolute investigation and reform whose impetus can come powerfully from a local law school.”<sup>30</sup>

In this connection, it may be noted that in the United States there is an increasing number of institutions and organizations, both private and public, such as the American Law Institute, the special committees of the various bar associations, the numerous law commissions, etc., which are devoted full-time to the task of improving the American legal system. Nevertheless, the leadership of the law schools in the task of law reform is still felt necessary and indispensable. If this be so, how much more, therefore, in the Philippines where there is a complete lack of similar or equivalent organizations and institutions? Here, moreover, it is doubtful whether aside from the U.P. College of Law there is any other law school which has the willingness or the capacity to participate in this awesome task, much less assume leadership of it.

In light of these circumstances, the abdication of the U.P. College of Law of leadership in the task of law reform will mean complete resignation to and the perpetuation of the *status quo*, in which any change in the legal system is largely the work of the strong, the selfish and the self-seeking.

It is for these reasons that for the present at least—and perhaps for many years to come—the research effort of the law faculty will be geared primarily to the task of law reform.

*Law Reform and the Instructional and other  
Research Needs of the College of Law*

This deliberate commitment of research effort to the demands of law reform is not, however, intended as an implied abandonment or neglect by the school of its responsibilities in research which are of more immediate relevance to its other needs, namely: (1) for the continuing improvement of its instructional program and capacity; and (2) the pursuit of its necessary commitment to the University's quest for knowledge.

<sup>29</sup> John R. Dethmers, *The Law School and Frontiers in the Administration of Justice*, FRONTIERS IN LAW AND LEGAL EDUCATION (Addresses given at the Centennial of the University of Michigan Law School, October 1959), 65, 68 (1961).

<sup>30</sup> Paul A. Freund, Dedication Address: *The Mission of a Law School*, 9 Utah Law Rev. 45, 49 (1964).



The studies which are best suited to serve these two ends have come to be known as "basic research." "Basic research" in law has been defined by Edward H. Levi, who was formerly dean of the University of Chicago Law School, and who is now Provost of the same University, as such studies as are intended primarily to achieve "a more meaningful knowledge of our basic legal institutions, the history of these institutions, the values they embody, and their intended and unintended consequences in operation."<sup>31</sup> That there is no necessary inconsistency between studies of this sort and research which is deliberately designed to serve the needs of law reform should be immediately plain. For it should not be difficult to realize that in many cases "basic research" would be an indispensable precondition to the conception and invention of rational reform measures and solutions. On the other hand, preoccupation with the problems posed by the need for reform could provide directions for studies which may yield deeper insights into the nature, the functions and the purposes of our laws and legal institutions.

And in so far as the purely instructional needs of the school are concerned, it is not unlikely that studies in law reform could produce material which could considerably enrich the law school curriculum. Moreover, as Justice Vanderbilt has pointed out, the participation of the faculty "in the restatement and simplification of the entire body of the law . . . will give their teaching a realism and a vitality that it could in no other way acquire."<sup>32</sup>

Thus, a constant feedback of material, information and insight, derived from law reform activities, to the law school to serve its purely instructional and other research needs, and *vice versa*, may be reasonably expected. Accordingly, it is not surprising that "the deliberate making of productive legal scholarship (as) a larger end of law school effort,"<sup>33</sup> has been hailed by Professor Hurst, "as the strategy most likely to bring fresh vigor into the university law schools."<sup>34</sup>

## THE RESEARCH PROGRAM

### *Fundamental Policies*

The underlying policies of organized research in the College of Law are the following:

<sup>31</sup> Edward H. Levi, *Frontiers and Future Development in Legal Education*, printed in *FRONTIERS IN LAW AND LEGAL EDUCATION* (Addresses given at the Centennial of the University of Michigan Law School, October 22, 23, 24, 1959), 87, 96 (1961).

<sup>32</sup> See note 28, *supra*, 216.

<sup>33</sup> See note 3, *supra*, 45.

<sup>34</sup> See note 1, *supra*, 59.

*First*, the official sponsorship and active direction by the school of all research activities. Direction includes not only the making of broad policy guidelines, but also the determination of such matters as the areas to be investigated, the specific projects to be prosecuted, the types of studies to be undertaken, and the ends which research should serve. Active direction also includes close coordination and supervision of research activities.

*Second*, the encouragement of faculty participation in the research program through the furnishing of incentives in the form of honoraria, reduced teaching loads, as well as the provision of supporting services such as research associates and assistants, secretarial and clerical help, office facilities, materials and supplies.

*Third*, the improvement of overall research capability through the systematic implementation of a vigorous faculty and staff development program. This program includes the acceleration and intensification of advanced studies abroad of the members of the faculty, the revitalization of the faculty through the recruitment of a sufficient number of new and younger members, the continuing improvement of faculty salaries in order to mitigate the difficulties of the twin-problems of recruitment and retention, and the development of an adequate number of competent full-time research associates.

*Fourth*, the more rapid expansion and improvement of library materials, facilities and services.

*Fifth*, the procurement and continuing improvement and expansion of necessary requirements for physical plant, equipment and facilities.

And, *finally*, the establishment of a separate office to be charged with the responsibility of implementing the research program, and of providing such program with the necessary administrative direction and support.

#### *Status of Implementation of Fundamental Policies*

All of these policies have, in varying degrees, already been implemented to the fullest extent possible. In many areas, especially manpower, present resources have had to be stretched almost to the breaking point.

The reason for the adoption of the first policy, *viz.*, active sponsorship, direction and coordination of research activities by the school, is the need to conserve available resources. In view of their limitedness, it is felt that the concentration of effort on a few closely coordinated projects is the course best calculated to insure maximum effectiveness.

Already policy guidelines for research have been formulated, areas of investigation chosen, projects drawn up and approved, and the end which research is to serve—namely, law reform—determined.

As regards the provision of incentives for faculty participation, during the current semester the teaching loads of all faculty researchers have been reduced to from 6 to 9 units only. For their work in the research program, it is planned to pay them modest amounts by way of honoraria.

As for secretarial and clerical assistance, the recruitment of an adequate staff was begun as early as last year. Already, a staff of five has been assembled and is actively at work. In addition, only recently, two full-time research associates have been recruited and will be increased as the need for more arises, subject, of course, to the difficulties of recruitment and the availability of funds for their salaries.

In pursuance of the policy of improving research capacity, the program of encouraging advanced studies abroad has been stepped up. In pursuance of this program, last year, one member of the full-time faculty was sent on study detail at the Yale Law School for a *first* advanced degree in law. This year, two others are on study leaves abroad, both for *second* advanced degrees in law, one at Yale and the second at the Michigan Law School.

To be able to prosecute this program with greater speed and vigor, the faculty development program is being examined for the purpose of adopting a systematic timetable for similar leaves on the part of present and future members of the regular faculty. A parallel program and timetable for the research associates is under study and consideration.

Also this year, to enable the commitment of a maximum number of regular faculty members to the research program two new members have been appointed to the regular faculty. Depending on the availability of funds, two more are planned to be recruited next school year.

Needless perhaps to state these new faculty members and research associates have been provided with suitable office spaces and equipment. To make these offices comfortable and congenial to study and reflection, they have been equipped with air-conditioning facilities. At the same time, the physical plant requirements of the school as a whole, are being restudied with a view to drafting an overall program of expansion and improvement.

As for the expansion and improvement of library materials, facilities and services, already minor successes have been gained. One of these is the procurement of a copying machine wholly through alumni donations. Another is the purchase of a typewriter with a special library keyboard from funds provided by the Asia Foundation for the U.P. Law Center. But the precise dimensions of the problems posed by increased and increasing needs for library materials, facilities and services of a vigorous research program have yet to be determined. That these are of crucial importance is fully appreciated. Indeed, these newly developing problems arising from the library needs of the research program is one of the major factors which has led to the decision to re-examine and revise the Five Year Development Plan of the College of Law. For this purpose, a faculty committee of seven which is headed by the Dean himself has already been appointed and is at work.

This new plan will naturally include a review of the estimated requirements for physical plant, facilities, services, etc. of the College of Law for the next five years.

The implementation of the policy for the establishment of a separate office to be charged with the responsibility of implementing the research program, and of providing the program with administrative direction and support is discussed separately in the next section.

### *The Organizational Framework for Research*

#### *(1) The Continuing Legal Education and Research Program*

In the summer of 1963, the faculty adopted a research program as well as a continuing legal education program. This twin program was called the Continuing Legal Education and Research Program. To provide this program with administrative direction the office of a faculty director was created.

To finance both aspects of the program, an allotment of ₱25,000.00 was added to the budget of the College of Law by the University Administration.

#### *(2) The U.P. Law Center*

In 1964, at the initiative of the Dean and the faculty of the College of Law, principally Professor Perfecto V. Fernandez, the Continuing Legal Education and Research Program was subsequently expanded into a full-scale center by Republic Act No. 3870. This center was designated as the "U.P. Law Center."

(a) *The Division of Research and Law Reform*

Under the Center, research which is one of its major functions, is now entrusted to a separate division called the "Division of Research and Law Reform." This Division is under the charge of a Faculty Head who is assisted by an Assistant Faculty Head. The chief responsibility of the Faculty Head is to formulate policies which will serve as guidelines for research. In addition, he is also charged with administrative responsibility for the division, which includes the recruitment of research teams from the faculty, and of furnishing these with supporting services, facilities and supplies.

(b) *The Participation of the Law Faculty*

Research is planned to be prosecuted on a project-basis with an *ad hoc* research team organized for each project. The members of these research teams will be drawn mainly from the faculty, especially from among those in the full-time service. Each team will be directed by a project head who will be charged with the responsibility of executing the project to completion. In the choice of team members two important qualifications will be stressed, namely: (1) competence in the area or subject matter to be investigated; and (2) willingness to participate in the project.

The decision to rely chiefly on the law faculty for the prosecution of the research function of the Center has been prompted by many reasons. Of these, the most important are the advantages which a full-time professional law teacher enjoys over his other colleagues in the legal profession, not only by reason of his training and experience, as well as of time and opportunity for such work, but more so "in terms of perspective and scholarly detachment." The significance of this final consideration to *disinterested* reform should be plain.

(c) *Research Associates*

To assist the faculty researchers, it is also planned to recruit and develop an adequate number of full-time research associates. Such associates will be used mainly in work in which it is not worthwhile to expend faculty time and energy. But to what extent this plan will succeed is, at present, a matter of conjecture. The main difficulty appears to be not so much the problem of recruitment (although this problem is formidable enough) as it is the problem of retention. This is so for it is a well-known fact that there are not many among those who are truly qualified who can find genuine professional satisfaction in a career in research.

This difficulty is further aggravated by the fact that the salaries which can be offered for such positions are comparatively low. In addition, the number of graduates which the College of Law has been turning out since the imposition of the four-year pre-legal education requirement has been cut drastically. By comparison, the number of job opportunities available to lawyers has increased. The result is that right now our law graduates are in short supply as shown by the increasing number of offers for employment which we have been unable to fill for the last two or three years now.

#### RESEARCH PROJECTS

##### (1) POLICY GUIDELINES

In the choice of research projects, the following guidelines have been adopted:

*First*, the necessary preference which must be given to projects coming within the areas specified in Republic Act No. 3870, in which presumably Congress deems reform to be needful and urgent, namely: (1) judiciary; (2) public administration; (3) civil rights protection; (4) law enforcement; and (5) international law.

*Second*, the urgency and timeliness of the proposed project, as well as the contribution which any suggested solutions can make to the overall needs of law reform.

And, *finally*, the feasibility of the proposed project taking into account the limitedness of available resources, especially man-power and finances.

##### (2) RESEARCH PROJECTS IN PROGRESS

At present, the Law Center has four research projects in progress, namely: (1) the reprinting and annotation of the laws enacted by the various legislative bodies of the Philippines from the inception of American rule to the establishment of the Commonwealth; (2) the compilation of all treaties to which the Philippines is a signatory; (3) the drafting of a proposed uniform administration procedure act; and (4) the revision and modernization of existing penal laws, principally the Revised Penal Code. The first two are carry-overs from the research program of the Continuing Legal Education and Research Program; the last two were adopted after the establishment of the Law Center.

Aside from these four, two other projects should be mentioned in the interest of a complete summary, namely: (5) a study of the law on commercial arbitration in the Philippines; and (6) a proposed study of the powers of the President of the Republic.

(a) *Research Areas Covered*

Five of these projects touch four of the five areas of reform specified in Republic Act No. 3870. The project on Philippine treaties falls under international law; the one on administrative procedure spans the area of public administration and civil rights protection; the project on the penal laws also touches two areas, law enforcement and civil rights protection. The project on commercial arbitration was a study in international law; while that on the powers of the President is a study in public administration.

Already a project on the judiciary has been submitted and is under study. This is a proposal to conduct a factual inquiry into the factors which affect the speed in the disposition of cases. One obstacle to the immediate prosecution of this project is the difficulty of recruiting skilled field investigators. It is hoped, however, that this difficulty may be overcome soon.

A brief description of each of the projects enumerated above follows.

(b) *Brief Description of Projects*

(1) *Study of the Law on Commercial Arbitration in the Philippines.* Actually, this project antedated the establishment not only of the Law Center but of the Continuing Legal Education and Research Program as well. However, its inclusion in this report is justified for the reason that its prosecution was officially sponsored by the College of Law. Indeed, it may be added that the dramatic results of this project demonstrated convincingly the advantage of an officially sponsored and supported research project, and may be said to have paved the way for the adoption of such a policy into a full-scale program. The manner in which this project was executed also set the pattern for the execution of the projects of the Law Center.

This project was undertaken upon the request of the Secretary of Finance. Its immediate objective was the preparation of working papers for the use of a Philippine delegation to a projected ECAFE Conference on Commercial Arbitration which was scheduled to be held in Manila in that year. The execution of this project was assigned to Professor Bienvenido C. Ambion. To assist him in meeting his short schedule, he was provided with two graduate assistants, part of whose salaries were paid for by the Philippine Society of International Law which co-sponsored the project. Although the drafts of the working papers requested were completed on time, commercial arbitration was finally omitted from the agenda of the ECAFE conference.

Nevertheless, Professor Ambion prosecuted the project to completion. The final draft of his study which was entitled "*Is Philippine Legislative Action Necessary on Twelve ECAFE-Listed Problems of Commercial Arbitration?*" was submitted by him on September 19, 1963 and has since been published.<sup>35</sup>

The law on commercial arbitration in the Philippines is a largely unexplored field. Professor Ambion's paper, by the unanimous opinion of those who are competent in the field, is the first major work of any significance in that area.

(2) *Study of the Powers of the Presidency.* This project was proposed by Professor Irene Cortes. Its main purpose is to determine the consistency between theory and practice on this vital area of public law. Its more specific aim is to determine the effects, whether baneful or otherwise, of any divergencies which may be discovered. Its ultimate objective is, of course, the proposal of remedial measures.

Although this project was actually begun, its prosecution has been suspended on account of Professor Cortes' trip to the United States in September of last year for the purpose of pursuing a JSD program at the University of Michigan Law School at Ann Arbor. It is of course expected that this study will be resumed and completed upon her return.

(3) *Reprinting and Annotation of Philippine Public Laws.* This project is being undertaken by Professor Sulpicio Guevara. The laws which he is seeking to reassemble, and to coordinate by means of appropriate annotations, were originally contained in a set of publications consisting of 31 volumes designated as "Public Laws." This set is an official publication. Since the war, however, this set has become increasingly rare and extremely difficult to secure. As a matter of fact, even the U.P. Law Library is still without a complete set of this publication.

Admittedly, Professor Guevara's project is a very primitive form of research. It is, however, an indispensable one. Moreover, this project is not intended merely to repair a developing breach in our sources of primary authority. Professor Guevara plans to use the materials which he has been gathering in the course of prosecuting this project for two other major projects, namely: (1) a comprehensive Philippine legal history upon a scale not heretofore attempted; and (2) as the beginning of an effort to restate and simplify the whole body of Philippine statutory law into a single integrated code similar to the United States Code.

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<sup>35</sup> 38 Phil. L. J. 648 (December, 1963).



Obviously, both these projects must await the completion of the basic one. As originally estimated, this project will require three years to finish. It was begun in the middle of 1963 and is scheduled to be completed in 1966. Thus far, Professor Guevara has been able to keep up with his timetable. However, the printing of his finished manuscripts is seriously lagging behind schedule.

When completed, Professor Guevara hopes to be able to reduce the original 31 volumes into 24. The last volume will serve as the desk book of the set. In addition, it will contain copies of some rare and important documents on Philippine law.

The publication of this project is being financed by the University and is expected to be a self-liquidating project.

(4) *Compilation of Philippine Treaties since Independence.*

This project is sponsored jointly by the U. P. Law Center and the Philippine Society of International Law which is providing the funds for the payment of the salary of a full-time research associate assigned to the project. The execution of the project is under the charge of Professor Florentino P. Feliciano who is a member of the Society. The aim of the project is a modest one, but is undoubtedly of far-reaching importance: namely, to publish all treaties to which the Philippines is a signatory in a convenient set of volumes so as to make these readily accessible to interested parties. The importance of a publication not only in the interest of scholarship, but also for the protection of private as well as national interests which these treaties affect, is immediately obvious.

Despite some difficulties encountered in securing copies of these treaties from the Department of Foreign Affairs significant progress has already been made. However, it is estimated that a period of about a year more will be required to complete the project.

(5) *Drafting of a Proposed Uniform Administrative Procedure Act.* This project is being jointly undertaken by a team consisting of Professors Perfecto V. Fernandez, Generoso V. Jacinto, Jose C. Laureta and Juan F. Rivera. Professor Laureta is the project head. This project grew out of Professor Peck's criticisms of Philippine administrative law, one of which is precisely the failure to adopt such an act up to now. These criticisms were made by Professor Peck in a lecture which he delivered, as part of the Law Faculty Public Lectures Series on January 29, 1964 entitled "Administrative Law and the Administrative Process in the Philippines—An American Critique." This lecture is a by-product of a study which he made of Philippine administrative law and procedure as part

of a comparative study of administrative law in Southeast Asia under the sponsorship of the Ford Foundation.

The goal of the proposed act is to balance two conflicting demands: on the one hand, the promotion of administrative efficiency which is deemed essential to the successful accomplishment of the deeply desired social ends which are entrusted to various administrative agencies; and, on the other, the preservation of the values associated with the rule of law, whose very existence and vitality, it has been seriously suggested, are constantly threatened by the activities of such agencies.<sup>86</sup>

A major part of the study is a factual investigation of the various activities, practices and procedures of "typical" administrative agencies. This part of the work alone, it is felt, will take some time to finish—if it is to be done with sufficient thoroughness. Accordingly, it is estimated that the draft of the proposed rules, together with explanatory notes and supporting memoranda, will take about a year to finish.

(6) *Reform and Modernization of the Penal Laws.* This project is the *principal project* of the Law Center. The magnitude and complexity of this project is, of course, fully appreciated. It is for this reason that as many as 5 full-time faculty members and two lecturers have been assigned to this project alone. Of the 5 full-time faculty members, 3 are among the most senior in the present faculty, namely, Professors Bienvenido C. Ambion, Luis J. Gonzaga and Araceli Baviera. Professor Ambion is the project head. The two others are Professors Bartolome Carale and Teodorico Taguinod who are the two new recruits to the faculty already mentioned. The two lecturers assigned to the team are Professors Estelito Mendoza and Napoleon M. Gamon.

This project has two specific goals. The first is to bring about such emergency reforms in the existing law as are felt of pressing urgency. This part of the work is hoped to be done within the first two years of the project.

The long range goal of the team, however, is a complete revision of the existing system. This part of the study is likely to test the skill and resourcefulness of the team to the limit. For here, they are likely to become embroiled in a dispute between the exponents of two rival philosophical positions, namely, the doctrine of natural law which is claimed to undergird the Revised Penal Code, and positivism upon which the Proposed Code of Crimes is supposedly founded.

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<sup>86</sup> F. A. HAYEK, *ROAD TO SERFDOM* (1944).

Upon this point, the dispute is open, as well as fierce and spirited, with neither side being willing to accept a compromise. It is for this reason that the time estimated for the completion of a reasonably respectable work on this part of the study is five years.

(3) PARTICIPATION OF THE MEMBERS OF BENCH AND BAR.

The last two projects discussed are also experiments in cooperative work between the Center and the members of the bench and the bar. Thus, the team on the proposed uniform administrative procedure act is being actively assisted by Mr. Camilo Quiazon, an assistant solicitor general of the Department of Justice. In addition, Judge Arsenio Martinez, Presiding Judge of the Court of Industrial Relations, and Judge Guillermo Santos of the Court of First Instance of Manila, who was formerly Presiding Judge of the Court of Agrarian Relations, will serve as consultants of the team.

On the other hand, the team working on the penal system will have for its consultants Judges Arsenio Solidum, Ruperto Kapunan and Luis Reyes, all of the Court of First Instance of Manila. All three are considered as among the most knowledgeable in the field of criminal law in the Philippines today.

In addition, this team will be assisted by Atty. Vicente Mendoza, Secretary to Justice Roberto Regala of the Supreme Court, and Atty. Teodoro Pison, a practicing attorney.