OBJECTIVES OF LEGAL EDUCATION IN PRESENT-DAY PHILIPPINE SOCIETY*

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An observer of the contemporary scene would not fail to be struck by the changes undergone by our society as compared to that of the pre-war years. There is in the air a new aggressiveness and a sense of urgency. Abandoning the traditional pursuits, Filipinos are invading new spheres of business and industrial activity, seeking personal and national identity worthy of their political independence. A new managerial class has arisen; ownership and control are passing into separate hands, through the widespread use of corporate structures and investment organizations. The working class is restive, and unions are forming everywhere in an effort to balance the power of the employers. Labor-capital friction is on the increase. The government is constantly invading areas of individual activity formerly let alone.

There is a constantly increasing call for managers, economists, and technologists.

To a superficial mind, these changes portend a lessening influence for lawyers; that they are, as a class, becoming obsolescent, and on their way to oblivion. Keener analysis, however, shows the contrary. Ours is a society firmly committed to democracy and the rule of law, with truth, freedom, and justice as basic objectives, from which peace and order will naturally flow. Under our system, conflicting interests and claims, whether economic or political, are settled through legal processes conducted by law practitioners, as the only alternative to arbitrariness and control by naked force. The lawyer's function remains indispensable; the legal profession still is more influential than any other. Adherents from other disciplines seek training every year, because they find that familiarity with the laws and legal processes is (recognized) as highly valuable, if not essential, to the efficient discharge of managerial duties.

Moreover, the basic problems that now plague our burgeoning society are still those of the pre-war years, they have not changed; at the most they have widened and intensified: we still have graft and corruption; an increasing cleavage between the rich and the poor; concentration of wealth in the hands of a few; and the consequent agitation on the part of the workers for a greater share in the national product. And as economic power goes hand in hand with political power, a sizeable portion of the people are denied participation in the formulation and implementation of the national policies, and abuses of authority, coupled with inadequate and sluggish remedial processes, operate to deny effectiveness to the principles of the fundamental laws.

The problems remaining essentially the same, the basic objectives of legal training do not appear to require drastic revision. The primary end is still to provide those in need of legal services with skilled practitioners with broad culture and liberal education, quick to sense and understand the social changes and technological advances and their impact on society; and withal, practitioners imbued with a burning devotion to truth, justice, and democracy, willing to subordinate self-interest, undeterred by obstacles, and impervious to temptation. Men who accept and practice the gospel of moderation and tolerance, who will ever insist that their clients' demands be tempered by due regard for the needs and rights of the opponent, because no man is a lone island, and all men are part of humanity.

If change is required, it is one of emphasis. In order to help channel the nation's productive forces to the common welfare, and reduce the wastage due to social unrest and conflicts of interest, lawyers must revise their attitudes toward social problems. They should not concern themselves alone with what can be termed (by analogy with medicine) *remedial* or *curative* practice before courts and administrative boards or officers. Because no immediate relief is in sight for the perennial clogging of dockets, with the resulting delays that arouse dissatisfaction and breed distrust in the administration of justice and in the government as a whole, lawyers must increasingly turn to extra judicial processes of solving human conflicts. The bar, therefore, has to become thoroughly familiar with negotiation, compromise, and arbitration techniques. Even more, to achieve maximum social efficiency, the lawyers should favor and devote the greater part of their energy and time to "preventive" practice — mastering the art of drafting plain and unambiguous deeds and documents, that will avoid subsequent doubts and controversies, and endeavoring everywhere to anticipate and forestall friction and conflict before they develop or get out of hand, rather than seeking the solution after the clashes have occurred and festered under the influence of passion. Instead of being merely advocates and defenders, the lawyers should become counsellors, planners, administrators, and organizers.

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As medical teams have brought health to remote barrios, the lawyers must also seek to extend their services to hitherto neglected areas, cultivate close contact with the masses, and look into their problems, needs, aspirations, and even prejudices; advising them on their rights, liberties, and responsibilities, and stand ever ready to protect them from exploitation and abuse. Loss of faith in democratic processes as purveyors of justice is a greater danger to our government than external aggression. The members of the bar should, in addition, analyze and evaluate at all times our laws and regulations, legal institutions and concepts, and bend their efforts to obtain changes and reforms that will make the laws better adapted and more responsive to the needs of the people.

The discharge of these tasks will demand thorough preparation through a course of law studies that are not limited to the field of individual private interests, but reoriented to cover every aspect of public service, administrative planning, and the formulation of adequate policies. Particular stress should be laid on inquiries into the development and significance of our civil liberties and political institutions, the free exchange of opinion that is of the essence of democracy, the dangers inherent in the undue concentration of power in the hands of the few, and the study of the methods and disguises used in undermining the substance of freedom and human dignity, since their defense is a sacred trust confided specially to the men who serve the law.

To reap full benefit from his law studies, the student has to be equipped with a cultural background in philosophy, psychology, economics, and other social sciences that will lay bare to him the why and the how of human aspirations, actions, and conflicts, and enable him to adequately appreciate the significance of the ends, the history and the motives behind legal institutions, practices and concepts, and of the factors that have influenced their evolution and progress. The law teachers must encourage inquiry in these directions, and always remind the students that laws are not ends in themselves, but only means to control social conduct for the purpose of maintaining peace among free men and an equitable distribution of society's material products; that these rules, devised under a system of ordered liberty, are not, and can not be, immutable; that their effect is to be tested by experience; and that if the rules themselves are found to have failed in their purpose, or they no longer are responsive to basic social needs, the rules should be modified or discarded, but always according to established methods. Rather than endeavoring to cram into the students' memory every detail or provision of law — an impossible feat in these days of proliferating legislation and jurisprudence — the study will be confined to the fundamental and significant features of each institution, relating its functioning to everyday situations and problems. Subjects would be taken in orderly fashion from the elementary to the advanced, instead of the present disorderly groupings that merely create confusion in the mind of the student.

Ultimately, what all this means is that education should not consist in the mere spoon-feeding of pre-digested information. The student has to learn to discover, analyze, and evaluate the relevant facts, principles, and rules, and to draw rational conclusions therefrom. His mind must be stimulated and broadened, and the spirit of research developed; his critical faculties sharpened by inquiry, study, and discussion; his interest aroused in events here and abroad and what they may portend, and ultimately led to discover the interdependence of peoples and nations, and how their ultimate survival can only be attained by cooperative effort.

Above all, the studies must be organized and integrated so that the learner may see by himself how each legal rule and principle meshes with the others, all contributing to the smooth action of the whole. Right here let me suggest that the present review courses in the fourth year could be discarded and replaced by courses that will enable the student to correlate and use the data he has absorbed in the preceeding years, learning to apply the proper substantive and remedial precepts called for by specific problems placed before him, in the precise manner that will be required of him in actual practice. The review courses, as now given, only tend to influence students to relax their efforts during the first two years of the law course, in the vain hope that he will be able to compensate for his neglect with the capsule reviews of the senior year.

Equally important in the law school training, but hitherto sadly neglected, is the cultivation and consolidation of moral character, civic courage, and ethical principles. The present law curricula devote only a minuscule portion to professional ethics — those moral rules without which the practitioners would become just licensed freebooters. Hitherto the law schools appear to have failed to kindle in the hearts of their wards a resolute dedication to the rule of law and fair play, as well as the conviction that every lawyer is, and must remain, an integral part of the administration of justice. That failure is written large in the court records — evasion of the sworn duty to defend the poor and defenseless on the flimsiest of excuses; resort to technicalities and delay — that convert litigations into wars of attrition; groundless suits and appeals; abandonment of clients without the courtesy of a notice to them or to the court. And outside the courthouses, how many lawyers seek to palliate their failures by charging prejudice or base motives on the part of the judges? How many of them, placed in positions of power, have prac-

ticed self-restraint, respect and tolerance for others, and subordination of self-interest? Are we not treated to the sad spectacle of lawyers in official positions praising themselves for their compliance with the law of the land and the orders of courts, as if it all were a matter of grace and tolerance on their part, and not of inescapable sworn duty?

Grant that these are misdeeds by a small minority, that they are the effect of carelessness rather than ill will. They would still be one too many, and evidence a serious flaw in the moulding of law practitioners, a failure to integrate into their lives the exacting standards of the profession. The ethics of law practice can not be those of the open market. Law touches too wide a range of human values, and is beset by too many temptations, to admit of any but the highest standards of conduct. From the ranks of lawyers will be drawn judges and prosecutors, legislators and presidents who will decide the destiny of the nation and of the citizens. No one can escape shivering at the thought that some time in the future his own life or liberty may hinge upon an individual unable to discriminate between what is profitable and what is right, what is expedient and what is just; or whose main interest in life is survival or preferment.

I find it difficult to understand how the law schools expect to turn out high-minded men, who can treasure the principles of morality and refinement in conduct and a developed sense of responsibility by devoting to the study of professional ethics not more than one or two hours per week in the last semester of the eight that compose the law course proper. Ethical training grows progressively weaker unless carefully nurtured and regularly invigorated by exercise, precept, and example. It seems that law schools could fare better by laying bare the profession's ethical requirements right in the freshmen year, in order that those who may feel unable to support their confining force may turn to less exacting field of activity; and thereafter require the subject to be studied and practiced throughout until the students graduate. Close observation and testing during the entire course may at least permit the elimination of those obviously lacking a sense of moral responsibility, or unable to develop resistance to temptation and gain firm adherence to proper conduct. We might then hope that most law graduates would learn to appreciate and hold the basic moral values and strain every sinew to escape the caustic description of Davenant of men "diligent in mischief, variable in principles, constant to flattery, talkers for liberty but slaves to power".

No doubt it will be argued in rebuttal that character-building and moral principles and the mastery of the art of communication are functions primarily devolving upon the home and the preparatory schools and colleges. The point can be conceded, but does not explain why the law school should keep (or worse, graduate) students inadequately prepared,

and certify them as fit to be members of the bar, unless remedial training has wiped out their shortcomings. A diploma is a certificate of mental and moral fitness for which the issuer must assume responsibility.

In this connection, it may not be amiss to suggest the elimination of the so-called "special" candidates, whose admission to the bar examinations is not vouched for by any school. Every law college should certainly stand by its own graduates, and be willing to be judged by them. The absence of school endorsement is a sign that the candidate is deficient in either training or character, and should be disqualified.

Complaints have been voiced that the type of bar examinations given do not test the reasoning power of the candidates. If this be the case, those concerned should not be content to merely grumble about it, but band together to devise plans to improve the tests. There is no reason to fear that the Supreme Court, burdened with cases and lacking educational experts, would reject a serious study of the problem by the schools and bar associations, or that the Court would refuse to consider reasonable directives to future bar examiners, aimed at standardizing the examinations and perfecting their selective potentialities.

The correct solution to the problems of legal education can only be found through the active cooperation of schools, bar associations, the education authorities, and the Supreme Court. The great obstacle so far has been the lack of delimitation in authority of each. What is needed is full integration of efforts toward the desired end; and for this purpose, a common forum should be established where proposals and improvements can be fully discussed, scrutinized, and finally adopted.

There can be no disagreement to the thesis that a skilled and dedicated bar, fully alive to the needs of our changing society, and willing to extend help to everyone for no other consideration than the triumph of law and justice, would be a keystone in the defense of our democractic way of life against subversion, whether coming from the left or from the right. But the line will not hold for long if our system of legal education should fail to provide a constant stream of trained and alert defenders to man the ramparts of our freedom.

Comments On The Paper

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My observations are based upon long years of association with law students, law professors and bar examinations.

Law service in neglected areas. — This proposition is an ideal worth striving for to erase the stigma of materialism from the image of a lawyer, but it will always remain an ideal. A lawyer may undergo all odds and difficulties that go hand in hand with misplacement or unemployment, but the last thing he would do is to go to the hinterlands to act as planner, counsellor or practitioner. His temperament, professional training, and aspirations all preclude the idea of rural living.

Lawyers should become counsellors, planners etc. — As a statement of principle, this injunction is irrefutable, but lawyers must be retained by clients. This form of practice is not, and cannot be, taught in college. Principles may be laid down in classrooms, but the ability to enlist men, gain their confidence, retain their adherence and win their loyalty is purely a personal gift. No amount of lecture can instill in a man the ideal and principles of leadership.

Necessity of broad background in humanities. — A broad cultural background is definitely indispensable to a good lawyer. The problem is private schools in the Philippines have no say in the preparation of their curriculum. The Government fixes the minimum number of units, which is actually the maximum. The schools, it is true, are authorized to increase the number of units fixed, by the addition of electives of their choice, but there is no time for more units without forcing students to come morning and afternoon and devote the whole night studying their lessons. Very few, students and parents alike, can well afford this luxury.

Spoon-feeding students with pre-digested material. — This is a fact. But in justification or, at least, in mitigation, thereof, the great majority of law students are working students. To require them to read the original of cases assigned, for instance, as well as reference materials, such as the treatises of known commentators, and expect them to recite as students in the old days is to demand the impossible. Their preparation in the lower grades is deficient, not for a defect in the teaching in the law schools, but the ill is traceable to the educational system of the country and ultimately to the low finances of the government. The Department of Education has more than 39% of the national appropriation, yet it cannot even comply with the constitutional mandate of universal free primary education.

Lawyers in official positions making virtue out of duty. — This is true. There are, indeed, lawyers in official positions praising themselves for their compliance with the law of the land and the orders of the court. Fortunately, they are very few.

Revision of the law curriculum to meet the changing needs of the time — This is long overdue. The present law curriculum with the exception of a few patchwork is essentially the law curriculum of 1910. It should be radically changed by those in power and the sooner the better. It must be stated, in this connection, that a committee of law deans is presently undertaking a revision of the curriculum to meet the additional requirements of Rule 138, as amended, which will take effect on January 1, 1954. For lack of time and proper directive, it will be a patch-work again. It is suggested, therefore, that the implementation of the additional requirements of Rule 138 be postponed to January 1, 1965 and, meantime, a drastic revision of the present curriculum be undertaken by a committee with a justice of the Supreme Court as chairman, a representative of the Bureau of Private Schools and five (5) law deans as members. This will avoid the cramming next summer of the additional units in labor and taxation, demanded by said Rule, because the present third year students, unless given a special course this summer of at least 3 units in each of these subjects, they will be ill-prepared to take the bar examinations in 1964.

Complaints against type of bar examinations given. — It is not true that the law school authorities content themselves merely by grumbling over the unreasonableness of the type of examinations given. Petitions have been filed before the Supreme Court protesting against outlandish questions, misleading questions on repealed provisions of law, but these petitions have not been acted upon or, at least, we, the school authorities, have not been informed of the results of the petitions. We protested against the questions in international law in the last bar examinations but nothing happened, except that out of 4618 examinees only 67 or 1.4% passed.

In re "specials". — The practice of classifying some bar examinees as "special" candidates is a creation of the University of the Philippines. It started in 1915 and has continued up to the present, but its toleration should not deter those concerned from putting an end to it. It is well within the power of the Supreme Court to put a stop to the practice.

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I fully endorse the suggestion of Justice Reyes that lawyers must extend their services to hitherto neglected areas. Rural areas have a great need for lawyers not only to advise the masses of their rights and obligations but also to lead them in civic activities. But there is one difficulty involved. The apathy of young lawyers to rural practice is economically understandable. It must be admitted that practice in those areas is insufficiently lucrative to maintain a decent livelihood for the practitioner, and if he supplements his practice with some other activity for his maintenance, the possibility is not remote that he will neglect his profession. Only a concomitant economic growth seems likely to attract the budding practitioner to the rural areas.

Justice Reyes advocates the study of law in the context of social phenomena both national and international. This is something to be devoutly desired. The rules and principles of law were not created from a vacuum; they are the answer to actual and pressing needs essential to a society with a maximum of accommodations and a minimum of conflicts. Accordingly, the rules and principles of law can be understood and properly applied only if they are related to the social context. This is the approach used in such law schools as Harvard and Yale. This method has yet to find its way in this country. Legal education here is apparently oriented to merely preparing the student to pass the bar examinations. And since the questions asked hardly test his ability to correlate law to the social phenomena, the law schools have the type of instruction that they now have.

It may well be argued that the type of questions asked is not the cause but the effect of the system of legal education in the country. Granted this, yet not without a valid reason, for it cannot be denied that legal education in these parts, with a few exceptions, is a business enterprise. But whichever is cause or effect, the circle is not unbreakable. The Supreme Court can lend a hand by revising the type of its examination questions. That the law schools will follow suit in the system of their instruction seems justified by the dispatch with which they dove-tailed their curricula to a recent rule by the Court itemizing the subjects to be included in the law curriculum.

Veering out of the paper being commented upon, there is one practice I propose to do away with. This is the offering of fourth year review classes and the pre-bar review course. At the University of the Philippines, the fourth year review classes have been replaced with a system of electives — new courses have been instituted in place of these reviews and if I have my way, I would have the pre-bar review course abolished.

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I fully agree with Mr. Justice Reyes's emphasis on legal philosophy. Legal education should not be concerned with teaching the students *laws*, but law. Students have a tendency to believe that every enactment of the Congress of the Philippines is law. Law is measured by its mechanics. Has it been approved by the necessary majority, has it been certified by the Secretary of Congress, has it been signed by the President, has it been promulgated and published in the Official Gazette? In the affirmative, the enactment is considered law. This is an erroneous conception. The enactment is a statute, but not necessarily law. If its contents are against reason and justice and fair play, no amount of compliance with the mechanics of legislation can make it into law. That should be told to the students.

I fully agree also on the comments of the Justice on "special" candidates. The practice is most improper. If a student is undeserving, the way is to deny him the diploma, and not, after receiving it, deny certification simply because he is a risk in the bar examinations. It may be worth stating here that the practice has been abolished at the University of Santo Tomas.

Mr. Justice Reyes has mentioned, likewise, the fact that the law schools do not give adequate importance to legal ethics. But I wonder whether they are all to share in the blame, because in the relative weights of the bar subjects, legal ethics which includes practical exercises, is given only 5%. If the Supreme Court will increase it to 20%, the law schools can be expected to do their part.