THE LAWYER AS POLICYMAKER: A CHALLENGE TO PHILIPPINE LEGAL EDUCATION

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I. Introduction

The character of legal education in the Philippines has remained largely unchanged since its inception in 1734. Its content and methodology have remained unaffected by the waves of progressiveness that have swept other jurisdictions. While some foreign law schools are already moving towards a more socially-relevant and responsible legal education,[1] their local counterparts are still exclusively preoccupied with the business that is the bar examinations. The pedagogical method adopted is thus highly formalistic, concentrating mainly on codal provisions and court doctrines, and intended to teach all the law there is. The prestige of a law school is inevitably measured by its efficiency in milling out students who can successfully hurdle the bar examinations.

This system of legal education is left not without criticisms. Much has been written on the inadequacies of this kind of legal training with its bar-oriented approach.[2] With the recognition that "performance in the bar examinations has acquired such a big aura of achievement in the public regard that it threatens to obscure the essence of the law school which is to prepare its students for the law profession"[3] and that "to allow the bar examination to dominate legal education is to take a shortsighted view of what the law school stands for,"[4] proposals for reforms invariably start from the premise that reforms are only possible if the curricula of law schools are freed from their undue emphasis on

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1 *See generally* Geck, *The Reform of Legal Education in the Federal Republic of Germany*, 25 AM J. COMP. L. 86 (1977); Wilson, *The New Legal Education in North and South America*, STAN. J. INT'L. L. 375 (1989).

2 *E.g.*, Cortes, *Legal Education: The Bar Examination as Qualifying Process*, 53 PHIL. L. J. 130 (1978); Cortes, *Legal Education in the Philippines: A Critical Appraisal* in LEGAL EDUCATION IN ASEAN UNIVERSITIES: A CRITICAL APPRAISAL(1986); Cortes, *The Integrated Bar and Legal Education*, 3 INT'L CONF. APPELLATE MAGISTRATES READING MATERIALS 313 (1977); Cortes, *Legal Education in a Changing Society*, 3 INT'L CONF. APPELLATE MAGISTRATES READING MATERIALS 298 (1977).

3 Cortes, *Legal Education in a Changing Society*, 3 INT'L CONF. APPELLATE MAGISTRATES READING MATERIALS 298, 302 (1977).

4 *Id.*

the bar examinations.[5] Some quarters have even advocated the extreme: abolition of the bar examinations.[6]

Impediments to the various proposals for reforms are however many. Foremost is the constitutional power of the Supreme Court to prescribe the rules concerning the admission to the practice of law and to the Integrated Bar.[7] In the exercise of this power, the Supreme Court has prescribed the major fields of study a person should have in preparation for legal studies,[8] and requires in no uncertain terms that "no applicant shall be admitted to the bar examinations unless he has satisfactorily completed the following courses in a law school or university duly recognized by the government: civil law, commercial law, remedial law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation, and legal ethics."[9] The Rules promulgated by the High Tribunal also enumerate the subjects on which the bar examinations will be given and the weight assigned to each.[10] It is thus clear that law schools do not have the autonomy to prescribe curricular offerings.[11] Unless the Supreme Court consents to the re-orientation of legal education to meet contemporary needs, law schools have no choice but to fashion their curricula to meet the demands of the bar examinations.

This undue emphasis on the bar examinations is fraught with serious implications. A mere perusal of the curricula of law schools reveals that they are basically the same, conforming to the requirements of the Department of Education, Culture, and Sports which

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5 Narvasa, *Law Curriculum and Bar Examinations*, NEW TRUSTS IN LEGAL EDUCATION 10 (1979).

6 Cortes, *Legal Education: The Bar Examination as Qualifying Process*, 53 PHIL. L.J. 130, 147 (1978).

7 CONST., art. VIII, sec. 5, par. 5.

8 Rules of Court, Rule 138, sec. 6.

9 Rules of Court, Rule 138, sec. 5, par. 2.

10 Rules of Court, Rule 138, secs. 9, 14.

11 Dean Irene Cortes criticizes this situation where the freedom of law schools to prescribe their curricula is greatly circumscribed by the Supreme Court's requirements: "That this situation has come about and remained unchallenged is an indication not merely of unquestioning acceptance of the Supreme Court's power to determine who shall be admitted to the practice of law but a concession that expertise in the field of legal education also lies with that Court. To my mind, the latter amounts to a clear abdication of the responsibility that law schools owe to the students whom they have undertaken to train for the profession and a disservice to legal education. For there is no excuse for the existence of any law school unless it is prepared to assume the primary obligation of training students for the profession. That training would fall short of what it should be if it went no further than the requirements of the bar examinations. But the number of subjects required by the Rules of Court prevents meaningful innovations in the courses and wrests initiative from law faculties." Cortes, *supra* note 3, at 301-302.

merely implement the provisions of the Rules of Court. Much of the emphasis is on the field of private law and there is a dearth of socially-relevant courses.[12]

If legal education is criticized for its bar orientation, the legal profession is perceived as far from being an aggrupation of public servants dedicated to the service of the oppressed and the underprivileged. In fact, one of the most frequent criticisms leveled against the legal profession is its being tied to the moneyed class where it finds its economic base. Lawyers are seen as cold-blooded technicians that "make no moral judgments, concentrated in [sic] extricating their clients from predicaments in which they find themselves."[13] Justice J.B.L. Reyes would maintain that the attacks directed against the legal profession amount to a criticism that the "present day curricula fail to adequately provide for the moral training of the student."[14] He suggests that more emphasis be given on the rules of professional ethics and responsibility in the law curriculum.[15]

It is submitted that the present challenge to legal education in this country is not merely to give emphasis on the rules of professional ethics. In fact, the ethics of the legal profession leaves much to be desired. But more than that, Philippine legal education should concern itself with the effective use of the law as a tool for social reforms.

II. Law and Development in the Third World

The need to reorient and reformulate the character of legal education in the Philippines takes special significance when viewed against the role of the law and the function of the lawyer in an underdeveloped Philippines. The aims of national development, the role of the legal profession in the achievement of these goals, as well as the need for a legal system that is both responsive and stable, lead to the inevitable conclusion that legal education is the key.

A common characteristic of the legal systems of most Third World countries like the Philippines is that they were imposed by colonial

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12 In the U.P. College of Law, which enjoys a degree of autonomy, there are only very few subjects, offered as electives, which may be considered socially-relevant. They are Philippine Indigenous Law, Human Rights, Natural Resources, and Law and Environment. Of course, the content emphasis of these subjects is a different matter.

13 Reyes, *Morality in Legal Education*, SAN BEDA L. J. 1 (1975).

14 *Id.*

15 He says: "I submit that the principles of ethical conduct and professional responsibility should be taught and stressed throughout the entire four years of law study, and particularly during the initial semesters, in order to acquaint the students as early as possible with the high moral exigencies of the profession." *Id.*

rulers, without live roots in local culture.[16] The civil law system was introduced in the Philippines by the Spaniards and continues to regulate our family relations, property and succession. On the other hand, our laws on government, business, and commercial transactions are of Anglo-American origin. Legal education is fashioned according to and within this framework.

The failure of this colonially-imposed system of laws to engineer national development is apparent. A review of the mass of codes of laws reveals a failure to appraise the needs of Philippine society and to accordingly re-order existing skewed social relations which are at the root of underdevelopment. Philippine laws are nothing but a hodge-podge of borrowings from foreign legal systems or products of top-level decisions often without scientific basis on the realities of Philippine society. In fact, the government, as administrator of the State's natural resources, contrives, through the use of laws, to halt the inevitable direction of social reform. This is best exemplified in the agrarian reform policy of the State. Over the years, numerous timid attempts at agrarian reform had been made, but the structure of production relations has remained largely the same. Recently, agrarian reform has been declared as the centerpiece program of the government, but the latter was only too willing to pass a watered-down version of a law whose provisions contain more exceptions and loopholes than a real promise of agrarian reform. Here is a classic example of a case where the system of production is perpetuated, nay, protected, by a law designed to preserve and safeguard the interest of the propertied class.

In this sense, Philippine law, despite its sophisticated codes of procedure, is largely "anachronistic and outside the mainstream of normal historical development."[17] Where it should be the law of a changing society, it is outdated and fails to respond to the demands for social reforms. And because it is anachronistic, it loses all effectiveness in ordering relations within society. Philippine peasants have resorted to the so-called "popular initiatives" at grabbing lands and stoppage of payment of harvest rents to landowners.

Legal education both expresses and reflects this kind of legal system. Teaching law in Philippine law schools has remained "an outmoded form of doctrinalism,"[18] with emphasis on the theoretical autonomy of the law. Law schools are simply purveyors of the laws found in statute books and their proper application to a set of

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16 LAWYERS IN THE THIRD WORLD: COMPARATIVE AND DEVELOPMENTAL PERSPECTIVES 11, 338 (C.J. Dias, R. Luckham, D.O. Lynch & J.C.N. Paul eds. 1981).

17 Villena, *A Law for Liberation*, 2 REV. CONTEMP. L. 69, 76 (1977).

18 Pangle, *Justice and Legal Education*, 39 J. LEGAL ED. 157 (1989).

preconceived facts. No consciousness is instilled in the student of the law of the policy content, biases and prejudices of the laws; consequently, the student graduates and joins the legal profession without even an awareness of the failure of the law to address social realities.

There must be a recognition that there is a need for radical social and economic changes which must be expressed in law reforms. This is of course premised on the fact that the legal order is an essential ingredient of the development process. It is in this situation that, as Friedman puts it, law should become a pioneer, "the articulated expression of the new forces that seek to mold the life of the community according to new patterns."[19] In the light of this societal need, the law schools must consciously veer away from their predominant private law orientation. Law schools must train lawyers who will be ready to take on the task of legal engineering.

III. The Contemporary Filipino Lawyer: The Product of Black-Letter Law-Oriented Legal Education

It has been pointed out that law reform is not the domain of lawyers but of policymakers, and that if ever lawyers are involved in policymaking, their being members of the legal profession is only incidental.[20] The correctness of this proposition is admitted. An exception must however be taken insofar as it seems to imply that the legal training of lawyers does not at all affect the process of decision-making they are involved in. Certain points must be emphasized. One, it is incorrect to assume that the technical functions of a lawyer can be detached from his policymaking functions. Lawyers are, in most instances, involved in policymaking even in the most insignificant occasions which seemingly call only for their technical skills. Two, lawyers carry with them the orientation acquired from their years of training in law schools. It cannot be denied that the daily grind of a student in a law school conditions him to think from a strictly legal perspective. This kind of perspective manifests itself in every decision he makes. To illustrate: in mapping out the agrarian policy of the government, the policymaker who is a lawyer would in all probability view the distribution of large landholdings from a strictly legal viewpoint. He would naturally regard the rights of landowners as protected by the due process clause and would insist on the fair market value of the land for just compensation. On the other hand, the non-

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19 Friedmann, *The Role of Law and the Function of the Lawyer in Developing Countries*, 17 VAND. L. REV. 181, 183 (1964).

20 Bodenheimer, *The Inherent Conservatism of the Legal Profession*, 23 IND. L. J. 221, 222 (1948).

lawyer would probably consider other factors like the need for the equitable distribution of the natural resource for economic development, the capacity of the farmer-tenant to pay, the excessive rents collected by the landowner for decades, all in relation to the ultimate goal of agrarian reform: to liberate the farmer from poverty. Perhaps the non-lawyer would even consider the free distribution of lands in certain cases under certain conditions. To a lawyer's mind, however, trained to test everything according to constitutional and statutory standards, such a policy can never be justified. This is not to say that the lawyer must ride roughshod over individual rights to reach the end desired. This is merely to point out that the lawyer is often a prisoner of his own discipline and thus, in deciding crucial policy issues, may ignore important social considerations.

This "legal optic," or the inclination to look at issues strictly from the technical viewpoint, ignoring broader or more humanistic considerations, is described by Charles M. Haar and Daniel WM. Fessler thus:

> From the law school on, the future lawyer is taught to view cases with a disinterested "legal eye," to eschew common sense while polishing the cognitive machinery that constitutes "thinking like a lawyer." Alternatively there is the "human eye" striving to preserve a sense of justice, or, at a minimum, a sense of outrage at injustice, albeit at times by means of ideas fuzzy on the edges. The dilemma posed for the practitioner is that the human eye and the legal eye may look in different directions, producing blurred, if not opposing, perspectives. To the legal eye, a decision that appears as an affront to the humanistic vision can also appear "correct" and quite consonant with existing principles and precedents.[21]

Even in the mechanical dispensation of justice, the lawyer who is a member of the judiciary, betrays his strictly black-letter law orientation. In the case of *City of Manila v. Garcia*,[22] the Supreme Court, speaking through Mr. Justice Sanchez, ordered the ejectment of squatters living in lands owned by the plaintiff City of Manila. However, the Court did not stop at simply declaring the possession illegal; it went further to say:

> Since the last global war, squatting on another's property in this country has become a widespread vice. It was and is a blight. Squatters' areas pose problems of health, sanitation [sic]. They are breeding places for crime. They constitute proof that respect for the law and the rights of others, even those of the government, are being flouted. Knowingly, squatters have embarked on the pernicious act of occupying property whenever and wherever convenient to their interests - without

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21 C. HAAR & D. FESSLER, FAIRNESS AND JUSTICE 13 (1986).

22 19 SCRA 413 (1967).

> as much as leave, and even against the will of the owner . . . *Obstinacy of these squatters is difficult to explain* unless it is spawned by official tolerance, if not outright encouragement or protection. *Said squatters have become insensible to the difference between right and wrong.* To them, violation of law means nothing. With the result that squatting still exists much to the detriment of public interest. *It is hightime that, in this aspect, sanity and the rule of law be restored.* [23]

We are not criticizing the merits of the above decision. Understandably, the Court had no option but to declare squatting as illegal in the light of the statutory law on the matter. But the Court in its virulent attack against squatting either had failed to recognize the fact that squatting is an indication of a social problem or had decided it was not for it to delve on such non-legal considerations. At the very least, the Court could have refrained from using so scathing a language.

IV. The Challenge: Training for Policymaking

It may be contended that the choice of the kind of lawyering one should embark on should be left for each person to determine, and that if law schools should ever be committed to a cause "it is that of free inquiry and the prerogative of every individual to make decisions freely."[24] The above contention is valid only on two assumptions: (1) Legal education in this country assumes no particular orientation; and (2) the present content of legal education affords the law student with sufficient working knowledge of the law and its social ramifications to make an intelligent choice in lawyering.

The present framework however points to the contrary.

Legal education in the Philippines assumes a particular orientation, one that is tied to its economic base, i.e., the interests of the elite and big business.[25] As pointed out above, a perusal of the curriculum of any law school would reveal that the technical skills of a lawyer would only be useful to a particular social class, that is, those who have the big capital to compete in the capitalist framework.

The legal profession cannot hide behind "freedom of choice" to avoid responsibility for the social consequences of the practice of its members. Much less should legal education on the pretext of academic freedom be sanitized from the "virus of political and social ideas which

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23 *Id.* at 418. (Emphasis supplied.)

24 Cortes, *supra* note 3, at 312.

25 Magallona, *Comments on Legal Education in the Third World*, 53 PHIL. L.J. 81, 85 (1978).

are the natural components of the social relevance of legal education."[26] Law does not exist in a vacuum, hence, it can never be politically neutral. Its political, economic or social substance cannot assume independence from its fine technicalities. As such, the study of law should never be a study of black letter law as found in statute books and of judicial decisions distilled from case books, segregated from the study of policy questions. To insist that law must be sanitized from policy questions is to tacitly advocate a policy, i.e., it is unconsciously assumed that the ultimate function of the law is to maintain existing institutions in a sort of a timeless *status quo*. A policy is smuggled in, without insight or responsibility.

What, therefore, is the present challenge to legal education today? Lasswell and McDougal aptly presented the challenge thus:

> If legal education in the contemporary world is adequately to serve the needs of a free and productive commonwealth, *it must be a conscious, efficient, and systematic training for policy-making*. The proper function of our law schools is, in short, to contribute to the training of policy-makers for the ever more complete achievement of the democratic values of the professed ends of American polity.[27]

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[26] *Id.*

[27] Lasswell & McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 YALE L.J. 203, 206 (1943). (Emphasis supplied.) The above proposition of Lasswell and MacDougal is a statement of the significance of the realist movement to legal education. J. MONAHAN & L. WALKER, SOCIAL SCIENCE IN LAW: CASES AND MATERIALS 21 (1985) The realist movement which emerged in the early part of this century "was a logical elaboration and extension of the views proposed by Holmes nearly half a century before, and was clearly influenced by the beliefs of Brandeis, Pound, and other sociological jurisprudes." J. MONAHAN & L. WALKER, *supra*, at 17. *See also* White, *From Sociological Jurisprudence to Realism: Jurisprudence and Social Change in Early Twentieth Century America*, 58 VA. L. REV. 999 (1972). The criticisms of Holmes, Brandeis and Pound "undermined the typically formal and mechanical method of classical jurisprudence and supported the notion that law should, at least in part, be concerned with making public policy." J. MONAHAN & L. WALKER, *supra*, at 2. Oliver Wendell Holmes, in his work THE COMMON LAW 1 (1881), criticized classical jurisprudence thus: "The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of the nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics." The critical legal studies movement also stemmed in part from realist roots.

The increasing involvement of the lawyer in policymaking[28] strongly argues for the necessity to prepare him for such a task:

> It should need no emphasis that the lawyer is today, even when not himself a "maker" of policy, the one indispensable adviser of every responsible policy-maker of our society - whether we speak of the head of a government department or agency, of the executive of a corporation or labor union, of the secretary of a trade or other private association, or even of the humble independent enterpriser or professional man. As such an adviser the lawyer, when informing his policy-maker of what he can or cannot *legally* do, is, as policy-makers often complain, in an unassailably strategic position to influence, if not create, policy. It is a familiar story, too, of how frequently lawyers who begin as advisers on policy are transformed into makers of policy; "the law" is one of the few remaining avenues to "success" open to impecunious talent. Successful practitioners of law often receive sufficiently large incomes, from advice and investment, to become powers in their own right and hence gravitate into positions of influence in industry. How frequently lawyers turn up in government - whether as legislators, executives, or administrators, or as judges (where they have a virtual monopoly) - is again a matter of common knowledge. Nor can the policy-making power of lawyers as executors, trust administrators, administrators in insolvency, and so on, be ignored. Certainly it would be difficult to exaggerate either the direct or indirect influence that members of the legal profession exert on the public life of this nation. For better or worse our decision-makers and our lawyers are bound together in a relation of dependence or of identity.[29]

The omnipresence of the lawyer in practically all aspects of social life is similarly true in the Philippines. The growing presence of lawyers in the executive and legislative arms of the government is never more felt than in present times. The law profession, it appears, has become an ideal springboard for a career in politics and in government service, and is thus in a crucial position to course the future of Philippine society. Legislation is one significant area where lawyers can influence the making of policies. The policymaker who is a lawyer can propose well-thought out measures to promote the public welfare, or to further national aspirations. He also has the opportunity to give flesh to 'motherhood statements' in the Constitution and propose enabling laws.

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28 Lasswell and McDougal maintain that "none who deal with law, however defined, can escape policy when policy is defined as the making of important decisions which affect the distribution of values." Laswell & McDougal, *supra* note 27, at 207. Webster defines policy as "a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions; a high-level overall plan embracing the general goals and acceptable procedures esp. of a government body." A similar definition of policy is found in BLACK'S LAW DICTIONARY 1041 (5th ed. 1979): "The general principles by which a government is guided in its management of public affairs, or the legislature in its measures . . . . This term as applied to a law, ordinance, or rule of law, denotes its general purpose or tendency considered as directed to the welfare or prosperity of the state and community."

29 Lasswell & McDougal, *supra* note 27, at 208-209.

It is well to note that of the 289 sections of the Constitution, only about 75 sections are new, and the rest come from the 1935 and the 1973 Constitutions; of these new sections, some 25 are not self-executory but will require enabling legislation by the Congress.

Even within the limited sphere of judicial lawmaking, the Bench may use to the utmost its power to further certain policies it advocates. Certain statutory provisions give the Bench enough room for discretion. Article 9 of the Civil Code may be cited as a case in point:

> No judge or court shall decline to render judgment by reason of the silence, obscurity or insufficiency of the laws.

It is not proposed that law schools should do away with the technical training afforded to law students. What is being proposed is that this technical training must not be regarded as an end in itself, with a view to churning out legal technicians. The technical skills of a lawyer must have its social relevance, i.e., as a tool for policymaking responsive to contemporary needs. In a developing country as the Philippines, it would be artificial as it would be wasteful of this legally trained manpower to confine the lawyer to strictly legal issues.

The above proposal, however, should not be taken in its seemingly simplistic terms. If legal education must have as its thrust training for policymaking, then, as an indispensable prerequisite to its reorientation, the goals of legal education, in relation to those of society in the broader context, must be clearly defined, or at the very least identified. After the needs and priorities of society are articulated with sufficient clarity, it is necessary to rethink the objectives of legal education and map out its course towards the set of identified national goals. This task necesarily falls on the law faculties who must pioneer the course legal education is to take.

In the process of reformulating legal education towards this end, Lasswell and McDougal identify three essentials of adequate training for policymaking: goal-thinking, trend-thinking, and scientific thinking.[30] The first deals with the clarification of values,[31] the

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30 Lasswell & McDougal, *supra* note 27, at 212-214. "In a democratic society it should not, of course, be an aim of legal education to *impose* a single standard of morals upon every student. But a legitimate aim of education is to seek to promote the major values of a democratic society and to reduce the number of moral mavericks who do not share democratic preferences. The student may be allowed to reject the morals of democracy and embrace those of despotism; but his education should be such that, if he does so, he does it by deliberate choice, with awareness of the consequences for himself and for others, and not by sluggish self-deception. . . .Implementation of values requires, first, trend-thinking. This considers the shape of things to come regardless of preference. His goals clarified, a policy-maker must orient himself correctly in contemporary trends and future probabilities . . . . Implementation of

second with contemporary trends and future probabilities, and the third involves simply the use of empirical data in the making of policies.[32]

Necessarily, the curricula of laws schools must be revolutionized.[33] Every phase of law school curricula and skill training

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values requires, next, scientific-thinking. . . the policy-maker needs to guide his judgment by what is scientifically known and knowable about the causal variables that condition the democratic variables."

31 The process of clarifying the values of society, however, presents a problem. To whom should the task be entrusted? How should we ensure that the content of these values is not imposed by a particular class, particularly the ruling class, on the rest of society?

32 The significance of scientific thinking in legal engineering is described by Peider Konz thus: "Legal engineering presupposes specific knowledge of the interaction, positive or negative, between law and other factors of development, and this implies a functional analysis of the legal system at large, as well as of particular norms and institutions. Such a descriptive and predictive analysis must by necessity be based on empirical data relating to complex environmental factors which vary from country to country. It also requires a yardstick by which performance can be measured and the identification of objectives to be attained by legal innovation." Konz, *Legal Development in Developing Countries*, PROC. AM. SOC'Y INT'L L. 91, 95-96 (1969). Dr. Carlos Ferdinand Cuadros Villena presents it in another way: "To be something creative, law must be fundamentally the outcome of scientific research. The legal 'practitioner' must have the courage to roll up his sleeves and plunge his hands into popular emotion and indignation, extract its pulsating message, and present it in the light of the most advanced professional knowledge so as to build -- under the effect of the shock born of the dramatic and anti-human situation of under-developed mankind -- the legal doctrine capable of producing the norm, or in other words the system of law, which will be an instrument of the revolutionary transformation of society." Villena, *supra* note 17, at 86.

33 In the Federal Republic of Germany, a group from the academe was successful in initiating revolutionary reforms in legal education, notwithstanding the country's long and firmly established tradition of legal training. A revolutionary model of legal education is presently under experimentation at the University of Bremen. Known as the Bremen model, it is based largely on the work of the *Loccumer Arbeitskreis*, a private group of university professors, assistants, legal trainees, students and one judge who had made himself a name fighting for reforms of the judiciary. We see in Bremen model the integration of the preparatory course and the legal studies proper, with the former consisting of an integrated study of the social sciences directed primarily at teaching the economic and social basis of the legal order. In the legal training proper, the Bremen model teaches that "the law is always to be viewed in its social context and its methods are to be viewed critically." Geck, *The Reform of Legal Education in the Federal Republic of Germany*, 25 AM. J. COMP. L. 86 (1977). The *Loccum* tenets of the Bremen model are briefly described by Wilhelm Karl Geck: "The *Loccum* program aims at emancipation. First the jurist himself is to be emancipated. The law of an industrial state on the 20th century is not so much a decision by the legislature which a judge or administrator merely applies on the basis of scholarship, legal experience and common sense. Since modern statutory law with its many general clauses leaves more and more possibilities of application open, the modern judge or administrator develops from an interpreter of the law into a real law-giver. Present-day problems do not require a servant of the statute, but a social engineer who forms the law and who does it with a special goal, the emancipation of the people. Traditional

must be reoriented towards the achievement of social reforms in all areas where lawyers have or can assert responsibility. Earlier, it was noted that there are impediments to the implementation of reforms, foremost of which is the power of the Supreme Court to prescribe the rules for admission to the practice of law. This constitutional power of the Supreme Court has, it seems, become an excuse for "passing the buck" to the High Tribunal for the kind of legal education we have today. But the faculties of law must be the trailblazers and must not wait for the Court to initiate changes in legal education.[34] The law schools should be the center for scientific and meaningful legal reforms, and to uncritically continue with the present dogmatic method of legal education would be a clear abdication by the law faculties of their responsibility to chart the course of legal education toward social reforms.[35]

V. Conclusion

The power of the law as a tool for legal and, more significantly, social reform cannot be gainsaid. In the hands of a legal profession imbued with flexibility and a sense of social responsibility and trained to use the law for the advancement of the interests of the people, law is a positive catalyst for change. Otherwise, law, as presently perceived, would continue to work against the interests of the society it purportedly seeks to serve.

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legal education does not prepare one for this task. The customary methods of interpretation -- considering the wording of a norm, its context within the system, the intent of the norm and its legal history -- seem inadequate. They help to stabilize the existing social and economic system. In order to bring about the necessary emancipating changes as a social engineer, the jurist should put the greatest possible emphasis on the social and economic background of each case he has to decide. A broad basis in economics and sociology is the first condition for the new jurist. Also the teaching methods must be thoroughly changed. University education as well as practical training have mainly been a one-way street of communication, with information fed by the professor, judge, administrator, etc. to the student or legal trainee. This has also contributed to the production of jurists who are faithful members of the establishment. Examinations are still virtually initiation rites to the establishment, as they force the candidate to adapt himself to the ruling system. Legal education and examination disregard modern psychology, as they prevent the future jurist from developing himself free of repression and from working in cooperation with others. Moreover, the whole traditional system of legal education is oriented towards the judiciary career and not towards the other legal professions."

[34] A proposal has been made by Professsor Merlin M. Magallona of the U.P. College of Law to create an undergraduate Bachelor of Jurisprudence as the only preparatory course to law school. The idea is to provide a "more directed first-degree program which is integrally connected to professional legal education in the law school." The proposed Bachelor of Jurisprudence curriculum is basically an integrated study of the social sciences. Magallona, Legal Education and Studies in the University of the Philippines: Some Problems and Approaches (unpublished material on file with the author).

[35] *Cf.* Cortes, *supra* note 3, at 302.