

MEETING THE CHALLENGES: PHILIPPINE LEGAL EDUCATION IN A CHANGING ENVIRONMENT

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Prefatory

The formidable and daunting task at hand for law schools in the Philippines and elsewhere is clear: to provide students the education they need to be able to cope in the fast changing environment. Though it has been said that there is no blueprint for the turbulent and uncharted waters of the competitive global knowledge landscape,¹ the paradigm shift shall force schools to embrace and implement major reforms to address the need to be, and remain, competitive. This would necessarily include structured innovations in the law curriculum and teaching methods that are necessary for a school to remain intellectually relevant in the evolving global economy.

In the Philippines, even as law schools realize the need to “get connected” and “globalize,” there are significant constraints posed by financial considerations, resistance to change and the parochial mindset. Further, the country’s peculiar civil law system that entails the study of so many subjects covered by the bar examinations has inhibited the introduction of “international” legal courses. These notwithstanding, many law schools, notably the Arellano University School of Law (AUSL), of which the author is dean, have started preparing for the onset of the digital era in earnest.

The State of Philippine Legal Education

The seeds of legal education in the Philippines were sown during the Spanish regime when, in 1734, the University of Santo Tomas (UST) established its Faculty of Civil Law. In 1911, the American civil government set up the first state law school at the University of the Philippines (UP).²

Over the years, the number of law schools has steadily increased and recently, the Commission on Higher Education (CHED) reported that there are 104 law schools operating in the country.³

Around 80% of the average law school population are working students who study at night being taught by mostly part time faculty, while the rest are enrolled in day or weekend classes.⁴

Most Philippine law schools subscribe to the American law school teaching model. English is the medium of instruction. Class attendance is compulsory. The question and answer method and the case study system are the most widely used.⁵

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¹ Shih Choon Fong, NUS President, “Staying the Course: A Global University in Turbulent, Uncharted Waters,” October 27, 2003

² State of Legal Education in the Philippines, Bureau of Higher Education, 1989, p. 1

³ CHED Technical Panel Study submitted to the Supreme Court on January 14, 2004

⁴ Andrew Gonzales, FSC, “Teaching Strategies for Professional Education”, February 12, 2003, page. 3

⁵ Irene Cortes, Essays on Legal Education, p. 35

The Commission on Higher Education (CHED) supervises law schools in the country. Graduates earn a Bachelor of Laws (LL.B.) or Juris Doctor (J.D.) degree. 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 Philippine bar examinations, a much-heralded and touted academic gauntlet with which seemingly the entire populace are held in thrall and the results of which continue to generate inordinate interest and importance, are held annually covering eight (8) subject areas required by the Supreme Court.⁶ Over the past ten years, around 26% of the applicants have passed the annual bar examination and applying this gauge, a little over 15% of law schools are performing above par.

In a recent study, it was observed that schools that do well in the bar examinations “remain to be producers of higher percentages of passing rates and they share similar policies such as rigid admission/screening process, maintenance of high level of academic performance in their law subjects, adoption of a Quotient Point Index (QPI) to remain in the law school, hiring of Deans with pro-active hands-on management style, and infusion of financial resources to the law library to better equip the faculty and students with the mass of legal knowledge, data and materials to enhance their skills and aptitude in the field of law.”⁷

The study recommended that the law curriculum/program be improved and developed so as to produce competent world-class lawyers with proper sense of ethical values in exercising their profession. It also stressed the need for new policy standards on the law program that will take into account several major developments in the field of law during the past decade and the trend towards globalization of the practice of the profession.⁸ (italics supplied)

The Use of Technology

If the legal databases *Lexis-Nexis* and *Westlaw* are considered as the most visited resource providers of legal material in the United States, the Philippines prides itself in its *Lawphil*, developed by Arellano University School of Law (AUSL), the only Philippine law school with a comprehensive legal database and which is available for free on the Internet.

Lex Libris, which is on subscription basis, and which provides practically the same data, is another such Philippine database.

Many of the younger law faculty in Metro Manila use computers to illustrate material in class through *PowerPoint* presentations. They are likewise already transmitting syllabi and course materials to students over the Internet. Electronic casebooks and textbooks are now being marketed locally although they are not very popular among law students. No law school in the Philippines, as of this writing, has required students to own or bring computers.

The AUSL Example

In 1997, we in the Arellano University School of Law drew up its vision statement, seeing itself as a *globally competitive institution that harnesses world-class, state-of-the-art*

⁶ The subjects are Political Law, Labor Law, Civil Law, Taxation, Commercial Law, Criminal Law, Remedial Law, Legal Ethics and Practical Exercises.

⁷ Prepared by a CHED Technical Panel & submitted to the Supreme Court on January 14, 2004

⁸ *Ibid*

technologies and methodologies , responsive and attuned to the demands of the times. A plan to get AUSL to achieve this vision was then articulated.

Thereafter, AUSL sponsored and continues to underwrite the bulk of the expenses for its graduates and faculty members on sabbatical to premier schools in the U.S.A. and Great Britain for advanced legal studies.

In 1999, AUSL opened an Information Technology Center (ITC) to handle all the computer requirements of the school. On the same year, it set up at least 30 computer workstations with Internet for the exclusive use of law students. *Lawphil* was developed and introduced on the web in year 2000 and has become the country's most visited legal research website. The Arellano Law and Policy Review (ALPR), a journal featuring mainly articles on international law was published starting in 2001 to which the law libraries of Yale and Harvard are now subscribers.

An Institute of Special Studies (ISS) was opened to engage in research and encourage discussion in the field of international law, particularly international trade law. It holds monthly brown bag lectures mostly on the burning local and international legal issues of the day.

In 2001, the ISS worked with the International Trade Centre, a technical cooperation agency of the UNCTAD and the World Trade Organization (WTO) in authoring a handbook entitled "Arbitration and Alternative Dispute Resolution" now considered by many Philippine law schools as the most authoritative on the subject.

Changes in the curriculum were introduced in year 2000. Among them were the introduction of courses like Alternative Dispute Resolution, Environmental Law, International Trade Law, Project Finance, Corporate Finance, Telecommunications Law, Technology and the Law and Human Rights to address the globalization of both commercial law and public interest law.

Of particular interest is the establishment in 2003 of AUSL's Center for e-Law that intends to be at the forefront of law and technology concerns and issues with a view to preparing for the digital age. An IT Law Society with members composed of technologically proficient law students are coming out with the first IT Law Journal in April 2004 featuring articles on law and technology.

AUSL perspicaciously recognized as early as 1997 the need to redefine its mission and vision to anticipate the challenges of an emerging world order thus acquiring a competitive advantage over most law schools in the country on global commerce and technology concerns. In fairness, one should acknowledge that the University of the Philippines (UP), the country's premier state university, has established an Institute for International Legal Studies and recently opened its Institute of Human Rights, both manned by full-time academics with masteral law degrees from leading universities in the country and abroad. It continues to recruit law faculty with advanced degrees from these top schools. Mention should also be made of the efforts in this regard of the Ateneo Law School, considered as one of the top three law schools in the land, which has incorporated novel subjects in its curriculum such as International Economic Law, the teaching of European Union (EU) legal issues, trade practices and allied concerns.

As testament and fitting tribute to the competence and savvy of the Filipino law student and lawyer, no less than the World Trade Organization, the World Bank, the Asian Development

Bank and like international bodies have readily and proudly taken on a number of Filipino law graduates.

Law & Policy Developments

In a landmark decision involving the national identification system, the Philippine Supreme Court has recognized the significance of computers.⁹ On the other hand, the Philippine Congress enacted on June 14, 2000, R. A. No. 8792, also known as the Electronic Commerce Act of 2000.” The law was patterned after the UNCITRAL Model Law. Electronic documents, signatures and data messages are admissible in Philippine legal proceedings depending upon their reliability, integrity, nature and quality. For this purpose, the Supreme Court promulgated the Rules on Electronic Evidence that took effect on August 1, 2001.¹⁰ Likewise, the Rules of Procedure on Corporate Rehabilitation adopted by the Supreme Court now recognize the use of e-mail in the filing and service of pleadings with the express authority of the Court.¹¹

The Philippines’ Medium Term Development Plan (2001-2004) has identified the need for more legislation giving stronger protection against computer fraud, software piracy and other cyber-related fraudulent activities; crafting policies and enforcement mechanisms for data protection and network security; encouraging the selling and buying of products and services across the Internet with minimal or no government intervention or regulation; and working out a legal framework applying consistent principles across national and international borders with clear results regardless of the country where a particular buyer or seller resides.¹²

The UNCTAD 2001 Report on E-Commerce and Development has outlined some of the legal and regulatory issues in e-commerce.¹³ These include questions on which law applies to cross-border online transactions, what authority has jurisdiction, which forum is competent to hear the dispute and issues on the enforceability of the decision.

On the other hand, certain legal and policy dilemmas confront information technology.¹⁴ For instance, should video or audio streams be treated like a television or radio broadcast? Is competition still viable in industries competing in the digital divide? Are copyright laws outmoded in an Internet environment? What speech may or may not be allowed on the Internet?

On the legal profession, there are ethical and regulatory concerns on the proliferation of virtual law offices, pseudo lawyers, selling of legal information, prohibited solicitations and advertisements on the web, preserving lawyer-client confidentiality, and nationality restrictions on legal practice operating in a borderless digital society. Electronic rules on pleadings and legal procedures, forensics of electronic evidence and legal relationships with certification authorities and technology service providers need to be defined.¹⁵

⁹ *Ople v. Torres*, G.R. No. 127685 (July 23, 1998)

¹⁰ Administrative Matter No. 02-7-02-SC

¹¹ Sec. 2, Rule 3, Administrative Matter No. 00-8-10-SC (December 15, 2000)

¹² Published by the National Economic Development Authority

¹³ pp. xxxii-xxxv

¹⁴ Pamela Samuelson, “Five Challenges for Regulating the Global Information Society,” cited in footnote No. 15.

¹⁵ Jaime N. Soriano, “Technology and the Law,” p. 11. A paper delivered on the occasion of the Mandatory Continuing Legal Seminar held in Arellano University School of Law on February 6, 2004.

Quo Vadis?

There will indeed be a great demand in each country for new laws and regulations to address these issues. Inevitably, a global legal framework will emerge that shall attempt to harmonize the different national laws on these various subjects.

In today's fast-paced, information-driven environment, the schools should be at the forefront of the ongoing search for new knowledge and innovative ways of applying knowledge. Law schools will have to prepare its students to operate under this rapidly evolving milieu.

Instead of spreading the resources of schools on too many activities, efforts may have to be concentrated on programs and courses in which they have the required competence. Complementation on other programs may be achieved through a number of networking arrangements. This may entail forging partnerships within the university structure, with other schools, research centers and different public and private entities for sharing of information and strengths for synergy.

Course offerings should capture the interrelationships among the different disciplines. As the saying goes, law does not exist in a vacuum. These other areas of study provide the tools to better understand how the law works in the real world. As may be necessary, the study of other disciplines may be included as a particular topic may require. For example, in the study of paternity in civil law or evidence, the subject of DNA testing may have to be integrated. Ergo, the re-shaping of the law curriculum is a foregone conclusion and the introduction of course offerings that will blend the other disciplines is inevitable.

What would be of more lasting value, however, is to provide law students a grasp of fundamental concepts to enable them to anticipate future developments and deal competently with the problems they bring.

In this regard, there are law schools in the Philippines which have already laid out their globalization formats and platforms in place while many others, as of yet, are trying to do the best with what they have. The latter schools, however, should endeavor to proceed at a much quicker pace so as not to be rendered irrelevant.

Undeniably, in the digital age, lawyers and legal scholars would have a greater role to play. It is however the responsibility of law schools, in the Philippines and elsewhere, to prepare them well.