THE CHALLENGES TO LEGAL EDUCATION IN THE PHILIPPINES*

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INTRODUCTION

An inquiry into the state of legal education in the Philippines today is most timely due to various reasons. First, an increasing number of people seek admission into the Philippine Bar annually, as shown by these figures on the Bar examinees the past six years:

Year	*Number of Bar Examinees*
1977	1714
1976	1979
1975	1950
1974	1956
1973	1631
1972	1907

The present membership of the Integrated Bar of the Philippines is estimated at 28,000.

Secondly, with the adoption of the 1973 Constitution and the proliferation of laws recently promulgated, not to speak of crucial political, economic and social changes in the national and international fronts, it becomes imperative to determine if our law schools are meeting the challenges posed by our rapidly changing society sufficiently. Statistics show that since Proclamation No. 1081 was passed declaring martial law in 1972 to June 12, 1978 when the Interim National Assembly was inaugurated, 1473 Presidential Decrees, 708 Letters of Instruction and 62 General Orders have been issued.

Finally, several suggested reforms directly affecting legal education are under study such as the move to abolish bar examinations, to transfer the supervision of the law schools from the Department of Education and Culture to the Supreme Court and to set up a system for the voluntary accreditation of law schools. Also, currently being undertaken by the Supreme Court are studies to revise the Rules of Court, to draw up a Judiciary Code and to set up facilities such as a Judicial Academy for the mandatory continuing legal education of the members of the judiciary.

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HISTORICAL BACKGROUND

Legal education in the Philippines was officially introduced with the establishment of the Faculties of Civil Law and Canon Law at the University of Santo Tomas in 1733. 178 long years were to pass before the first state-supported law school was to be established under the American regime. The Board of Regents of the University of the Philippines, on January 12, 1911, organized its College of Law upon the foundations of the school set up by George Malcolm under the auspices of the Educational Department of the YMCA three years earlier.

On the U.P. College of Law primarily fell the task of harmonizing the Spanish Civil Law and the new branches of common law transplanted here by the Americans. From then on, practically all law teaching was done in English.

The past fifty years, particularly the period after World War II, saw the mushrooming of private law schools all over the country, many of them organized by U.P. Law alumni. From 1950 to 1960 alone, 37 new law schools registered with the Department of Education. At the time martial law was proclaimed, there were some 80 law schools existing in the country. About half of these have since ceased to exist due to the revocation of their permits to operate by the Department of Education for their failure to meet the stringent requirements of the government, notably their inability to pass a significant percentage of their graduates in the bar examinations. Others have phased out their operations voluntarily. They have found too onerous the financial burden of carrying a non-revenue producing law school, albeit a prestigious unit, in the face of a government proscription on the indiscriminate raising of tuition fees by universities.

SUPERVISION OF LAW SCHOOLS

The forty-five law schools in the Philippines today are subject to the administrative supervision of the Bureau of Higher Education of the Department of Education and Culture as regards the initial and continuing requirements for their operation, along with all other private educational institutions. However, all matters which affect admission to the Bar are regulated by the Supreme Court pursuant to its rule-making power embodied in Rule 138 of the Rules of Court.

In prescribing the requirements for bar applicants and specifying the bar subjects, the Supreme Court, in effect, indicates the curriculum and other pedagogical prerequisites for law schools. For instance, applicants are required to present a certificate that they have satisfied the Secretary of Education that, before they began the study of law, they had pursued and satisfactorily completed in an authorized and recognized university or college, requiring for admission thereto the completion of a four-year high school

course, the course of study prescribed therein for a bachelor's degree in arts or sciences with any of the following subjects as major or field of concentration: political science, logic, English, Spanish, history and economics.[1]

The bar examination subjects which, of necessity, have to be included in the law curriculum are: Civil Law; Labor and Social Legislation; Mercantile Law; Criminal Law; Political Law (Constitutional Law, Public Corporations and Public Officers); International Law (Private and Public); Taxation; Remedial Law (Civil Procedure, Criminal Procedure and Evidence); Legal Ethics and Practical Exercises (in Pleading and Conveyancing).[2]

At the Law Deans Conference in 1976, there was a virtually unanimous agreement among the participants that legal education in its present state needs upgrading. The problems which cry for solutions are: (1) the inadequacy of the official policies and standards for the authorization and maintenance of law schools and (2) the inadequacy of the supervisory machinery of the Department of Education and Culture. Accordingly, a two-fold solution was indicated: (1) the formulation of adequate policies and regulations for the upgrading of law education and (2) the strengthening of the enforcement arm of the state.

As a consequence of the above findings which served but to confirm the prevailing view on legal education, the move to transfer the administrative supervision of law schools from the Department of Education and Culture to the Supreme Court gained numerous adherents. What was sought to be effected was to concentrate both policy-making and enforcement in the Supreme Court.

Another group, however, advocated a middle-of-the-road stance which would consist in: (1) a more vigorous exercise by the Supreme Court of its rule-making authority relative to admission to the Bar and (2) a strengthening of the technical and regulatory arm of the Department of Education and Culture. These thrusts, it was proposed, should be achieved with the close cooperation of the Integrated Bar of the Philippines and the Philippine Association of Law Schools. It was believed that this compromise would accomplish what the proposed transfer of supervision to the Supreme Court was expected to achieve and at the same time would relieve the High Tribunal of the burdens of supervision. In connection with the second point, knowledgeable members of the legal profession opined that, as it was, attending to the details of supervision over the judges and their respective courts has drastically cut down the time of the Justices which would normally be devoted to resolving weighty judicial problems of the State and the people.

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[1] Rules of Court, Rule 138, sec. 6.
[2] Rules of Court, Rule 138, sec. 9.

Still another group advocated entrusting the administrative supervision of law schools to a committee composed of representatives of the Supreme Court, the Department of Education and Culture and the law schools themselves. This arrangement would insure the projection and protection of the views of all sectors affected without unduly burdening a particular agency. In the meantime, a committee created by the Supreme Court has this matter under advisement.

THE CURRICULUM

Except for the University of the Philippines College of Law, all law schools in the country follow the curriculum prescribed by the Department of Education and Culture in its Memorandum Circular Nos. 16 and 30, Series of 1971. Apparently this was based on the law curriculum of the University of the Philippines at the time, but whereas the state university has since introduced several changes, the only development in the general law curriculum has been the Supreme Court rule of August 7, 1975 directing the incorporation of elements of penal science in courses on Criminal Law.

An examination of the curriculum of law schools in general shows that courses offered are all classifiable under the main branches of law with one or two perspective courses thrown in. In the University of the Philippines College of Law, sophomore and senior students may opt for certain electives. There is also a difference in curriculum between the full-time and the evening working student, with the former taking an average of 15 units per semester to finish in four years what the latter would finish in five years.

It will be noted that the content of the curriculum is purely legal, a fact that finds it justification in the principal purpose of legal training, that is, to teach law. The statistics below will show, however, that a significant percentage of the lawyer population of the country does not go into law practice upon passing the Bar.

Activities	*No. of Lawyers*	*Percentage*
Private practice	4,644	23.4
Privately employed with some private practice	1,573	7.9
Lawyers in government service	6,398	32.2
Non-practicing lawyers	6,100	30.7
Did not indicate activity	1,126	5.7

(Data taken from survey conducted by former Dean Irene R. Cortes of the U.P. College of Law in 1976)

Since the sphere of law is as broad and encompassing as humanity itself and because of the multifarious needs of a rapidly-changing and constantly-interacting society, it is obvious that limiting the student to the study of

what is strictly legal is applying blinders over his eyes. To be able to cope with the problems of today, one has to be wholly equipped — physically, emotionally, mentally and spiritually. It is not enough to feed the intellect and cram the mind with legal concepts, provisions of law, court decisions, opinions of administrative agencies and the like. For the lawyer is more than a component of society wherein he aspires to help bring about a social order where justice and liberty shall reign. With a larger vision, he should scan the horizon and see how the law can be utilized as an instrument to change social and legal structures in order to bring about a better society for all.

It is incumbent, therefore, upon the legal educators to teach in the classroom, not only what the law "is" but what it "ought to be". The students should always think in terms of the totality — how one branch of law relates with the others and how, in turn, the science and art of law fits into the vast network of society. In other words, what is advocated here is the adoption of the "total" and not the "fragmentary" approach.

In terms of the curriculum, it signifies the broadening of the curriculum to include such subjects as economics, psychology, sociology, criminology, communications and others. Regardless of the subject taught, it must be understood that faculty members must take pains to develop the students' moral and emotional sensibilities, inculcate a proper sense of values, teach them how to think clearly and creatively and, figuratively, to be able to discern the forest in spite of the trees.

Upon admission to the Bar, the neophyte lawyer, eager to "taste blood" may, however, find himself in government service, in corporate practice, in a business firm or some other arena of human endeavor where law would play, at the most, a peripheral role. He may, therefore, have to play the part of an administrator, counsellor, arbitrator, social or economic planner, decision-maker, public servant, management man or politician. For all these possible non-legal positions, the lawyer should be prepared. This is where his keen, analytical mind, honed by years of unremitting study and practice in the classroom, his sensitivity to the needs of people and institutions, his ability to deal with all kinds of individuals and his "total" grasp of problems will be most helpful. And knowing the legal parameters within which he is to act, he can move decisively.

Is our law curriculum suited to equip the lawyer with the above tools? In all candor, we can only answer shamefacedly in the negative. First, the course content has been prescribed by a government office whose perceptions of this particular task may be rather superficial and therefore, inadequate. Those who are in the position to contribute substantially to the curriculum like the law school administrators and the knowledgeable members of the Bench and the Bar have hardly any say in the matter. Then rigid bureaucratic structures make it only too difficult to introduce much-need innovations.

It must be admitted, though, that given the opportunity to revise the curriculum, these government officials in charge of the law curriculum may not move with alacrity. For the major fault in our legal education system is that it is geared to the all-important bar examination. For as long as passing the bar examination remains the Open Sesame to entry into the law profession, the legal education machinery — law administrators, faculty, curriculum, methods of teaching, attitudinal values — will continue to be affected by this syndrome.

Training the student to pass, or better, top the bar examination has been the be-all and end-all of most law schools. Hence, the only subjects offered are those given in the bar examination. And these are offered, not just once in four years but at least twice, for the senior year is devoted to a review of all the major courses. Capping it all is the five to six-month bar review class which repeats the straight lecture-summary dished out the preceding year, but this time, handled by professional reviewers who excel in the art of divining the probable questions which may be asked in the bar examination.

For the private law schools whose enrollment is their "bread and butter", the bar examination assumes transcendental importance. Student and faculty efforts are bent mightily to "placing" in the magic "top ten". When this materializes, it is cause for tremendous celebration and publicity. Evidently, there is a need for deemphasizing the bar examination so that the curriculum, at least, freed from the pressures of this annual test, can be made more responsive to student and societal needs.

In order to determine whether law schools are actually developing in their students what is expected of them once they are admitted into the Bar, a survey was conducted by former Dean Irene R. Cortes of the U.P. College of Law among influentials in the legal profession, including Justices of the Supreme Court and the Court of Appeals, judges, law practitioners, law professors and government lawyers. Asked what qualities they thought a young lawyer should have, majority ranked as top three the following: (1) honesty and integrity (2) knowledge of the law (3) language proficiency, both spoken and written. A high bar examination grade trailed behind as number 12 in the hierarchy of qualities.

From the above findings, it may be gleaned that what law schools can impart, that is, a knowledge of the law, is not as important as one's character, an attribute which is practically out of the faculty's hands. Obviously modern-day Diogeneses still roam the byways of modern society with their lamps.

A word about the length of the law course. In 1960 a new requirement for admission to law school was imposed — a Bachelor's degree in the arts or the sciences. This extended, in effect, the course from six to eight years, inclusive of the preparatory course. Considering that there is hardly any

improvement in the quality of students who now enroll in law school, it would be a step in the right direction if the two-year preparation in the humanities were restored and the third and fourth years were devoted to first-year law subjects.

THE FACULTY

It is a sad commentary that legal education has degenerated into a part-time endeavor with part-time professors teaching part-time students. Is it any wonder that the end product, the lawyer, turns out, in many cases, half-baked?

One is impelled to ask: What has brought about this state of affairs? The answer is to be found mostly in the economics of the situation. Except for the University of the Philippines College of Law which is subsidized by the state, all other law schools operate on a budget heavily dependent on student tuition fees. At present, most private law schools are "white elephants", retained by universities less for the income generated than for reasons of prestige.

For a law professor to work full time, he has to be adequately compensated. It has been found that the profile of the model law teacher is that "he is 51–55 years old, married, male, has an LL.B. as highest degree, has been teaching law for less than ten years, teaches an average of 10–12 hours a week, in one school, in the field of civil law, deriving less than 5% of annual income from this activity, is principally engaged in law practice and has not published."[3]

For the majority, teaching has become a "sideline" for the law practitioner, the judge or the government official. Except in the University of the Philippines which has a core of full-time professors, other law schools either have none or can boast only of a full-time dean and a full-time teacher.

To be sure, there are merits in having part-time faculty members in the law school's roster, for their experiences in law practice cannot but enrich their teaching function. However, proceeding to the classroom after a full day's work elsewhere inevitably reflects on the quality of teaching. There is hardly time left for study and much less for research when the latter is an integral part of teaching. More often than not, "teaching in the grand manner" remains an ideal to be striven for.

It may be relevant to mention here that recently, the Supreme Court, possibly impatient over the lackluster performance of some members of the judiciary, laid down a policy restricting the number of teaching hours a judge may assume and limiting his teaching to after office hours. As a

[3] Cortes, *The Law Teacher in Philippine Society*, 51 PHIL. L.J. 6 (1976).

consequence of the new ruling, a "faculty crisis" was precipitated in many law schools.

At the Law Deans Conference in 1976, it was the consensus of the group that the root cause of most of the problems, including that of faculty, is lack of adequate financing. The majority advocated that the salary of law professors should not be a minimum rate but a certain percentage of the income of a school. It was felt that, compared to the faculties of other units, those in law schools should receive more than their colleagues for law is, or ought to be, considered a graduate course. In the University of the Philippines, some law professors are ranked with, and receive the same salary as, an elementary school teacher. At any rate, regardless of the remuneration, it was the view that to prevent the deterioration of the quality of teaching, law professors should, as much as possible, engage in some amount of research work.

As regards the methodology, for obvious reasons, those who teach working students use principally the lecture method while those who handle full-time students resort to the "question and answer" method, otherwise known as the Socratic method combined with the case study approach of Christopher Columbus Langdell. Because of this propensity to spoonfeed the working students, it is not surprising to find that some of them graduate and eventually join the legal profession without ever having read cases from the original sources. Majority of them will have used textbooks with legal principles and digests of illustrative cases.

EXPANDED ACTIVITIES OF LAW SCHOOLS

A sanguine development in law schools the past few years is their growing awareness of the law profession as a service profession with major obligations to broad segments of society. They are coming to realize that teaching what the law is is not enough. What is taught should be related to the broader problems of society to keep being relevant. Clinical activities, principally legal aid services, internship in law offices, courts and government agencies have now been introduced in the curriculum of some law schools. The University of the Philippines Law Center of the College of Law is a notable example of a service agency engaged in continuing legal education as well as research and law reform principally for the Bench and Bar and, at times, to various sectors of the public.

Areas of cooperation by the law schools and the Integrated Bar of the Philippines are increasingly being explored, such as the joint endeavor between the University of the Philippines College Tacloban and the lawyer and law student groups in the Eastern Visayas. Such moves by educational institutions, especially law schools, to venture outside of their traditional ivory towers augur well for the future of legal education in the country.

THE BAR EXAMINATION

Because the bar examination casts a giant shadow over our legal education system and the last one, which ended recently, is still fresh in our minds, allow me to touch briefly on this topic.

In the Philippines, what should merely be a device to measure the fitness and capability of a law graduate to join the ranks of the professional lawyers has been transformed into a monster that holds in its viselike grip law school administrators, professors, students and just about everybody concerned with law. The lifetime glory and honor it bestows on one who emerges topnotcher and the prestige and increased enrollment it can generate for a triumphant law school are the allurements that obsess both students and institutions.

On the whole, approximately a third of those who take the bar examination pass it although last year, under a Chairman of the Bar Examination Committee who opted to be more lenient than his predecessors, more than 60% made it. A look at the following figures is enlightening.

Year	*Pecentage of Passing*
1977	60.56%
1976	49.77%
1975	35.18%
1974	35.02%
1973	37.40%
1972	28.68%

The query plaguing the minds of those concerned is: Does the bar examination retain its validity as a gauge of one's fitness to gain admission to the Philippine Bar?

Doubts and misgivings assailing the Bench and the Bar on this matter have impelled no less than Chief Justice Fred Ruiz Castro of the Supreme Court to hint broadly at the possible abolition of the bar examination.

The major complaint is that the type of questions asked seek to test, not so much the power of analysis of the examinee, as his retentiveness of memory. For a long time, bar questions were mostly of the objective type, consisting of definition of terms and enumerations. Within the past few years, however, a deliberate effort was made to ask legal problems which would call for a knowledge of the law and its application, through the use of logic and reasoning, to the hypothetical facts presented. Last year, to the dismay of the examinees, the first half of the examinations reverted to the objective type again. As a perceptive examinee complained, "When a prospective client approaches us, he will not ask us to define terms and enumerate!"

How do we account for this stubborn tendency of bar examiners to ask theoretical instead of practical questions?

This may be attributed partly to the Chairman of the Bar Examination Committee, by tradition and practice, the most junior Justice of the Supreme Court, who is given the discretion to lay down the broad guidelines to be followed by his examiners. He may or may not heed the recommendations made by the Law Deans with whom he meets weeks before the crucial time. Then, too, it must be remembered that he is given the privilege of including his own questions to those prepared by the duly appointed examiner.

Aside from the Chairman, the examiner is, more immediately responsible for the kind of questions asked. At this juncture, attention should be called to the long-standing policy of the Supreme Court to designate examiners who are not considered specialists in the particular subject assigned to them. Confronted with the job of composing questions and answers which should adequately challenge the intellectual capacities of the respondent, the examiner may tend to "play it safe". He steers clear of complicated problems which are susceptible of two or more interpretations, depending on the approach adopted and the manner of tackling the question.

In the case of definitions and enumerations, there are no two answers, but then these hardly give the examinee any leeway in formulating his response. It may be observed, too, that the latter type of questions takes a shorter period of time to correct. Definitely, this factor has to be taken into account for the examiners are given an average of three months for the correction of examination booklets which total an average of 1,500–2,000 at any one time.

Another complaint frequently aired is that certain examinations are so devised as to test, not so much the examinee's intellect, as his physical endurance due to the unreasonable length of the examination.

Other gripes, particularly those pertaining to the mechanics of the bar examination, are easily remedied by the formulation of proper guidelines to be transmitted to whoever may be appointed Chairman of the Bar Examination Committee at any given time.

At any rate, if a decision to abolish the controversial bar examination is reached, a feasible alternative compatible with the goals of legal education will have to be devised. The writer is of the opinion that the time has not yet come for its abolition, but it certainly can stand a lot of improvement.

CONCLUSION

In summary, the following recommendations are made to improve the quality of the legal education system and with it, the quality of our lawyers.

First, the administrative supervision over law schools should be lodged in a Committee composed of representatives of the Supreme Court, the Department of Education and Culture, the law schools, the Integrated Bar of the Philippines and the public sector.

Second, the requirement of a Bachelor's degree in the arts or sciences for admission to law school should be lifted as it has extended the law course from six to eight years. Instead, two years' preparatory training should suffice and the third and fourth years should be devoted to First Year law subjects.

Third, the curriculum should be revised as to make it more relevant and responsive to the needs of society and to better equip the student for the broad and multifarious demands of the profession.

Fourth, the bar examination should not be abolished in the meantime that a more practicable alternative has not as yet been devised compatible with the goals of legal education. Guidelines should be formulated for the examiner whose major concern must be to test the intellectual capability and powers of analysis of the examinee.

The foregoing appraisal of legal education in the Philippines has been hazarded by one who is herself a part of the system, not in a spirit of criticism, but rather in the self-same spirit with which our national hero, Jose Rizal, sought to expose the sick on the steps of the temple that every kind passerby may offer a prayer for the relief of the malady.