

Legal Ethics, Law Students, and Law School

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Lawyering as an Ideal Profession

Lawyers are regarded as vanguards of justice. They play a vital role in the preservation of social order and tranquility. The legal profession is a very vital element in nation building since there is no progress in a country without a rule of law.¹ The continued existence of the profession is demanded most especially now as old relationships become closer, new relationships arise, and when distance, race, or language is no longer a barrier.

Being a lawyer is regarded as one of the most prestigious professions in the Philippines. This is evident from how everyone gets so hyped during bar month and all the more when the Supreme Court releases the list of passers. Such may be due to the fact that studying law and eventually passing the bar is certainly, not a walk in the park. One must sacrifice a tremendous amount of his precious time and endure the rigors of finishing the study of law and becoming a member of the esteemed profession. It may also be because a majority of our leaders in the Government belong to the legal profession. As some lawyers view it, many are called but very few are chosen. Ultimately, a lawyer ensures protection of one's rights and compliance with duties and obligations.

Because of the high regard given to lawyers, much is expected of them. Thus, it is important that legal professionals conduct themselves in accordance with the highest ethical and professional standards. To do otherwise can call into question not just the reputation of individual lawyers and law firms but the legal profession itself.²

As the High Court stated in the case of *Phil. Association of Court Employees v. Alibutdan-Diaz* that: "everyone should keep in mind that the practice of law is only a privilege. It is definitely not a right. In order to enjoy this privilege, one must show that he possesses, and continues to possess, the qualifications required by law for the conferment of such privilege. x x x For this, he or she is an exemplar for others to emulate and should not engage in unlawful, dishonest, immoral or deceitful conduct. Necessarily, this Court has been exacting in its demand for integrity and good moral character from members of the Bar. They are always expected to uphold the integrity and dignity of the legal profession and to refrain from any act or omission which might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of this noble profession."³

The Lawyer's Image

Although lawyering has always been glorified by the community, the public has gradually developed a strong dislike towards lawyers. This may be attributed to the fact that, in recent years, an increasing number of cases has been recorded involving lawyers failing to observe the ethical and moral standards demanded by the profession.

Abroad, an article published in *Law Gazette U.K.* noted that, according to the BAR Standard Board, the number of barristers disbarred or suspended almost doubled in 2013. Nineteen barristers were disbarred in 2013/14, in 23 cases – up from 13 the year before – the regulator said. The number of barristers suspended from practice rose from eight to 20.⁴ This increasing number of disbarment cases is also not unusual in the Philippines, in an article published in the *Philippine Law Journal*, Justice Paras mentioned the increasing number of administrative cases filed against judges and practitioners.⁵ And until this day, the number and reasons for disbarment and disciplinary actions are still alarming.

The President of the International Bar Association, also stressed in a speech that a recent highly publicised investigation which demonstrated the harm to the image of the profession that can occur when lawyers are seen as not acting according to those standards. According to him, a Global Witness report on lawyers' behaviour received substantial press coverage, including a long report by the widely watched 60 Minutes television show in the United States. An investigator from that NGO posed as an advisor to a senior official of a foreign government seeking to move anonymously into the US millions of dollars of funds that appeared to have been obtained through corrupt activity. The investigator put this proposal to lawyers from 13 New York City law firms and secretly filmed the lawyers' responses. Only one lawyer refused to discuss the matter, and the others provided to varying degrees suggestions on how money could be transferred into the US without detection, largely by using shell companies or 'cooperative' or 'less strict' banks; some even suggested the use of their own law firm's bank account.⁶

The 'advisor' never sought formally to retain any of these lawyers, so one cannot know how many of them would have agreed to be retained for these purposes. The NGO's methods are likely to be viewed by some to be unpalatable. Nevertheless, many of the lawyers' statements can be seen as aiding and abetting money laundering. New York's ethical code prohibits lawyers from counselling or assisting clients in illegal or fraudulent transactions, and, of course, the fact that the client relationship has not yet been created does not excuse aiding and abetting a crime. The exposé certainly reflects poorly on the legal profession and undermines public trust and confidence in us as lawyers. It also raises concerns about the effectiveness of professional ethical rules and training to guard against such behaviour.⁷

While the said report focused on New York lawyers, the problem of lawyers assisting conduct that is corrupt or illegal is undoubtedly more widespread. The Global Witness has also exposed the use of inflated legal fees to move suspect funds from Papua New Guinea to Australia. It is clear that wherever this behavior occurs, it compromises public perception of and trust in our profession.⁸

Locally, the public's perception towards lawyers is also degrading. The top officials of the country, albeit elected in the highest positions in the land, are also being haunted by scandals. One being alleged to have committed concubinage; another as a protector of drug lords; some are accused of plunder, adultery, plagiarism, and other acts which are directly

¹ Villareal, Edgardo II, *Legal Profession*, 2002

² Rivkin, David, *Maintaining lawyers' integrity*: Message from the IBA President published on www.ibanet.org

³ *Phil. Association of Court Employees v. Alibutdan-Diaz*, A.C. No. 10134, November 26, 2014

⁴ Baksi, Christine, *Number of Disbarred and Suspended Barristers Soars*, *Law Society Gazette*, 2014 <https://www.lawgazette.co.uk/>

⁵ Paras, Ricardo, *The Philippine Judiciary*, *Philippine Law Journal* Vol. 28 No. 6

⁶ Rivkin, David, *Maintaining lawyers' integrity*: Message from the IBA President published on www.ibanet.org

⁷ *Ibid.*

⁸ *Ibid.*

contrary to what is expected of a lawyer. In a case decided by the Court in 2016, a former Judge of Makati RTC and a candidate for Vice Mayor in Zamboanga del Norte was dismissed and disbarred due to graft and malversation which was committed while he was still serving as a Judge of the said court.⁹ The Court in its decision stated that “we emphasize that judges should be the embodiment of competence, integrity, and independence, and their conduct should be above reproach. They must adhere to exacting standards of morality, decency, and probity. A magistrate is judged, not only by his official acts, but also by his private morality and actions”.¹⁰

In a more recent case, the Court decided to remove a lawyer from law practice for notarizing documents of dead people. The Supreme Court released a unanimous decision promulgated on January 26 that disbarred lawyer Rex Resuena from the practice of law after being found guilty of malpractice as notary public and violation of the lawyer’s oath and Rule 1.01, Canon 1 of the Code of Professional Responsibility.¹¹

It was also shown in a study published in the Paulinian Compass regarding an investigation on the cases of disbarment in the Philippines from 2000 to 2009. It looked into the grounds on which their disbarment was based, in the lawyers’ capacity when the offense was committed and the other reasons considered by the Court in deciding towards disbarment. The study found that the grounds for disbarment or suspension of an attorney are: (1) deceit; (2) malpractice or other gross misconduct in office; (3) grossly immoral conduct; (4) conviction of a crime involving moral turpitude; (5) violation of the lawyer’s oath; (6) willful disobedience of any lawful order of a superior court; and (7) willfully appearing as an attorney for a party without authority. It also exposed that the occurrence of disbarment are highest at nine for a year and around three on the average within the same period. It also showed that almost a third of the cases of disbarment were based on lawyers’ acts of deceit, and nearly half were committed in their capacity as private individuals.¹²

The grounds showing as most common, the gravity of the offenses, the willful perpetration of the act and the number of disbarment cases as well as the numbers of lawyers being dismissed are definitely disturbing. It should be noted that we are talking of lawyers, persons who, from the mandate of their profession, must have an unblemished integrity and uncompromised principles. He or she must be a person who acts with justice and observes fair play and equity, and He who swore an oath to uphold the constitution and obey the laws and give everyone his due.

Several articles have already been written looking at the reasons why lawyers have such image. Lawyers tend to agree that the public’s image of the profession is poor; and improving image consistently appears as a top concern. However, the profession is somehow divided as to what the public actually thinks about lawyers, how such bad perception developed, and what should be done to combat those negative images.¹³

Mostly, the suggestions to cure this worsening distrust on the legal profession are limited on curing the perception. However, a survey of actual cases and findings of different

⁹ OCA versus Ruiz, A.M. No. RTJ-13-2361. February 2, 2016

¹⁰ OCA versus Ruiz, A.M. No. RTJ-13-2361. February 2, 2016

¹¹ Fabay v Resuena, A.C. No. 8723. January 26, 2016

¹² Punzalan, Kristine, Cases of Disbarred Lawyers in the Philippines at the Turn of the Century, The Paulinian Compass, Vol. 1 No. 4, 2010

¹³ Schier, Mary Lahr, Lawyer’s Image: What is to be done?, Ethics and Professionalism, New York State Bar Association, 1995

associations would show that it is based on actual reality and not perception alone.¹⁴ Thus, changing the public’s perception towards the legal profession would not really be effective. The author submits that, to successfully and effectively surpass this challenge, we must first accept that it is real and it requires determination of causes. Hence, the author believes that we should start from the beginning.

The Vital Role of Law Schools

Looking at the issues, several factors must be considered. First, we should make an evaluation: is it merely for monetary rewards or could it be for career enhancement and be known as a great lawyer? Is it because of the sense of impunity or lack of it? Or is it that the core values of integrity, honesty, and fairness are not intact? Is it just in practice or it is really a culture starting from our law school days?

Former Chief Justice Castro once emphasized that: “the standards of the legal profession cannot be raised unless the standards of the legal education of applicants for admission to the Bar are also elevated”.¹⁵

Law school is where our future lawyers are trained, molded, and made to understand the intricacies and complexities of the law. It is where the students realize the importance of law and order and the basic precepts of due process and fair play. They are taught on how to apply legal principles most especially they are made to understand what is just and right. Indeed, the future lawyers would always start from the law school. Law school plays a very significant role not just towards understanding the technicalities of the legal profession but how would they conduct themselves as an individual befitting to be called a vanguard of justice. The institution is a vital force in the formation of the core values of the members of the legal profession.

However, in recent years, an obvious trend has been observed. Schools usually aim for a higher passing rate rather than having graduates with uncompromised integrity and incorruptible moral values. These institutions would usually dedicate much of the students’ learning time in other bar subjects which are given more weight compared to Legal Ethics. As Justice Concepcion stated: “a law school is not a commercialized vocational or skills development center where the sole objective is the training of students to learn the technical art of trial or advocacy. The development of the moral fiber and the social involvement of lawyers should be the top priority in any program of legal education. Without a sound moral and social foundation an advocate is more likely to be a liability, rather than an asset, to the community. And the more able he is in legal technique, the bigger the threat he will pose to his fellow men.”¹⁶

Former Chief Justice Panganiban in one article in the Philippine Daily Inquirer stated that “Bar exams are attended by fanfare galore. Undergraduates held parades, marching bands, fraternities and sororities cheering for their comrades while media herald the passers, topnotchers getting full interview and television guesting. Every law school would have tarpaulins with the name of topnotchers and lawyers and some to the extent of giving brand new cars as

¹⁴ Punzalan, Kristine, Cases of Disbarred Lawyers in the Philippines at the Turn of the Century, The Paulinian Compass, Vol. 1 No. 4, 2010

¹⁵ Chief Justice Fred Ruiz Castro in his speech before the Integrated Bar of the Philippines, Manila Hilton, March 17, 1976

¹⁶ Justice Roberto Concepcion, “The Lawyer’s Role in Society”, J. Coquia, Legal Profession

gifts to those who would do really well.”¹⁷ The holding of Bar exams is just a national spectacle and topping it is just the ultimate dream for most candidate. However, in the same article the former Chief Justice mentioned that such is not a reliable measure of achievement.¹⁸

For four years or more, every law student had experienced how tough life in school could be. An unimaginable amount of things to learn, books to read, cases to understand and the pressure from friends and family who are all counting on you. It is in law school that the usual mindset is that one must be willing to do everything to become a lawyer. It is also only in law school where a person would ask himself a countless of times on how bad he really wanted to become a lawyer. Although, professors would always remind students that there is no shortcut but “study, study, and study”, there are things that one has to do in order to survive and get out of the dungeon.

The Problems

The great need to survive law school now creates a great threat to one’s core values. The pressure or demand of friends and family, the culture or the environment in law school, and the law curriculum itself can be considered as threats to a future lawyer’s values. Firstly, the pressure to pass and become a lawyer: this immense pressure is actually the force that threatens a student to do everything just to pass the subject. Worst, students use such difficulty to justify their acts. This demand may come from friends, family members, parents, or even from the professors themselves. For an example, an assignment of 200 cases to be read overnight, which is almost impossible, creates a force that compels the student to read case digests or to cheat on recitations. The high amount of pressure from relatives, parents, and peers also tend to push a student to do everything just to survive.

The pressure can also be gleaned from the national passing rates of the past Bar Exams which never went near 35 percent since 2000 and even went as low as 17.76% in 2012.¹⁹ The tremendous low passing rate on some occasions compels the Supreme Court to lower down the passing mark to accommodate more passers. No wonder why, it is regarded as the most difficult examination in the country. This would also give us at least a sense what kind of pressure a law student endures inside the institution.

This immeasurable desire to finish the study of law notwithstanding the level of difficulty attached to it, poses a very serious threat to the values of integrity, honesty, and fairness. And this is where, the author believes, the problem starts. There is a very thin line which separates being resourceful to cheating. However, the tremendous amount of pressure cannot justify dishonesty.

Secondly, the Bar Examination and the legal education itself: Philippine bar exams follow the long list of prescribed subjects. And every law student must be able to master all bar subjects to be a successful bar candidate. Law schools often advertise that they have one of the most number of students who passed the bar exams or have produced the most number of toppers. It is also common to hear that a certain school is “bar-oriented” but you would not at all hear a law school claiming that they are “morals- and ethics-oriented”. Being Bar exam-focused has reduced the study of law to soulless memory challenge. Although, it is true

¹⁷ Chief Justice Artermio Panganiban on Bar Exams and Legal Education, Philippine Daily Inquirer, September 2014

¹⁸ Ibid

¹⁹ <http://sc.judiciary.gov.ph/pio/news/2015/03/03-26-15.php>

that the profession cannot be equated to priesthood, good morals, ethics, and other core values must be greatly considered.

Legal Ethics as a bar subject is given the least weight in the Bar Exams. As an effect, law schools tend to give less if not the least importance to this subject. As what the great Justice Reyes once emphasized:

The present-day law curricula fail to adequately provide for the moral training of the law student. Stress is laid on what is lawful rather than what is just; emphasis is placed on what is permissible instead of what is honourable. The rules of professional ethics and responsibility that place a distinctive import on the legal profession and mark it apart from all others careers are accorded but casual attention in the law course. The unfortunate result of such a distorted sense of values looms large in judicial annals – Bar candidates denied admission for moral deficiencies; too many lawyers suspended, censured or disbarred for abandoning or neglecting their clients cases, for failing to file on time pleadings or briefs on their behalf, for continual use of delaying tactics, or for not complying with their duties as officers of the Court.²⁰

The curriculum and the nature of the bar examination affect how law schools address the moral and ethical concerns on the legal profession on their students who will eventually be a part of the profession. The current structure affects the teaching methods and the overall process of learning.²¹ The little importance given to legal ethics and the high percentage weight for other subjects forces law schools to direct its students to a path where they would likely pass the bar and eventually become lawyers. After all, it is the main reason why they entered law school.

Lastly, is the sense of impunity: The growing sense of impunity creates the greatest threat but also requires the most obvious solution.

The philosophy underlying our penal system leans toward the classical school that imposes penalties for retribution and deterrence which are aimed at “actual and potential wrongdoers”.²² Deterrence prevents future crime by creating fear among potential wrongdoers. But what is the effect if the wrongdoers do not get punished? Looking at the number of cases and the controversies involving members of the profession, the effects are evident.

It is in law school, where students learn about the justice system, it is where they understand the concept of due process, and it is also where the concept of punishment is introduced.

In law school, there is such belief, that since the study of law is tough, one must be willing to do everything. Sadly, it is construed by some that by everything it means that little acts of dishonesty, concealment, and cheating are reasonable. On some occasions, one would not even acknowledge that an act is wrong and would even interpose that such is a form of research; Thus, acceptable. This kind of notion tends to create that mindset of immunity.

²⁰ Justice Reyes, “The Lawyer’s Role in Society”, cited on Atty. Manuel Laserna’s blog <http://attylaserna.blogspot.com/2007/10/elevating-philippine-legal-profession.html>

²¹ Dean Magallona as cited in the article of Gwen Garcia-De Vera, A Commentary in on Theodore Te’s Legal Education in the Philippines: Confronting Issues of Relevance and Responsiveness, Philippine Law Journal Vol. 88:678

²² Griffith v. Court of Appeals, GR No. 129764, March 12, 2002

Some would say that it is just practical. That life would always be unfair in real practice and one cannot rely solely on his knowledge of laws and rules, he must be prepared to face them and he cannot be too ideal and principled. One must be ready to face the reality that justice and equity does not really exist in real practice and it is best to learn how to deal with it as early as possible. There are some who even say that if you cannot stomach the reality, then you cannot be a lawyer. As they say, get out of the kitchen if you cannot take the heat.

Students who were caught in the act would just be reprimanded, if not totally exonerated. Leniency on acts of dishonesty does not just pose a hazard on the legal profession. Every time a wrongdoer is not punished, it results to several consequences. First, it strengthens the idea that it is acceptable and reasonable. Second, without punishment, there is no retribution on the part of those who are fair and honest. Third, without punishment, there would be no deterrence. Fourth, it weakens the faith of those who believed in the ideals of equity and fair play. The degradation of these beliefs opens the door to more crooks. It has a huge impact on students who are trying all their best to survive law school without giving up their core values. It erodes their idea of integrity, honesty, and good faith.

Students, in general, upon entering law school, are already individuals fortified with reason and logic. They are matured enough to know what is wrong and right. They have already formed their own set of principles and values. However, this little attention given to the importance of these values and the inadequacy of the steps taken to destroy this sense of impunity make future lawyers lose their faith and eventually give in to the unfortunate.

Although, there are steps being taken to address this issue such as the proposal of the Legal Education Board to incorporate legal ethics to all bar subjects and the continuing effort of the authorities to highlight the issue through the Mandatory Continuing Legal Education; it must be ensured that lawyers, before they even become legitimate members of the bar, have the strongest, most intact, and uncompromising principles, integrity, and values. While they are made to study every codal provision, they are also made aware of the concomitant responsibility and reminded of their duty to the public, the courts, their clients, to the legal profession, and to their own conscience.

The words of Justice Reyes are on point:

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 of those moral rules without which the practitioners would become just license 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 -- that convert litigations into wars attrition; groundless suits and appeals; abandonment of clients without the courtesy of notice to them or to the court. And outside the courthouse, 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 the positions of power, have practiced self-restraint, respect and tolerance for others, and the subordination of self-interest?²³ complying with their duties as officers of

²³ Justice Reyes, "The Lawyer's Role in Society", cited on Atty. Manuel Laserna's blog

the Court."²⁴

How can we hope for a better country, if the future lawyers, the vanguards of justice, and the leaders of this nation, are being made to conform with what is real and practical and not what is just, ideal, and ethical.

²⁴ Justice Reyes, "The Lawyer's Role in Society", cited on Atty. Manuel Laserna's blog <http://attylaserna.blogspot.com/2007/10/elevating-philippine-legal-profession.html>