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PLANNING LEGAL EDUCATION: SOME NOTES FOR THE KUALA LUMPUR WORKSHOP

I was a member of the group which prepared *Legal Education In A Changing World* (hereafter referred to as the "*Report*"). Among comments I have received about the *Report* are those from people who are puzzled about whether it is either possible or desirable to "plan" basic changes in legal education. I present some further thoughts on those problems here. The ideas are grouped around four questions: Why should we think about planning? What might be the subject matter of plans? Who should plan? How can the process be developed?

I. WHY PLAN?

There are certainly many reasons for being cynical about efforts to discuss the planning of legal education. It is a complex subject too often, too easily, treated in simplistic terms. There are innumerable prescriptive polemics but scarcely any studies which test assumptions against empirical data or which put the subject in a proper social and historical context, let alone within the context of development planning. We who practise legal education have applied little intellectual effort to analyze in depth the "model" or "paradigm" we purport to follow. We often ignore the reciprocal relationships between legal education and the economic, cultural and other social forces which inevitably influence it. Our thinking about the design of legal education may be bounded by a narrow concept of the discipline of law and the profession of lawyers and the functions of law-trained people, or in any event by a view which circumscribes the subject to a range of familiar issues.

The *Report* calls for an expanded view of the subject and for recognition of the need to plan a *redesign* of legal education. A number of reasons are offered to explain why such planning is theoretically desirable and why, in any event, pressures to plan more systematically may grow and compel more attention to this task. Since the *Report* is speaking in global terms, the force of its contentions may vary from place to place. The *Report* simply presents a *hypothetical* critique of legal education in a hypothetical jurisdiction. Obviously, it will not apply in all particulars to

all places. But, perhaps, it can be used as a general framework for a study of legal education in any setting – offering a set of propositions which can be applied and evaluated through further research. I discuss some of these propositions next.

A. *Legal education and the educational system.* The institutions and people providing legal education may be part of an educational system which fails in some fundamental ways to serve its environment. The educational system, viewed as a whole, may, in part, be the product of colonial history; in part, the product of flawed planning; in part, the product of a class biased social system. It may increasingly come under attack, and there may be demands for basic changes in orientation and structures. The *Report* notes:

> There has been a growing, international movement concerned with creating better ways to plan educational systems, relate them to environments and deliver eudcation more effectively at less cost. A combination of factors is said to be producing "crisis" conditions requiring this kind of planning: rising population; increased demand for education at all levels; higher costs; growing numbers of urban unemployed -- and unemployable – school and university leavers (even where there may also be shortages of particular kinds of technical skills); misallocated uses of educated human resources; the failure of education (as presently organized and delivered) to stimulate development in rural areas; the apparent inability of education to generate skills, outlooks and motivations thought to be necessary to promote developmental objectives. Formal educational attainments are still regarded, too automatically in many societies, as an entitlement to higher salaries. Earnings of university-leavers may reflect neither market forces nor other social values realized by their employment.
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> It is said by commentators that many poor countries are spending proportionately more on education than the richer countries, but getting less in the way of benefits from the heavy sacrifices imposed. There are increasing pressures to clarify the purposes for which particular programs of education are provided; to match claims with performance; to identify kinds of reforms needed; to revise standards of accountability and procedures for budgeting programs in order to evaluate their benefits against their costs; to reform employment policies within the educational system.

Over the long haul, the implications of these problems to legal education may be profound. The solution may require not only a reallocation of resources to develop new kinds of schooling (particularly at basic levels) which stress new priorities and values and to develop new types of "non formal" and adult and other, new modes of education, but also a re-

orientation of thinking about higher education. Our attention may be directed towards a wide range of problems; the eliteness of the university and the ways in which it contributes to social stratification; its disengagement from problems of rural development, civic education, etc.; the failure of existing law programs to teach about law from the perspective and needs of the great mass of urban and rural poor; the possibilities of changing elite university law faculties to national "law centers"; the research and outreach functions of a university institution concerned with national legal development; the task of providing some form of realistic education about law and legal processes as part of any citizens' basic schooling and providing forms of legal training at basic levels which will enable more people to participate in the legal system; the task of providing more mobility within that system and new channels of access (e.g., through new kinds of "mature age entry schemes") to higher training in law and administration; the task of reorienting our thinking as professional teachers about the nature and function of education in society; the priority and case for legal education in a situation of rising demand for education and limited finance; the task of redistributing some of the costs of university education so that those who benefit more share more of the burden. As legal educators, we cannot simply ignore problems which must be addressed by the educational system as a whole.

B. *Equity.* In many settings, the national educational system may tend to cater to those more advantaged in urban communities. The result may be aggravation or reinforcement of social stratification and class biases, particularly in regard to those who will enjoy opportunity for higher education. To the extent this is so, it will reflect itself in recruitment to the legal profession. As the *Report* states:

> The very nature of law may make it important that the professionals who operate the legal system be, as a group, broadly representative of all elements in society. This seems particularly so where society is plural, diverse or historically stratified.

C. *Socialization.* While no doubt the point can be overemphasized and while empirical evidence may be lacking, it seems reasonable to assume that law schools play some part in shaping student perceptions about their society, the problems of "developing" it, the legal system and roles of law-trained people in it. The *Report* notes:

> The law schools of many countries have reflected the prevailing outlook of the profession, and this has often meant an orientation towards law practice which centers around urban clients and higher level urban courts, towards the affairs of more affluent members of society or towards more elite law jobs in the civil service.
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> Until recently it would appear that most universities, and, therefore, most law schools, drew their students from urban areas. They

hailed from middle income or more affluent families. They were those who were fortunate enough to enjoy the educational opportunities afforded by better urban secondary schools. . . . In some (countries), the profession is under fire as a group with a vested interest in the existing social system, arrayed against many efforts to change society and confront conditions of poverty and maldistribution of opportunity and the benefits of economic growth. (Law schools have become particular targets for critics of the social system, educational theorists and planners).

D. *Human resource needs.* It is generally agreed that education, in part, is to be seen as a social investment and should provide "payoff' by providing "manpower" for development tasks. The *Report*, of course, argues *in extenso* that law as a discipline and legal training *can* be used to create bodies of knowledge and skills which are needed in the processes of development administration. Again, it is probably dangerous to impute too great a role to formal education in the development of particular professional abilities which equip people for particular "development" tasks. But the potential of law study as a means to create broad understanding of social problems has often been sadly neglected. The *Report* argues:

> The thinking of lawyers, legal educators and manpower "experts" in too many countries had tended to stereotype law roles – to perceive legal education as a feeder for a more or less monolithic, homogeneous, rather static profession. Attention should be given to analysis of both the economic and social activities of university law graduates in society; their mobility; the ways in which they engage in public service, entrepreneurial transactions, representation of different groups, brokering political or economic projects, and defence of human rights. Comparative research directed at such questions might help to explain why apparent differences in the social usefulness of law graduates exist and the extent to which these may be attributable to legal education, and if so, what might be done about it.

Thus, a new approach is suggested:

> This approach assumes that law can be studied as a dynamic discipline which draws intellectual strength and vision from many sources – philosophy, history, the social sciences – and from its own experience. This view assumes that law serves many diverse purposes in society; it envisions a wide variety of possible, useful roles for law-trained people. It calls for a multi-functional university law school which is a vital center of education and research within the legal system, not an institution detached from it.

E. Legal development. Like health or agricultural education, legal education is concerned with a particular sector of activities, and so, of course, we need to evaluate its task in relation to the problems of the legal system. It is, of course, easy to overstate the influence or impact of legal education on legal change. We cannot simply reform law by changing the orientation and content of law teaching. But perhaps we can do a much better job of sensitizing people who pass through a high-level program of legal education to the problems of legal development in their communities. One approach to these problems is suggested by these excerpts:

> Thus, effective legal development may call for much study and innovation to achieve a system which appropriately blends basic traditions and concepts with new legal measures which are thought necessary to achieve new social policies. Institutions and processes must be worked out so that both the results and the manifestation of the administration of modern "official" law will accord with notions of justice of those affected. Many traditional systems, for example, place a high premium on compromise, equity and reconciliation, rather than "winner-take-all" as an end of justice; many allow a high degree of participation in the processes of dispute settlement. Legal development must be concerned with the structure and dispersal of basic level dispute settlement organs so that they are accessible as well as usable.
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> Problems of this kind, cumulatively, may be of great, though often underestimated, importance. The widespread failure of the legal system to produce results which accord with felt principles of justice can, surely, undermine both a government's legitimacy and faith in society in the most serious way.
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> The implications of legal development direct our attention towards use of legal education to secure more effective delivery of legal assistance for people who are increasingly drawn into the official system. This, too, is an area which may often be ignored. Little is known about the specific nature of (and explanation for) the legal problems of masses of rural people and their interaction with the legal system. The legal problems of rural people may differ from those in urban areas, and the problems of supplying effective legal assistance in the criminal courts may also be qualitatively quite different. Obviously economic ways must be found to provide services on the scale required. It may be important to train and use new kinds of para-professionals for some law jobs. It may be important to sensitize judges, prosecutors and others to the needs of illiterate, disadvantaged defendants in the criminal process.

Another approach might focus on the legal profession – developing more critical perspectives on the roles it actually plays in society. Recent studies of the legal profession in various diverse countries present a sobering picture. Our ideal picture of lawyers as alert, aggressive guardians of a legal order which secures stability, equality, fair methods to resolve conflict in principled, rational ways may be badly shaken when we test the model against empirical reality.

The evidence to support another picture is becoming more prevalent and disturbing. Far from controlling abuse of power, the profession may have been used by elite groups to aggregate their power and to facilitate the making of new "ruling coalitions" and the emergence of a new dominent class and enhancement of their control over many basic resources in society. The "benefits" commonly ascribed to law (e.g., the securing of "rights," "remedies" for grievances, "accountability" of officials, opportunities to influence or participate in various kinds of decision-making, confidence in the "justice" administered by official courts; the use of laws to plan and facilitate transactions) have not been widely realized because legal services are sold in a market place which is not easily accessible. Indeed the law seems to be neither understood nor available to most people. The "guardians" of the law (the elites of the legal profession) seem, more often than not, to provide service to a limited few who can pay, to governments which are less and less accountable, to causes and interests and institutions which exploit, or which aggrandize wealth or power and accentuate social stratification and gaps between law and people. The profession may contribute little to make law responsive to many of the grievances and inchoate needs of masses of people for decision-making processes which are seen to be fair.

Other counts in the indictment might argue that the English legal model has been irrelevant (and in some respects dysfunctional) to some of the critical problems facing many societies – just as, analogously, Sir Leslie Scarman has recently argued with great eloquence that English law presently fails to address social challenges confronting contemporary British Society – notably the need to resources. Neither the common law nor undeveloped English doctrines and theories of administrative law are adequate to deal with the growth of "executive power," "administrative discretion" and the social and political dominance of bureaucracy in many developing countries. Much of the common law (e.g., doctrines of tort and private property) is becoming of marginal importance; other English laws, crafted to operate in a different context have proven capable of perversion or were (arguably) inadequate when they have been adopted without critical review by developing countries (e.g., preventive detention, doctrines of statutory interpretation, and internal conflicts of laws, statutes creating public corporations). In other respects the "received model" simply did not address problems of crucial importance, e.g., land

tenure and its reform, economic planning and active state intervention in the economy. In broader (albeit fuzzy) terms, it may be alleged that English law does not contain an adequate body of ideas, an "Ideology," to create new bodies of law necessary in a society characterized by state capitalism, or by a more explicit commitment to socialism, or in any event by a system where government control over fundamental resources and people's dependency on bureaucracy is increasingly pervasive. English law – as it has developed in western, capitalist countries – is not a value-free, neutral instrument: it is a product of particular political economies, cultures and ideologies; it serves particular interests. The task of legal scholars through research and questioning is to see whose interests are really benefited and whose not by an existing body of rules; institutions and actors regulating use of resources which are necessary for well being in modern society.

Of course these broad contentions need much more analysis. Moreover it may be easy for legal scholars to overrate the importance of "law" and "legal systems" as causes of social conditions, or to overrate their importance at a given point in the social history of a country. It is interesting to note that few non-lawyer scholars of contemporary social phenomena in non-western societies ascribe much significance to law in their studies of the maldistribution of resources, which is increasingly seen as the core problem of "development." However, I believe legal educators can ignore these problems at their peril – just as legal educators in England can ill afford to ignore the "challenges" to the rule of law recently posed by Sir Leslie Scarman. We may have lost – or be in the process of losing – some of our paradigms of law, lawyers and legal education. It may be that we have to pass through some sort of "purgatory" to gain new paradigms – new ways of thinking about law, and hence legal education in order to develop both to meet today's challenges.

II. WHAT DO WE PLAN?

The *Report* tries to show why (for planning purposes) "legal education" should be conceived in more sophisticated terms than those implied in our ordinary usage of the words.

The *Report* defines "legal education" very broadly "as a *system of many different activities* directed towards many different kinds of law roles and different needs for knowledge about law in society." This concept of legal education as an aggregation of such diverse institutions, actors and learning programs is troubling because the "system" is so amorphous. In the long run we may well want to plan, as the *Report* suggests, for all kinds of legal education – in schools, police training institutes, government offices and other places. For the short, I think it is necessary to disaggregate the parts of the macro system and deal separately with those which seem most important. In many settings these may be programmes in

universities concerned with legal training. The conception of these programs as a *system* is an important analytic device to help us perceive what is to be planned – and why "planning" is such a difficult task.

For our purposes this system may be seen as an aggregation of institutions, actors, norms and processes which convert "demands" for legal education in universities into decisions ,programmes and an "output" of law-trained people, research, literature and other "products." The system proper works in an environment -- a social context – which produces the demands, uses (or fails to use) the "output," reacts and creates other pressures and influences. The environment shapes the system and often limits opportunity to change it. A model of a hypothetical system – suggestive only – is set out in Figure 1. Again, I emphasize that this depiction is an analytic exercise, not a description of social reality.

In the model depicted there are, first, the institutions, actors and processes ,which make "*high-level*" policy decisions in response to social demands concerning the quantity and quality of legal education to be offered. Included here are government planning agencies, relevant ministries, grants commissions, university bodies (e.g., the "Senate") and legal profession groups (e.g., those empowered to establish certification requirements). Frequently these high-level decisions are made in discrete, disconnected segments. Thus, some institutions and actors may determine that legal education should be offered; others may determine the level of finance; others, the general qualitative "standards" or requirements for certification. Discontinuity between these sets of decisions affects the clarity and care with which the "goals" of the system are expressed.

There are, next, the institutions and actors which "*implement*" the system (notably the law faculties, individual teachers and, in some places, post-university professional training centres) by making decisions on admissions, curriculum, syllabi, methods, materials, examinations, who shall graduate and the like. Finally there may be institutions and actors which "*regulate*" the system by reviewing performance of implementational institutions and actors. These may include bodies which engage in external assessment, licensing, accreditation or certification of the degree, plus bodies which review the performance of teachers and the grievances of students.

The decisions and "output" of this system are very much affected by its social environment. Thus, the "demands" upon the system – and the high-level decisions in response to them – are, in part, the product of student and family perceptions (e.g., of employment opportunities and status) and the "output" and "culture" of secondary schools, the costs and accessibility of legal education, and the general admission policies set by a university or the government. Implementation decisions may also be influenced by similar factors and by efforts of actors outside the system to manipulate it. Thus, lawyers may try to influence the content of syllabi;

student needs and demands may influence decisions about examinations; the received legal culture influences teachers' paradigms. These pressures, in turn, are the product of other elements in the environment: the political economy and modes of economic production; historical experience (e.g., colonialism), culture and ideology; the educational system, the legal system, universities, and the particular sub-cultures which have grown up around them. A careful description of a *system* of legal education (including its history) – rather than particular institutions in it – would attempt to identify and describe significant components of the environment and their impact. This may seem obvious. Yet often, descriptions of legal education and prescriptions for it fail to analyze and appreciate the importance of the social context: reforms are proposed without much analysis of constraints in the environment and careful analysis of points in the system where *strategic* change-oriented decisions can be made with some hope of affecting change.

Our understanding of the system to be planned might be aided if we examine various elements and forces operating on, and within, it, and the decisions which shape the system and its outcomes. We might start by examining "demand": who seeks legal education, and why? What are the perceptions, motivations and attitudes of student applicants to law faculties – and to other university schools (e.g., of public administration) where law is a significant part of the programme? How are these expectations shaped – what forces in society produce them?

Next we might examine (through historical and other inquiries) the "high-level" decisions which appear to have formed the system we have. One interesting inquiry is whether and how we can locate decisions of this kind – and the various institutions, actors and influences which produced them. We may be confronted with a picture of a number of decisions, taken over time by various bodies, without much apparent elaborate consideration. The *Report* emphasizes some familiar propositions:

> University law schools in Asia, Africa and Latin America have been developed as parts of universities which were significantly patterned after English, French or other European models, and they have been greatly influenced by the "received" culture of education.
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> The orientation of the law school has also been greatly influenced by the notion of a model drawn from England or Continental Europe of a professional community of lawyers. . . The law schools of many countries have reflected the prevailing outlook of the profession, and this has often meant an orientation towards law practice which centers around urban clients and higher level urban courts, towards the affairs of more affluent members of society or towards more elite law jobs in the civil service.

Our search for and analysis of high-level decisions will also seek to discover the goal content of these decisions – what quantitative and

qualitative projections were formulated, by whom (e.g., the profession?) and in behalf of what values and social ends. In theory the more precisely goals of university legal education have been explicated in terms of functional criteria which enable measurement of achievement, the more we are able to ascertain whether the system is providing what it is supposed to provide. Further, goal articulation should (in theory) declare some explicit view of the public need for university legal education — what benefits it may provide for society as a whole. Finally these decisions might (in theory) assign responsibility and accountability for their implementation. In fact, of course, our search for these decisions is likely to produce a lack of content or clarity in "high-level" decisions; a picture of low visibility or even invisibility of actors and institutions in an area we might think most crucial. Perhaps it is important to consider why this is the case.

Again, a careful description of a system will try to locate significant implementation decisons, and environmental influences upon them. There is a tendency here to focus on curriculum and "materials" — what is taught, and perhaps how, i.e., on methods. Of course these are important. Perhaps even more important are the decisions which comprise the recruitment and allocation of teachers. As the *Report* notes:

> If we want vital law schools we must recruit talented people into a teaching profession and use them effectively. And yet, central though the law teacher is, we know relatively little about him. The development of a separate career of full-time law teaching is a relatively recent phenomenon in MDSs and a very new one in many LDCs.

Equally important (perhaps more so in some settings) are examinations and similar assessments. As the *Report* notes:

> From the point of view of individual students some of the most important decisions taken within the system of legal education are made by examiners. Examinations are one of the focal points of influence over the expectations, motives and behavior of students in education generally. Their potential influence for good or evil is difficult to exaggerate. If the form of examination is well suited to testing desirable learning objectives, it is a vital stimulus to the student to attain those objectives. If it is unsuitable in one way or another, or myths about what is in fact being tested diverge significantly from the reality, examinations are a potent force for frustrating or distorting such objectives.

A careful analysis of "examination decisions" — the people and factors which shape their content and use — may reveal much about implementation.

Another important set of decisions relate to regulation. Included here are decisions which relate to the evaluation and development of teachers as

well as those which evaluate and encourage modification within the system. Our analysis might ask whether there really is much effective regulation of system, what actors and factors affect regulatory decisions.

Again, analysis of the system might look at "outcomes" What happens to the graduates of law schools: what kinds of employment are available – and unavailable? What factors affect their usage and mobility? How does legal education match with the main streams of law work? What impact, as a socializing process, does it appear to have on those who receive it?

III. WHO CAN PLAN?

Analysis of the system may raise troubling problems. The system may be characterized by the propositions previously noted in Section 1 of this paper. The *Report* also suggests others. Thus, there may be:

– a lack of clear, meaningful goals and principles to guide those who implement and regulate it;

– a failure to assign accountability for performance of the system;

– an absence of any effective planning machinery;

– an environment which makes change very difficult.

If (even *arguendo*) we accept the premise that planning is desirable, we are confronted with difficult questions about who can plan – i.e., make authoritative high-level decisons which will determine the quantitative and qualitative character of the system. Thus, the *Report* notes:

> . . . The reform of legal education may lag because power to make decisions (including financial decisions) about the goals and programs of institutions may be diffused. . . . . The character of the institutions may be determined by dynamics of the system of higher education, by conditions and pressures which are not under the control of legal educators and which can only be changed by the initiation of new policies in high government circles. Thus, if long term reforms are to be undertaken, the first task, perhaps the most difficult one, may be to organize new processes and institutions to plan the future of legal education.

And again:

> . . . . The task of organizing structures for more effective planning may be seen as one of the most important steps towards long range reform. It is an activity which calls for the attention of many participants. Perhaps the way to begin is to recognize more clearly the very magnitude of the problems and start by creating a climate of opinion which recognizes the need for more concerted national action to remedy them.

It may be important to consider reasons for the dispersal of power and absence of planned change in systems of legal education. There often, is of course, an inherent inertia in all educational systems. Each part of a national system is dependent on other parts; it is hard to make dramatic changes in

one without affecting the others. Universities, a part of this total system, are rightly concerned about academic freedom and may be jealous of their autonomy to implement higher education. The legal profession may also be jealous of its autonomy, and power to establish certification requirements may be seen as a cornerstone of that autonomy. Government planners and officials may have paid little attention to law and legal education – so long as neither interferes with other concerns. Other "public" groups may have little access to educational policy-making generally, certainly to power over professional training. But there is the further factor that the educational system is thought, perhaps correctly, to provide a route to higher income and status. Those who have access or potential access to the degree may support the system, not for its social value or intrinsic merit, but because for them it works. The system is, in effect, supported by various social forces; and while many individuals may decry its weakness, there are few centres of countervailing power. The system is, in part, simply a product of its social context.

So the problem may be more than one of deciding *who* should plan: in determining that question we may need to be cognizant of the fact that the prospects for significant change – given the existing environment – are limited at any point in time. We may need to think very carefully about the location of strategic "pressure points" in the system where changes can be made which will slowly affect the system over time.

From the analysis so far, I would suggest that there are several key areas which we might try to influence:

– the nature of the demand;

– the nature of the assessment and certification requirements (notably the examination system);

– the structures providing employment and earnings to consumers of legal education.

Depending, of course, on what our objectives are, a coordinated attack on each of these might significantly affect the quantitative and qualitative character of university legal education and enable other kinds of changes in the implementation stages which many progressive legal educators have long advocated. This approach suggests that any group concerned with authoritative – as opposed to aspirational – planning must be empowered to make decisions affecting these phenomena.

IV. HOW CAN PLANNING BE DEVELOPED?

We should be mindful that planning is a *process* of making decisions which will guide other decisions – a *continuing effort* to identify problems, explore solutions, choose and monitor choices made, redefine problems and so on again. It is development of the *process* and an approach to decision-making, not the specific content of single decisions which is stressed here.

Like all decisions, those concerned with planning begin with the process of problem identification for, of course, the terms in which problems are perceived and stated may affect the ultimate choices made. It becomes important, again, to see *who* will define the issues and who will have access and opportunity to influence that agenda, and who the planners can influence. In the past, the "problem identifiers" may often have been limited to members of the legal profession or academics or occasionally politicians. There may have been less participation from government and other organizations which may be consumers of law-trained people, and little, if any, from less advantaged groups who may still have an interest-inchoate perhaps – in the system.

The *Report* suggests that task of problem identification be organized under several headings which generally reflect approaches of educational planners.

The first is "manpower", or better, "*human resource*" concerns. There is still a tendency to assume that this approach entails a forecast, linked to the development plan, of kinds of specially-trained people needed to perform particular kinds of roles over a discrete period in time. While there are still attempts at this kind of prediction, the approach can be a more subtle one – to identify clusters of skills and knowledge to satisfy more broadly defined areas of human resource need.

To the extent that a "manpower approach" envisions a world where students entering specialized courses of training are channelled into specific occupational streams where they remain for the rest of their lives, it may be at variance with the real world of law-trained people in many countries or, in any event, at variance with policies which seek diversity, flexibility and mobility in their employment and use. The ideal system may be one which maximized potential choices, opportunities and contributions for those who pass through it. It develops capabilities which make students "elastic," better able to substitute one set of particular skills for another as they take on new kinds of tasks. It is oriented towards development administration as well as law – on the theory that in today's world much of the work of many lawyers may be in administration. It may provide specialized training as a form of *continuing* education through both formal and informal modes of training. But the *basic* training is broad.

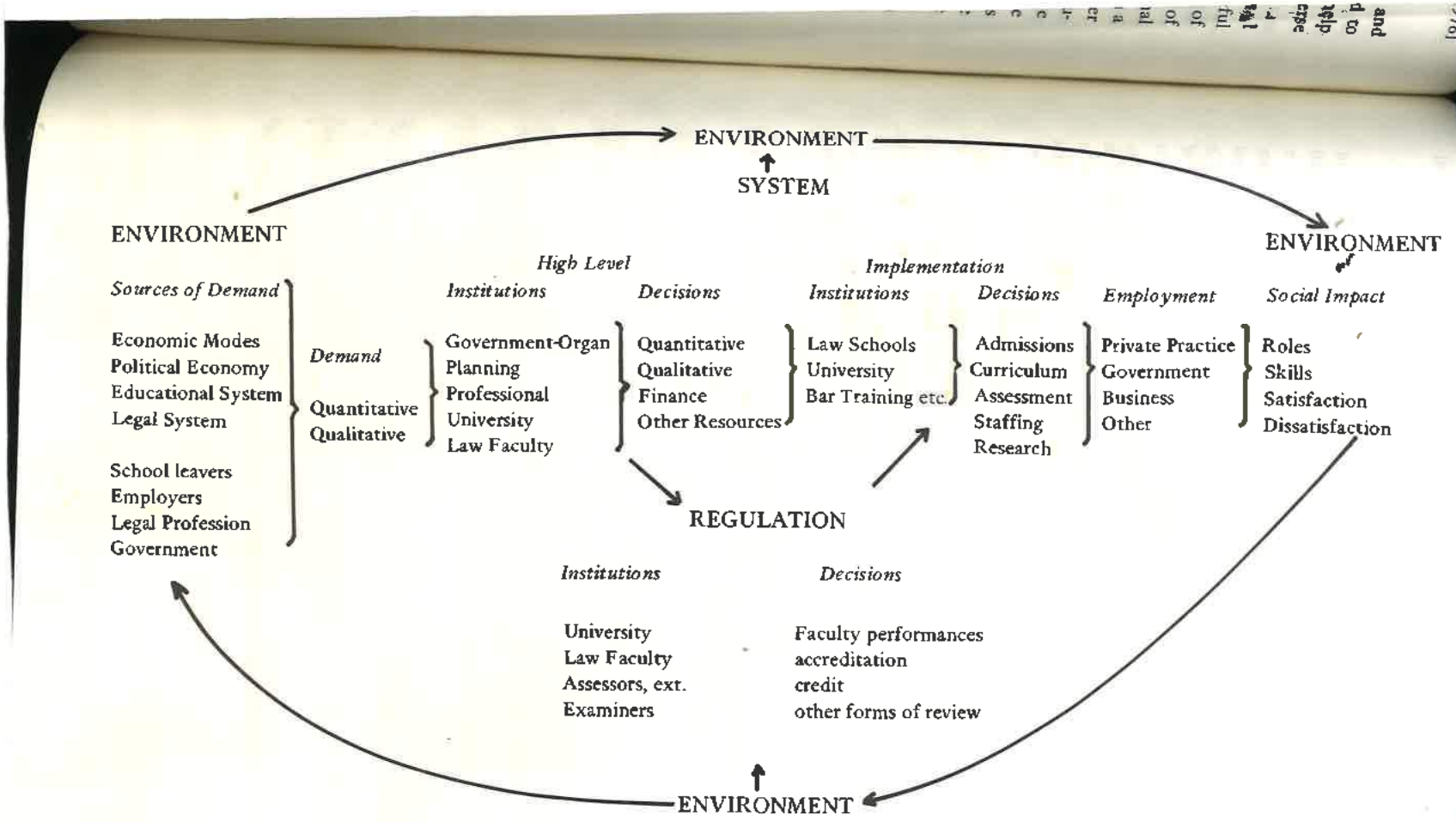
Of course, some may perceive law-trained people as persons formally educated only for a narrow range of tasks, and this may be a widely prevalent manpower view of legal education. But the *Report* argues that the breadth and richness of our discipline (properly perceived) and also the social needs of changing countries call for a broader view, one which, in major part, perceives of law as a field of development studies. The contention is, I think, well argued and need not be here elaborated. If the argument is accepted, planners of legal education will have to develop

some explicit theory about the future employment, use, mobility and elasticity of law school graduates – a theory which *balances* the need to focus training on more traditional "pure" legal roles with the need to help people prepare for a far broader range of roles in government and diverse enterprises – in development administration.

The identification of and search for solutions to this problem is, I think, one of the central task of planning. It calls, in part, for careful consideration of alternative modes of legal learning (e.g., combinations of legal and professionally oriented subjects with others, combinations of skills training). It calls for recognition of the fact that professional educaton can be developed as a continuing process, and not embodied in a single degree course. But it may also call for consideration of other strategic decisions: the creation of a broad range of employment opportunities for law graduates outside the more traditional legal fields or, in some cases, a more explicit recognition that many law graduates do in fact move about widely from one kind of work to another kind which often entails little direct application of legal learning; the restructuring of the orientation of programs of legal education, including, notably, the restructuring of examinations and assessment methods.

The dimensions of this problem may only be appreciated if there is adequate data which tells the planners what law-trained people, in fact, do (over periods of time) and what are some of the potential streams of employment (e.g., within public administration) which have not yet been tapped. It is not enough to argue that training should be broad; the system must be manipulated so that the perceptions and motivations of those entering it are broad and so that if training is broad, the output can be broadly used.

The human resource approach may also help us to think about problems of scale. In some settings, as we know, large scale legal education is deeply entrenched – rooted in an environment which uses legal education as an inexpensive means to provide mass higher education. Whatever else, scale may provide opportunities which otherwise would not exist unless other changes are made in the educational system. But planners concerned with using legal education as a more effective resource both for the legal system and for development administration will want to consider (and research) the effects the existing system has on educational quality; the ability of the existing system to change; student perceptions, motivations and attitudes; the legal profession and the legal system; other kinds of employment and use of graduates; and on society as a whole. It is not possible here to develop this subject – important as it may be in some settings – but two points can be emphasized. It may not be possible to understand the phenomena of scale unless we study (and research) it from the kinds of perspectives suggested here (e.g., a systems approach) and unless we try to deal with the problems through a broad gauged "planning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ENVIRONMENT

approach" to legal education.

The human resource approach helps to identify other ranges of problems. Like other kinds of education, legal learning surely has a *social role*. The *Report* has much to say abut this, and perhaps much of it obvious. But again, this is an area with rich opportunities to replace rhetoric with research: We know little about the socializing effects of legal education – how it tends to shape perceptions and attitudes towards one's society and culture. The *Report* also addresses the related problems of *opportunity* – of access – to legal education, stressing again that efforts to address these needs must be directed towards the environment (e.g., towards employment opportunities) as well as the system proper. The *Report* also discusses two other important broad problem areas: research objectives and reform in the system administering legal education so that planning and budgeting oriented towards planning can play a more effective part, so that schemes of evaluation and data collection which are related to planning can be built into the system.

There is neither time nor space here to develop these interesting points. Discussion of them does, I think, reinforce both the theoretical importance of planning and the difficult challenges which confront it. It is, of course, unrealistic to assume too much for legal education, or to assume that changes within the system proper can change the environment dramatically, or that the system can be changed dramatically without changes in the social context. But efforts to think about planning – and pursuit of some of the approaches suggested here – may help a better understanding of the work we engage in and the possibilities and utilities of meaningful change.

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THE LAW TEACHER IN PHILIPPINE SOCIETY

The spoof about teachers was embellished a bit more in a recent conference of law deans[1] in my country, thus:

"Those who can, do
Those who can't, teach
Those who can't teach,
become law deans."[2]

Of course the categories mentioned are not mutually exclusive, for in the Philippines a majority of law teachers are practising lawyers or members of the judiciary and law deans teach even if not all of them are in law practice.

An accurate head count of law teachers has yet to be made and this is only possible if the exact number of law schools operating can be ascertained. In 1975 the Department of Education and Culture and the Supreme Court gave the number of law schools as 53. This includes one state supported school[3] and 52 privately run law schools, all of the latter subject to the supervision of the Department of Education and Culture through its Bureau of Higher Education, and all 53 bound by the rule-making power of the Supreme Court regarding admission to the practice of law. In the same year the University of the Philippines Law Center prepared a Directory of Law Professors in the Philippines.[4] 392 law teachers are listed representing 48 law schools.

At the beginning of this school year (1976—1977) the Department of Education and Culture announced that some law schools in the country are voluntarily terminating their law course.[5] Whether the country needs all of the remaining 40 or so law schools is yet another matter to determine. At present the estimated Philippine population is 42 million found in 1,200 populated islands among 7,100 islands of the archipelago. According to the Integrated Bar of the Philippines (IBP) which was established in 1972 there are 27,003 lawyers in the country of whom

[1] April 22—24, 1976.

[2] By former Associate Justice of the Supreme Court, Jose B.L. Reyes.

[3] University of the Philippines College of Law.

[4] U.P. Law Center, Director of Law Professors, 1975.

[5] Philippine Daily Express, Thursday, June 17, 1976.