

CHAPTER 5

The Legal Profession

LEGAL EDUCATION

Legal training is carried out in law schools which are generally university based, and English is used as the medium of instruction. These schools are of two types – public and private – depending on how they are supported. There are three public schools, namely, the University of the Philippines, the Don Mariano Marcos State University and the Mindanao State University. The first law courses were conducted in Spanish in 1834 at the Pontifical University of Santo Tomas and were designed around the various branches of civil law. Law courses in English began in the Manila YMCA in 1910, which was the forerunner of the College of Law, University of the Philippines, until its formal establishment in 1911.

As institutions of higher learning, all law schools are explicitly guaranteed academic freedom under the Constitution.¹ However, they are also subject to the supervision and regulation by the State.² While private schools come under the jurisdiction of the Commission on Higher Education, the state universities operate under a special charter. Due to the recent close supervision of the government, there are, at present, 54 private law schools operating throughout the country. The Integrated Bar of the Philippines (IBP) and the Philippine Association of Accrediting Schools and Universities (PAASCU) have evolved a set of criteria for law school standards which will affect the accreditation of law schools, if implemented by the Supreme Court.

As a result of state regulation, private law schools follow a core curriculum of required courses spread over four years. The curriculum of the University of the Philippines' College of Law differs in some material respects from this curriculum. It has recently implemented a core elective curriculum wherein the students are required to take basic courses and are given the freedom to choose up to 20% of the courses for their Bachelor of Law degree (LLB). Usual methods of instruction employed in private law schools include the lecture and recitation method. The University of the Philippines' College of Law uses the modified Socratic, case, problem, clinical approach, and the seminar methods depending upon the subject and the teacher's personal style. Patterned after some American law schools, Ateneo University College of law converted its LLB degree into the Juris Doctor degree (JD). Consultation is now made as to

¹ CONSTITUTION, art XIV, s 5(2). See also CONSTITUTION (1973), art XV, s 8(2).

² CONSTITUTION, art XIV, s 4(1).

whether the Commission on Higher Education (CHED) would require the other law schools to follow the move.

The Supreme Court wields a potent influence not only on the admission to the practice of law but on legal education as well.³ Under the Rules of Court, the completion of a baccalaureate degree before admission to the four-year law course is prescribed.⁴ It also specifies the subjects of the bar examinations which, of course, require the inclusion in the law curriculum of certain designated courses such as civil law, labour and social legislation, mercantile law, criminal law, political law (constitutional law, public corporations and public officers), international law (private and public), taxation, remedial law (civil procedure, criminal procedure and evidence), legal ethics and practical exercises in pleading and conveyancing.⁵

Recently, Republic Act No 7662 (1993) was passed, providing for reforms in legal education and creating for this purpose the Legal Education Board. To date, this Board is not yet operational.

Law Student Practice Rule

In a Supreme Court resolution made *en banc* on 18 December 1986, Rule 138A of the Revised Rules of Court was adopted permitting limited Law Student Practice.⁶ A student who has successfully completed his third year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education programme approved by the Supreme Court, may appear without compensation in any civil, criminal, or administrative case before any trial court, tribunal, board or officer, to represent indigent clients adopted by the legal clinic of the law school.⁷ The appearance of the law student is under the direct supervision and control of a member of the Integrated Bar duly accredited by the law school and all pleadings, briefs, memoranda or other papers are to be filed by the supervising attorney for and on behalf of the legal clinic. The rules safeguarding privileged communications between attorney and client are applicable to communications made to or received by the law student acting for the clinic.⁸ Standards of professional conduct governing members of the Bar are applicable to the law student and failure of an attorney to provide adequate supervision of student practice may be a ground for disciplinary action.⁹

Bar Examinations

³ See IR Cortes *The Law Curriculum: Assessment and Recommendation in the Light of the Needs of a Developing Society* 47 Phil LJ 446-464 (1972); IR Cortes *Legal Education in a Changing Society* 46 Phil LJ 444-459 (1971).

⁴ RULES OF COURT, r 138, s 6.

⁵ RULES OF COURT, r 138, s 9.

⁶ Bar Matter No 194, as implemented by Supreme Court Circular No 19, dated 19 December 1986.

⁷ RULES OF COURT, r 138A, s 1.

⁸ RULES OF COURT, r 138A, ss 2 & 3.

⁹ RULES OF COURT, 4 138A, s 4.

Bar examinations are conducted annually by a Committee of Bar Examiners appointed by the Supreme Court. This committee, which holds office for one year, is composed of a justice of the Supreme Court, who acts as chairperson and eight members of the Bar.¹⁰ In order for a candidate to be deemed to have passed his examination successfully, he must obtain a general average of 75% in all subjects without falling below 50% in any one subject.¹¹ Candidates who fail the examination three times are disqualified from taking a fourth or fifth examination unless they show, to the satisfaction of the Court, that they have successfully completed one year refresher course for each examination. However, for those who have already failed in five or more bar examinations, they shall be allowed only one more bar examination after completing a one year refresher course.¹²

Every applicant for admission as a member of the Bar must be a citizen of the Philippines, at least 21 years of age, of good moral character and a resident of the Philippines. He must produce before the Supreme Court satisfactory evidence of good moral character and that no charges against him involving moral turpitude have been filed or are pending against him in any court in the Philippines.¹³

INTEGRATED BAR OF THE PHILIPPINES (IBP)

The Constitution provides the Supreme Court with the power to promulgate rules concerning the admission to the practice of law, the Integrated Bar and legal assistance to the underprivileged.¹⁴ As part of its power to regulate the practice of law, the Supreme Court can discipline, suspend or disbar any unfit and unworthy member of the Bar, reinstate any disbarred or suspended lawyer, punish for contempt any person for unauthorized practice of law and, in general, exercise overall supervision of the legal profession. As early as 1971, the Philippine Bar Association had adopted Canons 1 to 32 of the American Bar Association's Canons of Professional Ethics. Canons 33 to 47 were adopted in 1946. there is a Code of Professional Responsibility, drafted by the Integrated Bar of the Philippines, which was approved by the Supreme Court on 21 June 1988.

The Integrated Bar of the Philippines is governed by Rule 139A of the Rules of Court which deals with its organization, purposes, regions, chapters, House of Delegates, Board of Governors, officers, vacancies, membership dues, effect of non-payment of dues, voluntary termination of membership and

¹⁰ RULES OF COURT, r 138, s 12.

¹¹ RULES OF COURT, r 138, s 14.

¹² RULES OF COURT, r 138, s 16, as amended by Bar Matter No 1161, s A(3), effective July 15, 2004.

¹³ RULES OF COURT, r 138, s 2.

¹⁴ CONSTITUTION, art VIII, s 5(5).

reinstatement, grievance procedures, non-political bar, positions as honorary, fiscal matters, journal, voluntary bar associations and amendments.

Rule 139B of the Rules of Court specifies the procedure on disbarment and discipline of attorneys. All the investigations are made by the IBP Commission on Bar Discipline which in turn, recommends to the Supreme Court *en banc* for the disposition of the case in a decision. Lawyers in the Philippines are considered officers of the court.

As of January 2004, the records of the Supreme Court showed that 49,711 lawyers were admitted to the Bar since 1900,¹⁵ and they are members of the Integrated Bar of the Philippines (IBP) which was created by the Supreme Court pursuant to its Resolution of 9 January 1973 and constituted into a corporate body by Presidential Decree No 181 on 4 May 1973. Membership in the IBP is compulsory and default in the payment of annual dues for one year is a ground for the removal of the name of the defaulting member from the Role of Attorneys.¹⁶

As of May 2005, there are 46,053 lawyers registered in the 78 chapters of the IBP. Among its projects is the Legal Aid Project carried out by the National Committee on Legal Aid and the legal aid officers in the 78 chapters.

CONTINUING LEGAL EDUCATION

As early as 1963, the University of the Philippines law Center¹⁷ has a continuing legal education programme which consists of non-degree courses, such as law institutes, special symposia and seminar-workshop for specific groups, annual surveys of Supreme Court decisions and legislations, Bar reviews and general law practice institutes in co-operation with the Integrated Bar of the Philippines. There is also an integrated programme designed to bring about functional legal literacy among the people called the Popularising the Law or the POPLAW programme.¹⁸ It is made up of the following components: *Barangay* Legal Education Seminars (BLES) and its echo seminars; Teaching Practical Law to school children; Legal Education Through Mass Media and Research and the Development of Legal Resources.

On the other hand, the U.P. Institute of Judicial Administration which conducts the regular continuing legal education programmes for lawyers and makes researches and studies for the judiciary funded by a subsidy from the Supreme Court.

¹⁵ The Roll of Attorneys prior to 1945 was destroyed during World War II.

¹⁶ Rules of Court, Rule 139A, s 11. This was questioned and upheld in the case of *In re Edillon*, IGR No AC-1928, 3 August 1978, 84 SCRA 554 (1978).

¹⁷ Rep Act No 3870 (1964), as amended by Presidential Decree No 200.

¹⁸ See P Valera Quisumbing 'Popularising the law (POPLAW): A Program of the University of the Philippines Law Center' 1 ASEAN LJ 105-112 (1982).

MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

In order to ensure that members of the Philippine Bar keep abreast with law, maintain the ethics of the profession and enhance the standards of the practice of law, the Supreme Court promulgated Bar Matter 850 on 15 September 2000 requiring mandatory continuing legal education (MCLE). Lawyers have to complete at least thirty-six (36) hours ever three (3) years consisting of the following subjects: legal ethics (6 units); trial and pre-trial skills (4 units); alternative dispute resolution (5 units); updates on substantial and procedural laws (9 units); legal writing and oral advocacy (4 units); international law and conventions (2 units); and six (6) units to MCLE Prescribed Subjects such as Technology and the Law, Law and Economics, Environmental Law, International Legal Processes, Transnational Business Transactions, Law as a Means of Social Control, Gender Sensitivity in the Court System and Law Reforms in Specific Areas of Law.¹⁹ Credit units are also given for participation as being a lecturer, resource speaker, panelist, reactor, commentator, moderator, coordinator, and facilitator in activities approved by the MCLE Governing Board.²⁰

Now administered by the MCLE Governing Board, the MCLE program completed its third year of implementation from 15 April 2001 to 31 December 2004. the Board has accredited a total number of 92 providers which presented a total of 1,383 programs mostly in Metro Manila and major cities in the Philippines.

JUDICIAL EDUCATION

The Philippine Judicial Academy (PHILJA) which was created by Supreme Court Administrative Order No. 35-96 and Republic Act No. 8557 (1998) serves as a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts. The programs are designed to “upgrade their legal knowledge, moral fitness, probity, efficiency, and capability.”

Among the regular programs of the PHILJA are: (1) The Pre-Judicature Program which provides initial training for aspirants to judicial positions as mandated by law; (2) The Orientation Seminar Workshop for Newly-Appointed Judges which prepares the judge for assumption of office and the discharge of duties and includes an immersion program by sitting with the Executive Judges in the conduct of judicial proceedings; (3) Regional Judicial Career Enhancement Program (RJCEP) which updates the judges and court personnel in the different areas of the law; (4) Special Focus Programs which is thematic in nature which caters to those judges specifically designated to handle specialized cases; (5) Convention-seminars which by administrative rule, all national conventions of

¹⁹ S Ct Bar Matter No 850 (2000), as amended, Rule 2.

²⁰ *Id.*, Rule 4, s 1.

judges and court employees must have an academic component; (6) Development Program for Court Personnel which provides continuing judicial education as a response to the need to enhance and update judicial personnel on the law, current jurisprudence and administrative policies, judicial techniques and suggested remedies to trial and procedure; (7) Program for Quasi-Judicial Agencies which provides continuing education to the officers and lawyers of quasi-judicial agencies pursuant to *en banc* Supreme Court Resolution A.M. No. 99-7-02-SC-PHILJA dated 6 July 1999; (8) Discussion session which provides a venue for members of the Appellate Courts to be apprised of and to discuss recent developments and jurisprudence in different areas of the law, particularly those relevant to the discharge of their functions; and the (9) Professorial Competency Program which appraises the participants of the principles of professional and adult education gearing towards increased efficiency in the delivery of judicial education.²¹

The PHILJA also conducted several activities on court-annexed mediation in the trial courts, in the Court of Appeals, and on the JURIS project which is funded by the Canadian International Development Agency (CIDA). Thus far, the JURIS Design and Management Committee have recommended, among others, the Guidelines for the Implementation of an Enhanced Pre-Trial Proceedings Through Conciliation and Neutral Evaluation;²² Guidelines to be Observed by Trial Court Judges and Clerks of court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures;²³ Expanding the Territorial Areas of the PMC-Juris Project in Bacolod City and in City of San Fernando, Pampanga to areas adjacent thereto²⁴ which were approved by the Supreme Court *En Banc*.

To ensure that the courts fulfill their role in upholding constitutionalism and the rule of law as well as to promote public confidence in the judiciary. A New Code of Judicial Conduct for the Philippine Judiciary²⁵ was promulgated on 27 April 2004 and a Code of Conduct for Court Personnel²⁶ on 13 April 2004.

²¹ Supreme Court of the Philippines, Philippine Judicial Academy, the 2004 Year-ed Report, 16-23 (2005).

²² AM No 04-1-12-SC, approved 20 January 2004, as amended by AM No 04-1-12-SC, approved 15 June 2004.

²³ AM No 03-1-09-SC, approved 10 August 2004.

²⁴ AM No 04-8-22-SC-PHILJA, approved 7 September 2004.

²⁵ AM No 03-05-01-SC, 27 April 2004 and became effective on 01 June 2004. There were a Code of Judicial Conduct adopted by the Supreme Court when they assumed administrative supervision over all judges under the 1987 Constitution which took effect on October 20, 1989 and a Canon of Judicial Ethics on August 1, 1946 issued by the Department of Justice.

²⁶ AM No 03-06-13-SC, 13 April 2004 and became effective on 01 June 2004.