

V. Legal Education

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V. LEGAL EDUCATION

A. Legal Education System

The most prestigious profession in the Philippines is the legal profession. Most Filipino parents ardently wish that one of their children would become a lawyer. An entire town or community celebrates whenever one of its members passes the Bar Examinations. Schools, clans and churches take pride in having among their alumni or ranks a full-fledged lawyer.

Such prestige and glamour with which the law profession is imbued in this country is understandable. The law profession has provided the Filipino youth with the best professional training for leadership in the community. Most of the national and local leaders are lawyers, in various fields as politics, business and economics. Lawyers often occupy top positions in the government and in private corporations. Even military and police officers take up law courses to ensure their promotion in the ranks.

It takes a lot of effort to become a lawyer. Thousands are enrolled in law schools but very few are admitted to the bar. Only about twenty to thirty percent of those taking the bar examinations eventually pass. Even those who successfully hurdled the written examinations may not be readily admitted for questionable moral character which is a requisite for admission to the profession. Law students read numerous volumes of textbooks, statutes and judicial decisions. After four years of rigorous study in law school, they still have to review for courses in preparation for the bar examinations.

B. Legal Education: History

The first formal legal education training in the Philippines began at the University of Santo Tomas in 1734 with the establishment of the Faculties of Civil Law and Canon Law. The language of instruction was in Spanish. The curriculum was devoted to various fields of civil law as well as studies in economy, statistics, and

finance. The study of law was rigid and strict at that time (Cortes, I.R., *Essays on Legal Education*, p. 5).

In 1898, the Universidad Libre de Filipinas was established in Malolos, Bulacan. They offered courses on Law, Medicine, Surgery, and Notary Public. In 1899, Don Felipe Calderon, the author of the Malolos Constitution founded the Escuela de Derecho de Manila. This school later became the Manila Law College in 1924 (Bantigue, J., *History of the Legal Profession*, p. 5).

The Manila Young Men's Christian Association (YMCA) in 1910 conducted the first English law courses. English replaced Spanish as the language of instruction. On January 12, 1911, the Board of Regents established the University of the Philippines College of Law. It started with around fifty (50) Filipino and American students. Those who began at the YMCA School were admitted as sophomores and became the first graduates of the university. Its operation was suspended during the Japanese military occupation and resumed after liberation. The curriculum of the University of the Philippines formulated in 1911 became the model curricula followed by all law schools (*Id.*, p. 6).

In early times, law schools were established only in Manila. In 1911 when a person would like to study law, he had to go to Manila for the course was offered by only a handful of schools. Today, he can go and study law in his own province. There are eighty-one (81) law schools operating in many parts of the country. Each of the thirteen regions of the Philippines has at least one law school. Some years ago, only the College of Law of the University of the Philippines was supported by the State. Lately, there are the Mindanao State University in Marawi, the Western Mindanao State University in Zamboanga City, the Don Mariano Marcos University in La Union, and the Pamantasan Ng Lungsod Ng Maynila.

The eighty-one (81) law schools in the Philippines today are subject to the administrative supervision of the Commission on Higher Education as regards the initial and continuing requirements for their operation along with other private educational institutions. The University of the Philippines is governed by a special legislative act, Act No. 1870, June 18, 1908 which enables the school to operate with some degree of autonomy, together with the constitutional guarantee of academic freedom. However, as institutions of higher learning, all law schools are guaranteed academic freedom.

The power of the Supreme Court to prescribe rules on admission to the practice of law, carries with it the power to determine the subjects on which the examinations

will be given, the percentage of each subject, how the examinations will be conducted, what course an applicant for the bar examinations must take in the four year study leading to the Bachelor of Laws degree. The formal education leading to the admission for the bar examination takes eight years of tertiary education to complete: a four-year preparatory course and another four years in law school. After finishing their law degree, students enroll in courses for the bar examination.

In 1911, the only educational requirements for one to become a lawyer were a high school degree and a three-year law course. Later, the pre-law requirement was raised to two years of college work (Associate in Arts Degree) in addition to a high school degree (Cortes, I.R., *Legal Education in a Changing Society*, p. 43).

In 1960, the Supreme Court amended the Rules of Court. It increased the pre-law requirements to a 4-years bachelor's degree and increasing the law course to four years bachelor's degree and increasing the law course to four years (Romero, F.R.P., *The Challenges to Legal Education in the Philippines*, p. 78).

The sources of Philippine legal education are: (a) Spain, which gave it the Roman civil law and the canon law, (b) the United States, which gave it the English common law, and (c) Indonesia (through the Majapahit Empire and the Shri Vicaya Empire) which gave it the Islamic Law (Cortes, I.R., *Legal Education in the Changing Society*, p. 22).

Under Republic Act No. 7662 (Legal Education Act of 1993), the focus of legal education are: advocacy, counseling, problem solving, decision-making, ethics and nobility of the legal education, bench-bar partnership, and social commitment, selection of law students, quality of law schools, the law faculty, and the law curriculum, mandatory legal apprenticeship and continuing legal education.

C. Law Curriculum

The law curriculum followed in the four-year law course in all Philippine law schools, except the U.P. College of Law, is the one prescribed for private schools. The courses for every semester of the four-year curriculum are specified, with their description and sequence in which they are to be taken. The content and scope of the curriculum covers the whole field of law according to a classification plan followed as early as 1911. Law students are expected to know all fields of Philippine law prescribed in the curriculum with a four-year period.

The Supreme Court declared 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, criminal law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation and legal ethics (Rules of Court, Rule 138, sec. 6).

The law curriculum in the Philippines contains two kinds of courses: the perspective courses like legal history and jurisprudence and the bread and butter courses like criminal law, remedial law and commercial law. Since the University of the Philippines College of Law enjoys autonomy on curricular matters, sophomore and senior students may choose to enroll in certain elective courses. There is a difference in curriculum between the full-time student and the evening working student. The full-time student takes an average of 15 units per semester to finish in four years and the evening working would finish in five years.

D. Law Faculty

With the exception of the University of the Philippines College of Law, only a few law schools have full-time faculty members. Law teaching is a secondary activity done after a day's work by judges, law practitioners and lawyers in government or private enterprise. Part-time teachers report only for their part-time teaching. Teaching is only incidental to their major profession. Lawyers who devote their professional career to full-time teaching belong to a very small group. Some of those who join the ranks do not even stay very long. Greater opportunities offered by private practice and government service make them more rewarding than working as full-time faculty in a law school.

There is no uniform recruitment policy followed by law schools. Hiring or appointing members of the law faculty are through invitation and application. In the College of Law of the University of the Philippines, appointments to the law faculty are made through invitation and not on the basis of application. Generally, those appointed had some experience in teaching, private law practice or the judiciary or belong to the top ten percent of their class. In hiring faculty members, law schools take into account an applicant's academic background, professional experience or achievements and availability. Many law schools have no ranking and policies on promotion. In some

schools, promotions are applicable principally to full-time members of the faculty and they also enjoy the privilege of tenure.

E. Law School Admission Test

Some law schools require admission tests and a screening process for applicants while others admit any applicant who satisfies the preparatory law requirement. At the University of the Philippines College of Law, an applicant must first take a Law Aptitude Examination (LAE) Test. This is a uniform examination designed to measure the mental qualities needed for a successful law study. Questions are formulated to gauge the individual's capacity to read, understand and reason logically. The LAE Test together with the student's pre-law grades and interviews are all considered in the screening process for admission.

F. Teaching Methods

The educational background, experience and other personal circumstances of the teacher influence the methods of instruction. Some of the teaching methods are (1) Lecture Method – If classes are large and professors in this particular field are few, this method is frequently used. Majority of Metropolitan Manila law schools except the University of the Philippines always had straight lecture; (2) Question and Answer Method – Usually referred to as the “modified Socratic method.” It utilizes assigned provisions of law, court decisions or readings from textbooks and other materials as basis for classroom discussion. The teacher briefly introduces the subject then calls on students to answer questions based on the assignments; (3) Case Method – Cases are assigned to student for discussion. The teacher poses questions upon the students, gives an analysis of the case under discussion, traces the development of the doctrine and synthesizes them; (4) Problem Method – The method varies from simple studies of a single legal issue to complicated problems involving extensive library and field research work. Students are trained to appreciate facts, pick out issues, reflect on the law and doctrine and consider alternative solution; (5) Seminar Method – For more advanced undergraduate students, this is an in-depth inquiry into special areas of law. Emphasis is on student participation; the teacher guides the discussion and draws out comments,

observations, views and reactions from the students (Cortes, I.R., *Prevailing Methods of Teaching Law: An Appraisal*, pp. 138-145).

Examinations are either oral or written. Majority of law schools provides for at least two examinations in a semester. The objective type of examination is rare. A case problem followed by the essay type of examination is often used. Textbooks are most frequently used. Some schools use casebooks. Syllabi are utilized to serve as lesson plans for the teacher and as guides for the student.

G. Continuing Legal Education

Continuing Legal Education is an educational program conducted for those who become qualified to practice law through admission to the bar. It is sometimes called “post-admission” programs. It consists of a formal education thru seminars, lectures or workshops, law institutes. These are all related to the practice of law and a combination of the following objectives: (1) to disseminate information in the different branches of law; (2) to develop legal skills; (3) to enhance the lawyer’s sense of responsibility to the client, to his colleagues, to the court, and the public in general.

Purely on a voluntary basis, Continuing Legal Education for lawyers is primarily conducted by the Institute of Judicial Administration under the umbrella of the U.P. Law Center. It is either initiated by it or conducted upon the request of a government agency, private organization or a local chapter of the Integrated Bar of the Philippines (IBP), the national organization of lawyers in the country.

The seminar will be conducted under the co-sponsorship of the U.P. Law Center and the requesting entity. Under this arrangement, both sponsors jointly plan the curriculum, choose the lecturers and take care of the administrative details.

While there is a co-sponsor, the U.P. Law Center takes care of inviting and compensating the lecturers, most of whom are drawn from the ranks of active law practitioners, the judiciary, the academe or from the agency which acts as co-sponsor. In provinces where the local chapter of the Integrated Bar of the Philippines is a co-sponsor, the latter handles recruitment of participants, choice of venue, publicity, advance registration and the billeting of the administrative staff members and lecturers coming from Manila. The U.P. Law Center receives the registration fee, an amount that barely covers the honoraria of lecturers, accommodation and travel expenses of lecturers and administrative staff and other similar expenses.

The Philippine Supreme Court “in the interest of the administration of justice with the end in view of improving and raising the standards of the legal profession” created a Committee on Legal Education to (1) study the adequacy of the present academic requirements for admission to law course; (2) suggest a system of admission to law schools and devise for the purpose pre-qualification examinations that will accurately determine the students’ aptitude and articulation skills; (3) determine whether or not the existing law school curriculum sufficiently and properly prepares law students for the tasks and responsibilities of a member of the Bar; (4) restudy the system of Bar examinations, evaluate its effectiveness as a determining factor in the admission of law graduates to the Bar and in the event of a positive conclusion, to formulate measures that will improve and strengthen the system.

H. Bar Examinations

The power to admit qualified persons to the practice of law is vested in the Supreme Court (Sec. 5(5), Art. VIII, Philippine Constitution). They lay down the requirements for admission evidencing the moral character, qualifications, and ability of all applicants. While it is true that the Congress of the Philippines may repeal, alter or supplement these rules, the power of supervision over members of bar remains with the Supreme Court.

Every applicant for admission to the bar must be a citizen of the Philippines, at least twenty one years of age, of good moral character, and a resident of the Philippines. He must produce before the Supreme Court a satisfactory evidence of good moral character, and no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines (Rule 138, sec. 2, Rules of Court). It requires the disclosure not only of criminal cases involving moral turpitude filed or pending against the applicant but also of all other criminal cases wherein he is the accused. The Supreme Court determines what crimes involves moral turpitude (In re: Victor Lanuevo, Adm. Case No. 1162, Aug. 29, 1975).

The concealment or withholding from the court of the fact that an applicant has been charged or convicted for an alleged crime is a ground for disqualification to take the bar examination, or for revocation of his license to practice if he has already been admitted to the bar. If what is concealed is a crime which does not involve moral

turpitude, it is the fact of concealment and not the commission of the crime itself that make him morally unfit to become a lawyer.

There are applicants who may be admitted to the Bar without examination. Lawyers who are citizens of the United States before July 4, 1946, licensed members of the Philippine Bar, in actual practice in the courts of the Philippines and in good and regular standing may upon satisfactory proof be allowed by the Supreme Court to continue practice after taking the prescribed oath (Rule 138, sec. 3, Rules of Court).

Applicants for admission who are Filipino citizens, and enrolled attorneys in good standing in the Supreme Court of the United States or in any circuit court of appeals or district court or in the highest court of any state or territory of the United States are also allowed to practice law in the Philippines provided they show proof that they have been in the practice of law for at least five (5) years in any of said courts, that their practice began before July 4, 1946 and they have not been suspended or disbarred (Rule 138, sec. 4, Rules of Court).

In addition to other requirements, the applicant must show proof that he has completed the required four year bachelor's degree in arts or sciences. He must have completed the requirements of the degree of bachelor of laws as prescribed by the Department of Education in a school or university recognized by the Government (Rule 138, sec. 5, Rules of Court).

Application to the bar examination is filed with the clerk of the Supreme Court together with supporting documents at least fifteen (15) days before the beginning of the examination. It should not contain false statement or suppress any material facts (Rule 7.01, Code of Professional Responsibility).

The object of bar examinations is to determine whether the applicant has the necessary knowledge and training in the law and technicalities of procedure. The Supreme Court acts through a Bar Examination Committee in the exercise of its judicial function to admit candidates to the legal profession. This committee is composed of a Justice of the Supreme Court, who serves as chairman, and eight members of the Bar of the Philippines who serve as examiners in the eight (8) subjects with one (1) subject assigned to each member. Acting as a liaison officer between the Court, the Chairman and the Bar Examiners is the Bar Confidant who is at the same time a deputy clerk of court.

Applicants whose applications are found to be sufficient are qualified to take the written examinations. The examinations take place annually in Manila. They are

held in four days designated by the Chairman of the Committee on Bar Examinations. Candidates who failed the bar examinations for three times is disqualified from taking another examination. He must show the court that he has enrolled, passed the regular fourth year review classes and attended pre-bar review course in a recognized law school.

The Committee on Bar Examination prepares the questions for all examinees. It has to take all the necessary precautions to prevent the substitution of papers or commission of other frauds. Examinees are not suppose to place their names on the examination papers and no oral examination is given. The examinee answers the questions personally without help from anyone. The Supreme Court may allow an examinee to use a typewriter in answering the questions, if his penmanship is so poor that it will be difficult to read his answers. Only noiseless typewriters are allowed to be used (Rule 138, sec. 10, Rules of Court).

An examinee is prohibited from bringing books or notes into the examination room. He is not supposed to communicate with the other examinees or give or receive any assistance (Rule 138, sec. 10, Rules of Court). Any candidate who violates the rule is barred from the examination and is subject to a disciplinary action including permanent disqualification. To keep the bar examinee's identity a secret, the examination papers are identified by numbers and the name of the examinee is written in a piece of paper which is sealed in an envelope (Rule 138, sec. 13, Rules of Court).

To successfully pass the bar examination, a candidate must obtain the general average of 75 per cent in all subjects, without falling below 50 per cent in any subject. The Bar Examiner corrects the examination papers. After the corrected notebooks are submitted by the Bar Examiners, the Bar Confidant tallies the individual grades of every examinee in all subjects, computes the general average and prepares a comparative data showing the percentage of passing and failing in relation to a certain average. He submits the grades to the Bar Examination Committee and to the court. The court then determines the passing average (In re: Lanuevo, supra; Rule 138, sec. 1, Rules of Court).

An applicant who passed the required bar examination and found to be entitled to admission to the bar takes his oath of office before the Supreme Court (Rule 138, sec. 17, Rules of Court). The Supreme Court admits the applicant as a member of the Bar for all the courts of the Philippines. He orders an entry to the records and a certificate of record is given to him by the clerk of court which shall be his authority to practice

(Rule 138, sec. 18, Rules of Court). The clerk of the Supreme Court keeps the roll of all attorneys admitted to practice which is signed by the person admitted when he receives his certificate.

BAR EXAMINATIONS THE NATIONAL PERCENTAGE

| YEAR | APPLICANTS | PASSING PERCENTAGE | AVERAGE CONSIDERED AS PASSING |
|--------------------|-------------------|---------------------------|--------------------------------------|
| 1946 (August) | 208 | 46.63 % | 72 % |
| 1946 (November) | 478 | 56.69 % | 69.45 % |
| 1947 | 755 | 59.87 % | 69 % |
| 1948 | 901 | 62.26 % | 70 % |
| 1949 | 1,222 | 56.14 % | 74 % |
| 1950 | 1,325 | 31.92 % | 73 % |
| 1951 | 2,079 | 57.19 % | 74 % |
| 1952 | 2,749 | 62.02 % | 74 % |
| 1953 | 2,556 | 72.42 % | 71.5 % |
| 1954 | 3,206 | 75.17 % | 72.5 % |
| 1955 | 2,987 | 27.79 % | 73.5 % |
| 1956 | 3,647 | 62.60 % | 73 % |
| 1957 | 3,110 | 19.77 % | 72 % |
| 1958 | 3,951 | 21.97 % | 72 % |
| 1959 | 3,754 | 21.31 % | 72 % |
| 1960 | 4,178 | 39.9 % | 72 % |
| 1961 | 4,370 | 19.34 % | 71 % |
| 1962 | 4,635 | 19.4 % | 72.5 % |
| 1963 | 5,453 | 22.26 % | 70 % |
| 1964 | 3,567 | 25.09 % | 71.5 % |
| 1965 | 1,969 | 32.66 % | 71.5 % |
| 1966 | 1,947 | 36.72 % | 74 % |
| 1967 | 1,803 | 22.80 % | 72 % |
| 1968 | 1,643 | 21.11 % | 73 % |
| 1969 | 1,731 | 28.6 % | 73 % |
| 1970 | 1,761 | 27.9 % | 73 % |
| 1971 | 1,835 | 33.84 % | 74 % |
| 1972 | 1,907 | 28.68 % | 70 % |
| 1973 | 1,631 | 37.4 % | 74 % |

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| 1974 | 1,956 | 35.02 % | 70 % |
| 1975 | 1,950 | 35.18 % | 73 % |
| 1976 | 1,979 | 49.77 % | 74.5 % |
| 1977 | 1,714 | 60.56 % | 74 % |
| 1978 | 1,890 | 56.93 % | 73 % |
| 1979 | 1,824 | 49.51 | 73.4 % |
| 1980 | 1,800 | 33.61 % | 73 % |
| 1981 | 1,924 | 43.71 % | 72.5 % |
| 1982 | 2,112 | 20.5 % | 75 % |
| 1983 | 2,455 | 21.3 % | 75 % |
| 1984 | 2,497 | 22.55 % | 75 % |
| 1985 | 2,626 | 26.69 % | 75 % |
| 1986 | 2,609 | 18.88 % | 75 % |
| 1987 | 2,682 | 17.90 % | 75 % |
| 1988 | 2,824 | 24.40 % | 75 % |
| 1989 | 3,006 | 21.26 % | 75 % |
| 1990 | 3,089 | 28.03 % | 75 % |
| 1991 | 3,194 | 17.81 % | 75 % |
| 1992 | 2,892 | 17.25 % | 75 % |
| 1993 | 3,348 | 21.65 % | 75 % |
| 1994 | 3,337 | 30.87 % | 75 % |
| 1995 | 3,194 | 30.28 % | 75 % |
| 1996 | 3,900 | 31.21 % | 75 % |
| 1997 | 3,921 | 18.11 % | 75 % |
| 1998 | 3,697 | 39.63 % | 75 % |
| 1999 | 3,978 | 16.59 % | 75 % |