

The State of Philippine Legal Education Revisited

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Introduction

Imagine a “virtual” panel of the most erudite and specialized law mentors imparting their field of expertise, assisted and complemented by state-of-the-art teaching tools, in downloadable real time for the consumption of students in the comfort and convenience of their homes, workstations or wherever their personal digital assistants take them. Feedback or recitation, examinations and grade dissemination are all done through e-mail or its faster and higher-resolution counterpart. Verily, the paper chase is still on but pursued in a different matrix. This is, or should be, according to some Western legal educators, legal education in the digital age.

A counterpoint to this idyllic scenario is Philippine legal education, the development of which may be characterized at best, as spinning on its wheels. For decades, the future of law students has been obdurately consigned to an impractical, inefficient, waging system, totally subservient to an antiquated bar examination requirement. Many Philippine lawyers have labeled themselves as the best in Asia because of what they perceive to be a difficult rite of passage that is the bar examination, and yet, Philippine law schools have not figured at all as a factor in surveys of the best universities in Asia.

Reforms in Philippine legal education have moved glacially. While many foreign law schools have already responded and adapted to the demands of an increasingly globalized and borderless world, the concerns of many law schools in the Philippines are still centered on survival and viability. Competition is at best described as cutthroat and unfair.

This article is meant to endorse a radical re-structuring of the Philippine legal education system in the foreseeable future and not as a continuing critique or disparagement of the reality described above. Particular emphasis should be given to downplaying the stress and inordinate prominence given the bar examinations, the implementation of an honest-to-goodness law school accreditation system, and the earmarking by law schools of substantial investments for faculty development, upgrading of facilities and the latest

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technologies. This paper posits the thesis that only upon a total overhaul and true reform of the legal education system could it remain viable and again become a vibrant instrument for learning, critical research and molding of public policy.

A Brief History

The seeds of legal education in the Philippines were sown during the Spanish regime when, in 1734, the University of Santo Tomas established its Faculty of Civil Law. In 1911 or 180 years later, the American civil government established the first state college of law at the University of the Philippines, through the vision and efforts of George A. Malcolm, American legal educator, founder and first dean of the college.¹

The ratification of the 1935 Constitution of the Philippines paved the way for private colleges and universities in Manila to institute their respective colleges of law upon obtaining from the Department of Public Instruction the required license to operate. At that time, there was hardly any kind of supervision of law schools due to lack of overseers, especially for private educational institutions. The University of Santo Tomas, the University of the Philippines, the former Colegio de Ateneo de Manila and the Philippine Law School were among the premier law institutions during those years.²

At the end of World War II, more law schools were established, especially in Manila and key cities of the Philippines and by 1950, there were 28 law colleges. This number increased to 36 by 1960 and to 39 by 1970. Ten colleges of law were added in 1971-1980 and eight in 1981-1988. In 1989, 57 colleges and universities offered law as a 4-year degree course.³ In year 2002, new graduates from 75 law schools took the bar examinations.⁴

Supervision of Law Schools

The regulation of law schools started in the fifties and was initially done by the Bureau of Private Schools. A special consultant then acted as a supervisor of the law schools, aside from serving as national coordinator of law deans on matters relative to the course. Later, the Department of Education, through the Bureau of Private Education, issued a Manual of Instructions (Regulations) for Private Schools, containing rules and regulations concerning qualifications of the faculty and deans, faculty load, library holdings, and the like which became the 'bible' of private institutions of learning.⁵ Law schools were later placed under

¹ State of Legal Education in the Philippines, Bureau of Higher Education, 1989, p. 1

² *ibid.*, p. 2

³ *ibid.*

⁴ 2002 Statistical Data, Office of the Bar Confidant, Supreme Court of the Philippines

⁵ *op. cit.* p. 2

the jurisdiction of the Bureau of Higher Education of the Department of Education, Culture and Sports (DECS) up to the early nineties.

On December 23, 1993, Congress passed Republic Act No. 7662, The Legal Education Reform Act, which provided for the creation of a Board of Legal Education to supervise law schools and administer the legal education system in the country. Since then, however, the Board has not been constituted as questions have been raised on the constitutionality of some of its provisions. Because of the hiatus created by the non-implementation of the law, a technical panel under the Commission on Higher Education (CHED), which was created in 1994, has ‘unofficially’ assumed the function of supervising law schools. This is being challenged by the Philippine Association of Law Schools (PALS) on the ground that the CHED has no jurisdiction over law schools under its charter.⁶

Admission to Law School

There is no centralized law school admissions test in the country unlike in the United States where there is a Law Schools Admissions Test (LSAT), which an applicant will have to hurdle before being admitted to a law school. In the Philippines, the law school conducts its own admissions test supposedly to determine a student’s aptitude for analytical reasoning and studying law as well as articulation skills and command of English. Strangely enough, some schools maintain strict admission policies while others content themselves to observing strict retention policies.

The Supreme Court prescribes that an applicant for admission to the bar must have completed a four-year high school course and a bachelor’s degree in the arts or sciences.⁷ It is further required that an applicant to a college of law must have earned eighteen (18) units of English, six (6) units of Mathematics, and eighteen (18) units of Social Science subjects.⁸

The Law Students

Based on a study involving more than 3000 law students in 1989,⁹ it appears that:

1. The average age of a law student is 29 years old, with a higher ratio of male to female and single to married students.¹⁰

⁶ PALS Resolution dated December 1, 2001

⁷ Rule 138, Section 6, Rules of Court

⁸ See CHED Memorandum Order No. 46, August 12, 1996

⁹ State of Legal Education, op. cit. pp. 86-87

¹⁰ Note: An informal survey among law deans in year 2002 revealed that females outnumbered males in most law schools for the June 2002 enrollment

2. Most law students are oriented in the social sciences (44.56%) or in business (30.73%), the rest in education, engineering or criminology.
3. There are more working than full-time students.
4. There are more enrollees in private than in public schools.
5. By regions, about half of the total population is concentrated in the National Capital Region. The rest are distributed in the other regions, with Region VII getting the highest percentage of 12.78%.

The study also shows that in academic year 1983-1984, a total of 17,855 students enrolled in law schools all over the country. This increased to 19,677 by academic year 1988-1989 with the average rate of increase annually being 3.57%.¹¹ Applying the above rate of increase in enrollment to the last 13 years, with all other factors remaining constant, there would be around 28,000 law students today.

Classroom Methodology

Most Philippine law schools subscribe to the American law school teaching model. English is the medium of instruction. Class attendance is compulsory. The Socratic dialogue and the case method, both introduced in the late 19th century, are used inside the classroom.¹² Many professors also give lectures while some require students to do research work, to digest cases and to present reports in class.¹³

It was Professor Theodore Dwight of Columbia Law School who outlined black letter rules of law through lecture but posed questions to his students that encouraged the students to analyze the law and to apply it to new factual situations. This method of dialogue, known as the 'Socratic dialogue', has become a cornerstone of law school instruction.¹⁴ On the other hand, Christopher Columbus Langdell, a professor at Harvard Law School, introduced the 'case method' of legal instruction. Langdell believed that law is a science, and that students can best understand the law by reading the cases that create the law, rather than by reading treatises or listening to lectures that describe black letter rules of law.¹⁵

¹¹ *ibid*, p. 60

¹² Irene Cortes, *Essays on Legal Education*, p. 35

¹³ *State of Legal Education*, *op. cit.* pp. 42-43

¹⁴ See Steve Sheppard, *Casebooks, Commentaries and Curmudgeons: An Introductory History of Law in the Lecture Hall*, 82 *IOWA L. REV.* 547, 553 (1997)

¹⁵ *ibid*

In addition, many law schools have developed experiential learning opportunities similar to the clinical opportunities in medical schools. Thus, clinical legal programs have been offered, supported by a legal aid office offering free legal services to the poor. Fourth year students are given the opportunity to handle actual cases and make supervised court appearances under a Supreme Court approved clinical legal education program.¹⁶ Some schools require apprenticeship courses as early as in the second year where students are required to complete up to as many as 240 hours 'practicum' in a law firm, legal offices in government or private companies or in trial courts.

The Law Curriculum

In 1946, the Office of Private Education prescribed a 4-year curriculum of 122 units. This was revised in 1963 with an 'enriched' curriculum of 134 units. In 1988 the University of the Philippines launched a 'core-elective curriculum', which allowed law students to enroll in up to 20 percent of the total units in elective and/or specialized subjects. In 1989, a model law curriculum was drawn up by the Department of Education, Culture & Sports (DECS) offering electives and leeway in specialization. The new curriculum also laid stress on the integration of ethics in all subjects.

Under the 1987 Constitution, the State "shall exercise reasonable supervision and regulation of all educational institutions."¹⁷ Likewise, the Supreme Court has the power to promulgate rules concerning "the admission to the practice of law."¹⁸ In the exercise of this power, the Supreme Court not only enumerates the subjects in the bar examinations and the weight assigned to each but also 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."¹⁹

On the other hand, the CHED has deregulated the determination of curricular offerings, giving higher education institutions, including law schools, the prerogative to prescribe their respective curricula, subject only to certain pertinent CHED issuances.²⁰ As mentioned earlier, however, this exercise by the CHED of regulatory powers over law schools is being challenged by the Philippine Association of Law Schools (PALS) as under R.A. No. 6552, it is the

¹⁶ Rule 138-A (Law Student Practice Rule), Rules of Court

¹⁷ Article XIV, Section 4(1), 1987 Constitution

¹⁸ Article VII, Section 5(5), *ibid*

¹⁹ Rule 138, Section 5, Rules of Court

²⁰ CHED M.O. No. 46, August 12, 1996

Board of Legal Education, which has not been convened, that has administrative and supervisory powers over law schools and not the CHED.

Apart from the regular four-year curriculum, many schools offer a five-year curriculum for working students. Very few schools offer classes during daytime. Most of the classes are held at night from Monday to Friday to accommodate working students. Some schools also offer the five-year program on Saturdays and Sundays.

Graduates earn a bachelor of laws (L.L.B.) degree except in Ateneo de Manila Law School where the degree of Juris Doctor (J.D.) is conferred, like in most schools in the United States. Under CHED Resolution No. 038-2001 dated February 19, 2001, the degree of bachelor of laws with bar eligibility is equivalent to a relevant master's degree.

The Law Faculty

Membership in the law faculty depends largely on the specific policies of a school, the only requirement being that the faculty member must be a member of the Bar. There being no stringent qualifications for such membership, the faculty is recruited mostly from the ranks of practicing lawyers, and incumbent and retired members of the Office of the Prosecutor and the judiciary. These private practitioners, prosecutors and judges in the faculty impart to students the practical aspects of legal theories and concepts. Most law faculty members are part-time lecturers, who teach at night and during weekends. Very few schools have full time law professors, because as compared to private practice, the material rewards in teaching are insignificant. Thus, the country has produced very few legal scholars in recent years who have committed themselves to the teaching of law full-time and the corresponding research work and deep study of the law that go with it.

In as much as most lawyers have no formal training in classroom teaching, the most common methods used in the classroom are those they experienced during their law school days which are the Socratic dialogue, the case method and lectures. It is not known if many professors use course outlines or syllabi to guide them in teaching their respective subjects.

The Bar Examinations

The Philippine bar examinations are held annually on four Sundays of September covering eight (8) subject areas, as follows: Political Law & International Law (15%), Labor & Social Legislation (10%), Civil Law (15%), Taxation (10%), Commercial Law (15%), Criminal Law (10%), Remedial Law

(20%) and Legal Ethics (5%).²¹ A committee of bar examiners is headed by a Supreme Court Justice and eight members of the bar who act as examiners for the eight bar subjects, respectively. For the past thirty years or so, the identities of the examiners have been kept secret prior to the holding of and while the particular bar examinations of which they are examiners, are on going. The kind of examination given is normally the question-and-answer or problem type. The maximum security of the questions is a primary consideration and extra care is taken to prevent leakage.

The national passing percentage in the bar examinations has fluctuated from highs of 60.56% (1977), 72.42% (1953) and 75.17% (1954) to a low of 16.59% (1999). These differences in passing average could be traced to the lack of fixed standards in the drafting of test questions, including the level of difficulty, as well as in the checking of the examination booklets. Thus, the element of luck comes into play year after year depending oftentimes on the personalities of the individual examiners. Moreover, it has long been perceived that the bar examination has a very exhaustive scope and asks many unclear questions or questions on subjects not taken up in school.²²

The biggest number of applicants ever to take the bar examinations was 5,453 in 1963 followed by 4,698 in 2000 and 4,659 in 2002. From the listing of schools whose graduates took the bar examinations from 1992 to 2002 and the number of their graduates who passed the bar examinations, it can be easily seen that there are many schools that have dismally failed to prepare their students for these examinations. Twenty-six of seventy-five law schools had a zero passing average at least twice, with two schools having zero average at least eight times, during the 11-year period. Only around fifteen schools have managed to consistently produce annually at least 15 new lawyers with seven schools having at least 35 new lawyers a year.²³

Problem Areas in Legal Education

In a study published in 1989 on the state of legal education in the country,²⁴ some of the problems and constraints identified by law schools were the following:

1. Lack of funds for their operation,
2. Lack of adequate facilities,
3. Faculty members' lack of commitment towards teaching,
4. The lack of full-time and qualified faculty,

²¹ Rule 138, Sections 9 & 14, Rules of Court

²² State of Legal Education, op. cit. p. 83

²³ See Supreme Court Bar Confidant's Statistical Data, 1992-2002

²⁴ State of Legal Education, op. cit. pp. 87-88

5. The lack of a faculty development program,
6. Poor administrator-faculty relationship,
7. Students' lack of time for studies,
8. Students' poor communication skills,
9. Student's poor foundation in pre-law studies and poor attitude toward studies,
10. Student's lack of proficiency in the English language,
11. Inadequate supervision of faculty by the law dean.

Indeed, these complaints have beset Philippine law schools for decades and they will continue to pester the legal education system for years to come unless something is seriously done to address the situation. For example, the lack of funding and adequate facilities is a matter directed to the government agency in charge of licensing or accrediting law schools. A school without adequate funding and facilities should not be allowed to operate in the first place. Certainly, a school should not depend solely on tuition fees to maintain itself but it should have adequate funding from alternative sources.

On concerns about the faculty, it is said that a competent faculty is the most important element in the legal education structure.²⁵ Even as the hiring of full time faculty members who are totally committed to law teaching and legal research would be ideal, most law schools could accommodate only part time professors. Again, this issue is tied up with the question of resources.

Regarding the students' poor foundation in pre-law and problems in English and communication skills, absent a national admissions test for entry to law school, the admissions process, which for many law schools is most lenient, is relied upon to screen students with these deficiencies.

An area that has been overlooked in the above enumeration concerns the overemphasis on performance in the bar examinations. In her compilation of essays in legal education, the late Justice Irene Cortes posits that performance in the bar examinations has acquired such a big aura of achievement in the public regard, that it threatens to obscure the function of the law school which is to prepare its students for the legal profession.²⁶

The Supreme Court rule prescribing eight subjects in the bar examination has effectively controlled and determined what the law curriculum should be and has allowed for very little innovation. With this bar orientation, law schools have to cover practically the whole field of law included in the bar examinations in a span of four years. Indeed, an understanding of the niceties of particular rules has

²⁵ Irene Cortes, *op. cit.*, p. 53

²⁶ *ibid.*, p. 47

its uses but of more lasting value would be a grasp of fundamental concepts which will enable a law-trained person to anticipate future developments and deal competently with the problems they bring.²⁷

Efforts at Reform in Legal Education

Many attempts have been made to introduce much needed reforms in legal education. In 1976, a committee chaired by the late Justice J.B.L. Reyes looked into the matter of supervision of law schools. Another committee created by the late Chief Justice Fred Ruiz Castro submitted a report on “Legal Education for the 1980s” that proposed reforms in the curriculum, supervision of law schools and objectives of legal education. The Integrated Bar of the Philippines (IBP) submitted to the Supreme Court in the early eighties a proposal for law school accreditation, which was not acted upon.²⁸

In 1989, the Bureau of Higher Education, together with the Philippine Association of Law Schools (PALS) and the Philippine Association of Law Professors (PALP) came out with a set of policies and standards for legal education which was circularized by way of DECS Order No. 27. The Order included a proposed model curriculum, course descriptions for subject offerings, and rules and regulations concerning the qualifications of the dean and the faculty, teaching load, library holdings and student admissions, among others.

Apparently not content with this, PALS went to Congress and was able to secure the passage of R.A. No. 7662 otherwise known as the Legal Reform Act of 1993. The law mandated the creation of a Legal Education Board to administer the legal education system in the country, supervise and accredit law schools, prescribe the law curriculum and establish law practice internship as a requirement for taking the bar examinations. This effort at major reforms in the legal education system could have been the shot in the arm that was needed in order to wake it up from its stupor.

However, due to perceived defects in certain provisions of the statute, the law was never implemented. PALS has requested the incumbent Philippine President to constitute an interim Board of Legal Education in order that the much needed reforms could already be instituted.²⁹ It is also liaising with members of both Houses of Congress to secure amendments posthaste to cure the perceived defects.

²⁷ *ibid*, p. 49

²⁸ *ibid*, p. 7

²⁹ PALS letter to President Gloria Macapagal-Arroyo dated May 23, 2002

In 2000, after the release of the results of the bar examinations of 1999 showing the lowest ever post-war national passing average of 16.59%, the Supreme Court created another committee, headed by former Justice Amuerfina Herrera. The committee was supposed to investigate, among others, the reasons for the low passing average of many law schools in the 1999 bar examinations. Some of the recommendations of the said committee were later on implemented but the changes effected were insignificant.

Finally, in 2002, a paper was submitted by then Justice Vicente V. Mendoza to the Supreme Court proposing the institution of certain reforms in the bar examination system.³⁰ In brief, the suggested reforms are the following:

1. A tenured Board of Bar Examiners will be appointed in lieu of the *ad hoc* Committee on Bar Examinations. Likewise, readership panels will be created for each subject area. This will address the issue of bias or subjectivity and facilitate the construction of test questions and the correction of examination books. An advisory committee will also be formed to assist the Board and the Supreme Court and to address related issues in legal education to better prepare law school graduates in taking the bar examinations. A character and fitness investigation will be considered as a prerequisite for taking the bar examinations.

2. There will be changes in test design including the introduction of a section on objective multiple-choice questions in the bar examinations. The formulation of essay test questions and 'model' essays will be made by more than one bar examiner. Performance testing will be introduced by revising and improving the essay examination on Legal Ethics and Practical Exercises.

3. The calibration method to correct variations in the level of test difficulty and grades leniency will be adopted. Alternative grading methodologies, such as scaling, will be considered to promote test equity and further standardize levels of test difficulty. Computerization or automation of the bar examinations will be done to facilitate testing and the reporting of test results.³¹

³⁰ Justice Vicente V. Mendoza's undated paper is entitled "Toward Meaningful Reforms in the Bar Examination Process"

³¹ *ibid*, pp. 6-7

Legal Education Today: A Brief Assessment

It would be easy to blame the lack of a supervisory body for law schools, like the aborted Board of Legal Education, for many of the problems besetting legal education today. The reality, however, is that with or without a regulatory mechanism, the same problems that have hounded most law schools for decades have continued to persist:

Perhaps, the single most important factor that has inhibited the growth of the Philippine legal education system into a robust network of modernized quality educational institution is the bar examination orientation. Consider the following:

1. *The principal yardstick used to measure the success of law schools in the Philippines is the performance of its graduates in the bar examination. All the other factors that make for a quality educational institution are practically brushed aside.*

In the United States, there are at least four entities that rank the performance of accredited law schools. Arguably, the most popular among the rankings is that conducted by U.S. News, which ranks schools on the basis of the following criteria:

1. Reputation among academics (law school deans and faculty),
2. Reputation among lawyers and judges,
3. Median Law School Admission Test (LSAT) score,
4. Median undergraduate grade point average (UGPA),
5. Percentage of applicants not accepted (i.e., rejection rate),
6. Expenditures per student for instruction, library, and supporting student services,
7. Expenditures per student for financial aid, indirect costs, and overhead,
8. Total number of volumes, microfilm, microfiche, and titles in the law library,
9. Student-to-faculty ratio,
10. Percentage of students employed at time of graduation,
11. Percentage employed nine months later, and
12. Bar passage rate.³²

From the above, it can be seen that the bar passing rate is only one of the criteria used to rank the top law schools. For the year 2003, the top five U.S.

³² See www.usnews.com/usnews/edu/grad/rankings/law/brief/lawrank_brief.php

schools under the U.S. News ranking are: 1) Yale University, 2) Stanford University, 3) Harvard University, 4) University of Columbia and 5) New York University. However, if we consider only the bar passing rate, the top five law schools are as follows: 1) University of Chicago, 2) University of Notre Dame, 3) Yale University, 4) Cornell University, and 5) Baylor University. Harvard placed 7th, New York placed 8th, Columbia was 17th while Stanford was at 23rd place in bar ranking.³³ However, Stanford still placed second over-all in law school ranking using all of the criteria above.³⁴

Looking at the U.S. News criteria, a school that produces graduates who, upon being employed, are already knowledgeable about their job will get a good rating from academics, lawyers and judges. A school that accepts only students with high LSAT and UGPA scores is one that truly promotes legal scholarship and puts a high regard on the admissions process. A school that spends a hefty amount for upgrading of facilities indicates a well-endowed school that is able to raise funds from a variety of sources. The immediate employment of graduates of a school indicates the faith that employers have in the capability of its students.

It thus becomes clear that a school may have a high bar passing rate but it may not necessarily be one of the better schools. Again, this is because the principal function of law schools is not to prepare students for the bar examination but to make them ready for the legal profession.

A student can top the Philippine bar but it does not necessarily mean that he is academically the best. Nor does it imply that he is amply prepared to enter the legal profession. In fact, a student can top the bar despite the marked deficiencies of his law school applying the U.S. News criteria. It is high time to de-emphasize the bar examination as the major indicator of a law school's success.

2. *The law curriculum is placed almost beyond the control of law schools.*

The making of a curriculum is supposed to be an academic function but under the present system, law schools are simply constrained to cover the whole gamut of the law included in the bar examinations in a short period of four years. Thus, the respective curricula offered by most law schools are identical to each other, with practically no room for innovation. A school cannot promote specialization in emerging or relatively new fields like international economic law, corporate finance, Internet law, cyber crimes, etc., because it cannot veer away from its focus on the coverage of the bar examinations. The research and development of these fields of law in the academe is thus stunted.

³³ *ibid*

³⁴ *ibid*

With this undue pre-occupation with bar examination performance, more emphasis is placed on knowing everything than on mastering something. Thus, in commercial law, for example, a student is supposed to be knowledgeable and prepared for questions on banking, bulk sales law, flag law, etc. which are more of a test of memory on specific or specialized rules and do not actually gear a student for the practice of law. As previously stated, it would be of more lasting value if a student were to have a firm grasp and mastery of fundamental concepts which will enable him to anticipate future developments and deal competently with the problems they bring.

3. *A continuing adherence to the bar-oriented approach has only served to promote the status quo, favoring certain institutions but stunting the growth and development of other law schools and Philippine legal education, as a whole.*

The present bar examinations system has been with the Philippines for almost a century. Despite its obvious shortcomings, reforms have come few and far in between. For the past forty years, it is an established fact that only three law schools (the 'Big Three')³⁵ have dominated the bar examinations in both bar passing average and number of bar toppers. If no drastic reforms are initiated, it is to be expected that the same three law schools will continue to be considered as the 'best' in the country even if they do not necessarily measure up to the standards used by U.S. News in ranking the top law schools, as discussed earlier.

Predictably, most of the appointees to top judicial positions will continue to come from the 'Big Three'. Likewise, premier positions in the executive and legislative branches of government will be occupied or controlled by most of their alumni. Considering the state of poverty in the country, the chasm that presently exists between the 'Big Three', together with a few of the more progressive middle ranked schools, as against the greater bulk of the lower ranked schools will widen. Many of the latter schools, their students and graduates, will continue to be the subject of some form of discrimination not only in government but also in the private sector. For example, big Makati law firms will hardly consider hiring a new lawyer who does not come from the 'Big Three'. The maintenance of the *status quo* will thus result in the deterioration and decline in the performance of these lower ranked schools.

Ironically, most of these schools are in the provinces and far-flung areas where good lawyers are most needed. It is the people in these areas who are in dire need of quality legal assistance to arrest the slow and uneven dispensation of justice. It therefore becomes imperative that the legal education system be

³⁵ Ateneo de Manila, University of the Philippines & San Beda College

revitalized and rationalized and that by sound policies, priority be given to addressing the situation being faced by these schools.

4. *The present legal education system does not properly inculcate the fundamental lawyering skills needed for the practice of law.*

In a recent study, the American Bar Association identified the ten fundamental lawyering skills, to wit: (1) problem solving; (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and ADR procedures; (9) organization and management of legal work; and (10) recognizing and resolving ethical dilemmas.³⁶

Many graduates complain that the courses they took in law school did not adequately prepare them to draft agreements, counsel clients, try cases, or build the other skills that are essential to the daily practice of law. Again, this is partly due to the unmerited stress on the bar examinations. Indeed, major reforms are needed and they are needed now.

Technology and Legal Education

Over the past decade, technology has proved invaluable to law practice. However, the integration of technology into legal education has proceeded at a snail's pace. The most visible and prolific integration of technology into legal education has been in the area of computer-assisted legal research. In the United States, the two principal legal databases available to students containing laws, jurisprudence and relevant information needed for legal research are the LEXIS, and Westlaw, both of which have been available in the computer systems of many law schools since the mid-eighties.

In the Philippines, the first legal database, Phil Juris, was developed in the late eighties. Another legal database, Lex Libris, appears to be the most widely used in the Philippines today. Both contain Philippine laws and jurisprudence since 1901 and are marketed in cd-rom format, although Lex Libris is also available on-line for a fee. Another database, Lawphil, developed by Arellano Law Foundation, containing practically the same information, is available for free on the Internet. There is no ready information on how many Philippine law schools make these databases available to students.

³⁶ American Bar Association, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap - Legal Education and Professional Development - An Educational Continuum. www1.nysba2.org/committees/legaled/skills.html

In the United States, faculty are using computers to illustrate material in class through PowerPoint presentations, to provide syllabi and course materials to students over the Internet; to create electronic casebooks; to communicate with students; to allow students to communicate with each other through electronic mail and electronic discussion lists; and to invite guests to participate in “virtual classes.” Many schools even require students to own a laptop computer.³⁷

In the Philippines, probably only word processing, on-line legal research and e-mail have reached critical mass in legal education, although other technologies, such as the Web and computer-based instruction may achieve more acceptance and use in the future. What is clear is that the computer legal databases mentioned above are slowly becoming substitutes for law books in the library.

Considering the costs and difficulty of maintaining a viable law school operation in remote areas, the concept of an ‘extended classroom’ format may be considered. In this approach, classes are taught at a specific time from one location, but students participate in the class from several different locations. The students at remote locations can see or hear the faculty member through video-conferencing or telecommunications equipment, or through Web-based video-conferencing tools. In this vision of the future, several law schools in a region could pool their resources to create mini-consortia. Specialists would teach the students of all the participating schools, providing students with greater access to courses and expert faculty. Schools would share the cost of faculty in the consortia, and operate more efficiently with reduced faculty.³⁸

Although this concept appears far-fetched in the Philippines at the moment, law schools will have no choice but to cut costs and this idea may soon be considered as a way of not only surviving but also competing strongly against the so-called premier law schools. Students entering law school today have been trained in the use of computers since elementary school and will anticipate the availability of technology in legal education. Technology will play a central role in educating students with different learning styles. Computerized tutorials and simulations, electronic mail and discussion forums, electronic casebooks, and Web delivery of course materials will enable students to learn at their own pace, make the learning experience more enjoyable, and increase student interaction with the faculty. Needless to state, they would also increase students’ access to information, and provide students and faculty with quicker feedback.³⁹

There are, of course, objections to the use of the extended classroom format like the inapplicability of the Socratic method, the inadequacy of the feedback

³⁷ Legal Education in the Digital Age, www.law.mercer.edu/elaw/future.htm

³⁸ *ibid*

³⁹ *ibid*

mechanism to adequately train students because of the absence of personal contact, and the difficulty of effectively conveying the importance of professionalism and values.⁴⁰

Conclusion

There are no quick solutions to the problems besetting Philippine legal education. Major reforms have been suggested since the late seventies, some of them deserving much attention. Hopefully, the following would merit some consideration:

1. *The bar examination system should be re-examined. The Filipino pre-occupation with bar results as indicators of the success of the candidate and his law school should be downplayed.*

At present, schools are constrained from shunning the bar-oriented approach and tailoring their curriculum to conform to the demands of the “real world” as to do so will most probably lead to poor bar results. At the very least, there should be a reduction in the number of subjects in the bar or a shift in the emphasis in the examination to general principles and fundamental concepts that every law student should know to prepare him for the legal profession. This will unclog the law curriculum of so many core subjects that should otherwise be considered as electives as they pertain to specialized fields. This will also effectively return the curriculum making function to law schools to which it rightfully belongs. After all, institutions of higher learning are supposed to enjoy academic freedom⁴¹, which includes the right to determine “what may be taught.”⁴²

Law schools should also do their share to improve over-all performance. Entry to law school should be limited to students with potential and drive. A restrictive entrance examination assures that every law student has an adequate command of English, satisfactory comprehension and retention skills and motivation. This is followed by a thorough and discriminate interview by a panel of its more critical professors who are given the opportunity to evaluate the prospective student. A core of full time faculty members should be established in order to address the need for selective learning, or the focus on the more vital aspects of the law rather than on the subjects of the bar examinations. Critical and doctrinal research activities should be encouraged. Updated course syllabi should complement the case approach and Socratic method in recitation. It is also important that the practice of forcing students to learn by ‘terrorizing’, scaring and humiliating them should be discarded, and that other methodologies be

⁴⁰ *ibid*

⁴¹ Article XIV, Section 5(2), 1987 Constitution

⁴² *Sweezy vs. New Hampshire*, 353 US 234, 263 [1957]

considered including the interactive discussion style being used in many U.S. schools today. Likewise, the grading system in law school should be standardized.

Access to adequate learning tools and facilities, such as a complete local and international law library, enough bundled computers and legal software, and individual faculty rooms for consultation with professors, must be readily available and accessible. The digital age is upon us and we cannot avoid the advent of technological advances and their effect on education. Law schools and law professors must work diligently to incorporate the new technologies where they enhance the learning experience.

2. *The recommendations of former Justice Vicente V. Mendoza on bar reforms should be implemented.*

Justice Mendoza's proposals, aimed at improving the bar examination process, addresses many of the issues that have troubled it for decades. For example, an annual complaint is the lack of consistent standards or guidelines for examiners on the substance and type of questions to be asked year after year. In his paper, Justice Mendoza proposes that *all essay questions* should be "designed to test the examinee's ability to analyze a given set of facts, to identify the issues involved and the applicable principles of law, and to reason to a sound conclusion."⁴³

He also proposes the inclusion of multiple-choice questions that may involve a choice of the "applicable statute, theory or liability, or comparable principle of law. Questions can be so designed as to require the examinee to analyze the legal relationships arising from a factual situation or take a position as an advocate. Some questions could be designed to call for suggestions about interpreting, drafting or counseling that might lead to more effective structuring of a transaction."⁴⁴

An aspect of his paper on bar reforms that should be seriously considered is the proposal to adopt the scaling method. According to Justice Mendoza, "as with other professional examinations in the United States, most jurisdictions have adopted the scaling method for scoring the bar examinations. Scaling is considered as another layer of calibration because it is the most equitable system of reporting scores."⁴⁵

⁴³ Vicente Mendoza, *op. cit.*, p. 16

⁴⁴ *ibid.*, p. 22

⁴⁵ *ibid.*, p. 35

Under the system, several examinees whose final raw or weighted grades may differ by only a few points, could receive the same-scaled score. This would virtually do away with the practice of determining the bar ‘topnotchers’ and replace it with pass/fail marks.⁴⁶ This seemingly radical suggestion supports the view that an individual who passes the bar is already authorized to practice law and thus, his grade should not really matter. More importantly, this proposal could help in de-emphasizing and de-glamorizing the bar examinations and in bringing back the stress in legal education to preparing students for law practice and the many responsibilities it entails.

3. *The Board of Legal Education should be immediately constituted.*

Under R.A. No. 7662, the Board is supposed to institute the long-delayed accreditation system for law schools. This alone will go a long way in improving the quality of legal education as it is expected that the Board will allow the operation only of law schools that are able to meet certain fixed standards like those being applied in the accreditation of U.S. law schools. Bar performance should only be one of the criteria to guide the Board in the accreditation process. Likewise, the law provides for law practice internship as a pre-requisite for taking the bar, a requirement that gives emphasis on skills training for the practice of law.

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Most practicing lawyers in the Philippines acquired their litigation and lawyering skills by immersing themselves in as many cases and hearings as possible early on in their career. Thus, the green and inexperienced lawyer, not having had sufficient skills training and preparation in law school is constrained to apply the trial and error method, sometimes leading to disastrous consequences for the client.

Likewise, many lawyers, apart from reading cases in the SCRA and Philippine Reports during their law school days, never developed the knack for doing serious research work on doubtful or difficult questions or on emerging fields of law. Thus, there is an appreciable dearth of legal articles and papers proposing legal reforms and changes in public policy. Philippine lawyers have hardly imbibed the culture of research.

Philippine legal education is at a crossroad. One is a well-paved and landscaped avenue back to the *status quo*, amid complacency, stagnation and leading to ultimate ruin; the other, the road less traveled, of challenge, fortitude and determination, looking to ultimate success and achievement. In today’s

⁴⁶ *ibid*, p. 36

rapidly changing world, the only way to move forward is by constant re-examination and re-invention. This calls for the commitment and support of all sectors involved in legal education, including the three branches of government, the law schools, the faculty, alumni and the students.