

## LAW AND DEVELOPMENT RESEARCH IN THE PHILIPPINES: SOME INSTITUTIONAL ALTERNATIVES

### The Research Activities of the U.P. Law Center

#### INTRODUCTION

I have been asked to contribute a paper in this Conference on Legal Education and Development.

The paper that I have been asked to contribute is specially for the 5th session of the Conference which is devoted to legal research.

In the 5th session, according to those who organized the Conference, there will be an "inquiry into the problems and potentials of law and development research" which will be preceded, however, with "a review of the prevailing tradition of legal research in a particular country and the modifications in technique, perception, methodology and resources necessary to implement a new approach to research."

This paper will be about legal research at the University of the Philippines (U.P.) Law Center.

I am focussing on legal research at the U.P. Law Center because as its Director, I know its activities in this field quite well. A look at legal research at the Center is also a look at legal research in the Philippines. Except for legal research individually undertaken by some (very few) devoted law teachers at the University of the Philippines College of Law and some private law schools, and the "legal research" that some government offices undertake as a necessary part of the discharge of their functions, it is the U.P. Law Center that undertakes (or should undertake) the major legal researches in the country. This is its mandate, pursuant to no less than the law that created U.P. Law Center.

#### THE U.P. LAW CENTER

##### *Its Establishment*

The U.P. Law Center was earlier, merely a Continuing Legal Education and Research Center in the U.P. College of Law. However, in order that it may undertake more vigorously its activities in continuing legal education and legal research, a law was passed formally creating the U.P. Law Center and providing for a very definite source for its funds. Thus, its charter provides:

"In order to provide for the support of the U.P. Law Center, the

additional amount of one percent (1%) of the filing fee imposed, but in no case lower than five pesos, in the case of the appellate courts and the additional amount of one percent. (1%) of the filing fee imposed, but in no case lower than two pesos, in the case of all other courts, including all administrative or special courts, agencies or (courts subjects to the supervision of the Department of Justice) tribunals exercising quasi-judicial functions, shall be collected by their respective clerks of court, or equivalent functionary, for each action or special proceeding filed therewith and for which the fees prescribed in the Rules of Court or in any statute or regulation are due and payable. For this purpose the term "special proceeding" shall include any petition or application, or paper or document for the dispensation of official action or establishment of a status or right of a party, or a particular fact. Such additional amounts shall be receipted for separately as part of a special fund to be known as the "Legal Research Fund," and shall be turned over by the clerks of court or equivalent functionaries to the Chief Accountant of the Department of Justice who in turn shall remit the same at the end of each (fiscal year) quarter to the University of the Philippines for the exclusive use of the U.P. Law Center in accordance with this Act."

#### *Its functions*

The U.P. Law Center, in accordance with its charter, has as its major purpose:

"the advancement of legal scholarship, the protection of human rights with emphasis on the improvement of the legal system and the administration of justice, and the assumption of leadership in overcoming the criticism directed at professional competence and responsibility."

Again, in accordance with its charter, the functions of the U.P. Law Center are:

(1) To undertake technical studies and researches in law, with emphasis on Philippine law, particularly on projects for reforms in the judiciary, public administration, civil rights protection, international relations, and law enforcement;

(2) To undertake law institutes or study programs for continuing legal education;

(3) To undertake legal studies and researches on request from the various agencies of the Government concerned with law reform, including the committees on Revision of Laws of the House of Representatives and the Senate;

(4) To undertake the publication of studies, monographs, research papers, articles, and other works or writings on law, with special emphasis on those related to its general objectives, and to distribute

them at cost to government agencies, judges, lawyers, government administrators and other interested parties, and

(5) To perform all other acts as may be necessary for the achievement of its objectives and functions, in accordance with the rules and regulations of the University including the granting of research awards, prizes, scholarships and fellowships."

#### *Its Past Activities in Legal Research and Law Reform*

In order that it shall carry out its functions, the U.P. Law Center has three program areas, namely, continuing legal education, legal research and law reform, and legal publications.

In a document entitled "The U.P. Law Center: The First Ten Years and Future Prospects," there is this summary of the activities of the Law Center in legal research and law reform:

Implementation of the Law Center's legal research and law reform program took the form of varied activities. It consisted of (a) compilation and annotation of statutes and treaties; (b) drafting of codes, special statutes, and treaties; (c) studies on the administration of justice, penal laws, and laws having to do with population growth and control, to serve as basis for reform; (d) studying and commenting on bills referred by the Legislature or its branches and committees, and by other departments or agencies of the government; (e) rendering legal opinions or memoranda; (f) preparation of articles, primers and monographs on Philippine Law; (g) studies preparatory to or in conjunction with the revision of the Constitution; (h) survey and critique of Supreme Court decisions; (i) writing of legal treatises; and (j) brief studies on certain aspects of international relations and (k) participating in meetings and conferences here and abroad. As a result of these activities, the following works were accomplished:

- A. Compilation and annotation of statutes and treaties
  1. *Public Laws Annotated*. — (5 volumes — covering Acts Nos. 1 to 1800, inclusive) — necessitated by the general nonavailability of these statutes caused by the widespread destruction of public and private law libraries during the war.
  2. *Philippine Permanent and General Statutes*. — (4 permanent volumes and one supplemental volume — most up-to-date, with annotations).
  3. *Philippine Treaty Series*. — (4 volumes — with annotations).
- B. Drafting of codes, special statutes, and treaties
  1. *Revised Administrative Code*. — (Submitted to the President in 28 mimeographed volumes and submitted to the House of Representatives in 3 printed volumes as H.B. No. 18022 — after a series of public symposia).

2. *Harmonization of the Revised Administrative Code with the new Constitution and the Integrated Reorganization Plan as well as with Presidential Decrees, General Orders and Letters of Instruction.*
3. *Proposed Penal Code of the Philippines.* — (Submitted as House Bill No. 16370 and Senate Bill No. 715 — after a series of public symposia attended by judges, legal practitioners, penologists and laymen).
4. *Proposed Corporation Code of the Philippines. Proposed Labor Code of the Philippines.* — (Submitted to the Secretary of Labor for transmittal to the President of the Philippines).
5. *Proposed Labor Code of the Philippines.* — (Submitted to the Secretary of Labor for transmittal to the President of the Philippines).
6. *Property Registration Code.* — (Submitted to the Department of Justice and the Land Registration Commission for transmittal to the President of the Philippines).
7. *Proposed Judiciary Code.* — (Submitted to the Supreme Court — now undergoing review by a Committee formed by the Supreme Court).
8. *Child and Youth Welfare Code.* — (Submitted to the Secretary of Social Welfare for transmittal to the President).
9. *Revision of the Copyright Law.* — (Promulgated as Presidential Decree No. 49, s. 1972 — Decree on Intellectual Property).
10. *Bill on Treatment of Offenders.* — (Submitted to Congress).
11. *Uniform Administrative Procedure Act.* — (Made part of the proposed Administrative Code).
12. *Revision of the Judiciary Act.* — (Submitted to the Senate Code Revision Committee).
13. *Three draft treaties on Neutralization of Southeast Asia or declaring the region a Zone of Peace, Neutrality, and Freedom.*
14. *Proposed Code of Commerce of the Philippines.*
15. *Proposed Code of Citizenship, Naturalization and Immigration.*
- C. Studies on the administration of justice and penal laws — to serve as basis for reform
  1. *Proposed Reforms in the Administration of Justice.* — (Submitted to the Department of Justice).
  2. *Revision of the Judiciary Act.* — (With preliminary studies and discussion proceedings).
  3. *Study on the Congestion of Cases in the C.F.I.* — (Submitted to the Department of Justice and to Congress and published in the Philippine Law Journal).

4. *Study on Legal Aid*. — (Dealing with ways of rendering legal assistance to indigent persons).
  5. *Criminal Law Reform*. — (With a mimeographed and paper bound collection of articles prepared as working papers during the Conference on Criminal Law Reform sponsored by the Law Center on July 14–16, 1965).
  6. *Treatment of Offenders Project*. — (With a collection of articles prepared as working papers during the Conference on Treatment of Offenders held under the auspices of the Law Center in 1966).
  7. *Law and Population Project*. — (in progress).
- D. Studying and commenting on bills referred by the Legislature or its branches and committees and by other departments or agencies of the government
1. *Comments on the Code of Crimes prepared by the Code Commission*. — (Paper submitted to the President of the Philippines and to Congress opposing some aspects of the Code of Crimes).
  2. *Study on the Decentralization Bill*. — (Submitted to Congress).
  3. *Several studies on various tax, education and other bills*.
- E. Rendering legal opinions and preparing memoranda.
- These opinions and memoranda totalling about more than 200 to date have been requested by various agencies, branches, and officers of the government, ranging from the Office of the President of the Philippines, Congress, the Judiciary (including the Supreme Court), the Constitutional Convention, Department of Foreign Affairs, the fiscals, and governors, down to the chiefs of police and members of municipal councils.
- F. Preparation of articles, primers and monographs on Philippine Law.
1. *The Philippine Legal System*. — (an 18-page but comprehensive article discussing the background, branches, and main features of the entire Philippine legal system — contributed upon request to the *International Encyclopedia of Comparative Law*).
  2. *Philippine Statutes Affecting Family Planning and the Status of Women*. — (Prepared upon the request of Mrs. Helvi Sipila in her capacity as United Nations Special Rapporteur on the Status of Women and Family Planning).
  3. *Primer on Local Government*
  4. *Primer on the New Constitution*.
- G. Studies preparatory to or in conjunction with the revision of the Constitution.
1. *Constitution Revision Project*. — (Consisting of studies on constitutional reform, drafts of a proposed new Constitution,

- and a compilation of various materials and data pertinent to constitutional reform — all embodied in a 1,385-page volume distributed to the delegates of the 1971 Constitutional Convention. It may be noted that many of the proposals made in this project have been adopted as part of the new Constitution).
- 2. *Comments on the Draft of the New Constitution*. — (Submitted to the Constitutional Convention).
- H. Survey and critique of Supreme Court decisions
  1. *Survey of Philippine Law and Jurisprudence*. — (Published annually since 1966, except 1969–1971).
  2. *Palisoc v. Brillantes et al., a Threat to Educational Institutions* (two articles published in the Philippine Law Journal).
- I. Writing of Legal Treatises
  1. *Towards a System's Theory of Law*. — (F.V. Fernandez's work on jurisprudence — to be published).
- J. Brief studies on certain aspects of international relations
  1. *Whether a UN Member May Enter into a Neutralization Treaty* — (Submitted to the Department of Foreign Affairs).
  2. *A Study on the National Treatment Clause in Treaties of Amity, Commerce and Navigation*. — (Prepared upon request of and submitted to the Board of Investments).
- K. Participating in meetings and conferences here and abroad
  1. *Committee meetings of Congress, Presidential Reorganization Commission, Department of Foreign Affairs, etc.*
  2. *Two ASEAN Senior Officials Conferences on the Proposed Neutralization of Southeast Asia*. — (First in Kuala Lumpur and then in Jakarta).

#### KINDS OF LEGAL RESEARCHES

The very useful monograph prepared under the sponsorship of the International Legal Center (ILC) (*Law and Development. The Future of Law and Development Research*) seems to classify legal research into two major categories, i.e. doctrinal research and "Law and Development" research.

On the former, the monograph says:

"Legal research has traditionally been concerned with the development or elaboration of legal doctrine, and the raw materials of such research have been laws, regulations, rulings and cases. Doctrinal research, and associated activities like codifications and law reporting, has played an important role in the development and functioning of legal systems, and has produced much research of outstanding quality."

On the "Law and Development" (LD) Research, the ILC monograph says:

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"Research on law would make a greater contribution to development if it went beyond purely doctrinal study and examined the social origins and functions of law, explored the relationship between legal rules and institutions and specific developmental goals. Thus "Law and Development" research at its best should be seen as transcending doctrinal study and as a continuation of a widespread tradition of thought about law that includes such "schools" as legal realism, sociology of law and sociological jurisprudence; law, science and policy; as well as much socialist legal theory."

Referring to LD research also as "the social and policy perspective on law," the ILC monograph further explains:

"This type of study is concerned with what law does as well as what it 'is'. Thus, for example, law and development research would not merely ask what are the legal rules governing land tenure in country X; it would also seek to answer such questions as:

- whether such rules affect agricultural productivity;
- can changes in them lead to increased agricultural output; and
- what are the changes in legal process that would be necessary to make any land reform program effective?

Classifying in turn LD research, the ILC monograph says that it could be either applied research or basic research.

Of the former, the ILC monograph says:

"Applied research is addressed to the resolution of immediate policy issues. Much applied research will be commissioned by policy makers who seek answers needed to resolve immediate needs, but individual scholars may conduct applied studies on policy issues they perceive to be of immediate importance.

Much applied research will be instrumental, i.e., it will ask how law can be used as an instrument to further relatively specific and identifiable development goals, or how it interferes with their realization. It will frequently relate to specific substantive law areas (e.g., the law governing land tenure), to the various aspects of law that affect a specific development policy or programs (e.g., the legal changes needed to implement a housing program) or the legal problems involved in creating new developmental institutions (e.g., the legal aspects of public corporations.)"

Of basic LD research, the ILC monograph says:

"Basic research, on the other hand, aims primarily at creating a body of knowledge about the legal order. It aspires towards a fuller understanding of the social role of law, the effectiveness and limits of legal action, and the social factors that affect or determine the nature and function of law.

The questions which are addressed by the basic researcher come primarily from the existing body of social knowledge about law, the

individual researcher's reaction to that knowledge, or from a sense that important legal phenomena are inadequately understood."

#### AN APPRAISAL OF THE PAST RESEARCHES OF THE U.P. LAW CENTER

Utilizing the legal taxonomy elucidated in the ILC monograph, it may be observed that the researches that the U.P. Law Center undertook in its first decade of existence have been largely doctrinal. Associated activities, like codification and law reporting, have also been a major component of the research activities of the Center.

The above is understandable. Looking at the objectives of the U.P. Law Center as defined for it by its charter, its researchers are to have a very specific orientation, "with emphasis on Philippine law, particularly on projects for reforms in the judiciary, public administration, civil rights protection, international relations, and law enforcement." Under the same law, the Law Center is also "to undertake the publication of studies, monographs, research papers, articles, and other works or writings on law, with special emphasis on those related to its general objectives, and to distribute them at cost to government agencies, judges, lawyers, government administrators and other interested parties."

#### ON-GOING RESEARCH PROJECTS OF THE U.P. LAW CENTER

The Philippine law has been classified into these fields (basically from Melquiades J. Gamboa, AN INTRODUCTION TO PHILIPPINE LAW, with some additions):

- I. SUBSTANTIVE LAW
  - (Private)
    - A. Law of Persons and Family Relations
    - B. Law of Property and Property Rights
    - C. Law of Obligations and Contracts
    - D. Commercial Law
    - E. Labor and Agrarian Law
  - (Public)
    - A. Constitutional Law
    - B. Administrative Law, including Election Law and Civil Service Law
    - C. Criminal Law
    - D. Tax Law
- II. PROCEDURAL LAW
  - A. Civil Procedure
  - B. Criminal Procedure
- III. INTERNATIONAL LAW



#### IV. LAW IN GENERAL

Utilizing the classification, the U.P. Law Center has on-going research projects in these various fields:

##### 1. Commercial Law

###### a. COMMERCIAL LAW CODIFICATION PROJECT

The Commercial Law of the Philippines is now found in many statutes. This Law Reform project aims at codifying these laws, and in codifying them, also introduce amendments to make them more responsive to the present conditions of commerce and industry.

###### b. PROPOSED CONSUMER CODE PROJECT

Laws protecting the Consumer are found in various statutes. This Law Reform project aims at codifying these laws, and in codifying them, also introduce amendments in order to give greater protection to the Consumers.

###### c. PROJECT ON MULTINATIONAL CORPORATIONS

This research project focuses on multinational corporations operating in the Philippines. Focus shall be on their social, economic and political impact on Philippine society.

##### 2. Labor and Agrarian Law, also Social Legislation

###### a. PROJECTS ON THE LABOR CODE OF THE PHILIPPINES

An earlier Law Reform Project (the U.P. Law Center was involved in the preparation of a draft Labor Code) has resulted in the enactment of the Labor Code of the Philippines. This Code is now the core of a number of projects, including the preparation of a primer and also an annotation of the Code. This Code brought about significant changes in the machinery for the labor law enforcement; including its establishment of a National Labor Relations Commission, the strengthening of Regional Offices and Bureaus of Labor Relations of the Department of Labor and its institutionalization of voluntary arbitration. A project on the Labor Code, focussed on the prevention and settlement of labor disputes, includes a study of the above government bodies, how they are actually discharging their functions, comparing them with their predecessors. Voluntary arbitration, and also collective bargaining and processes, are also being studied. There are also related efforts directing and helping the new institutions established by the Labor Code to succeed, like the project to regularly analyse decisions of the NLRC and the Secretary of Labor, the analysis for distribution to Labor Arbiters and Arbitrators, and labor lawyers and labor and management, respectively.

b. PROJECT ON THE PROPOSED CODE ON AGRARIAN REFORM

A proposed Code on Agrarian Reform is being finalized by the Department of Agrarian Reform with the help of the Law Center.

3. Constitutional Law

a. PROJECTS ON THE NEW CONSTITUTION

Since 1973, the Philippines has a New Constitution. There is a project to gather together all the records of the 1971 Constitutional Convention that drafted the New Constitution in order that these records may be easily accessible to legal scholars and historians. There is an oral history project, preserving in tapes the comments of delegates to the 1971 Constitutional Convention and academicians on certain provisions of the New Constitution. There is also a project undertaken with a private organization, Philippine Constitution Association, focussed on the evolution of some 18 fundamental ideas embodied in the New Constitution.

4. Administrative Law

a. PROJECT ON THE BOARD OF TRANSPORTATION

This project is initially focussed on the problems inherited by a newly reorganized Board of Transportation re: the insurance of franchises for private firms to operate public utilities (transportation) and the determination of their rates in the face of very serious problems in the provision of public transport. The first task was a revision of the Rules and Regulations of the Board. A study in depth of the legal aspects of public utilities in transportation is being designed.

5. Criminal Law

a. PROJECT ON THE LEGAL AND PSYCHOLOGICAL PERSPECTIVES ON JUVENILE DELINQUENCY

This interdisciplinary project aimed at increasing the present knowledge about juvenile delinquency is being funded by the U.P. Law Center

6. Procedural Law

a. PROJECT ON "FREE ACCESS TO THE COURTS"

The Constitution of the Philippines provides: "Free access to the courts shall not be denied to any person by reason of poverty." The project would like to answer, among others, these questions: To what extent is this constitutional provision being realized? Are there alternative ways, other than "access to the courts", for persons to have justice?

b. PROJECT ON THE ADMINISTRATION OF JUSTICE

A study on the various aspects of the administration of

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criminal justice in the capital town of one of the provinces of the Philippines is being funded by the U.P. Law Center.

7. International Law

a. PROJECTS ON INTERNATIONAL LAW

Included in these project is a project to update the Philippine Treaty Series so that there may be — easily accessible — authoritative copies of the texts of treaties where the Philippines is a signatory. The preparation of the law of treaties is being funded by the Law Center.

8. Law in General

a. PHILIPPINE JURISPRUDENCE PROJECT

This project has the following objectives:

(1) To produce a complete and exhaustive exposition, supported by detailed citations and footnotes, of Philippine law (The Constitution, statutes, orders, regulations, ordinances, etc.) as interpreted (a) by the Supreme Court, the Court of Appeals, and administrative courts or tribunals and other agencies exercising adjudicatory or quasi-judicial functions, and (b) by learned jurists and commentators.

(2) To publish a set of volumes of the legal order and philosophy of the Filipino people in an integrated manner and characterized by (a) originality in treatment, (b) comprehensiveness in scope, (c) reliability in content, and (d) uniformity in style.

These specific areas are at present the subjects given to contributing editors to study:

- (1) Persons and Family Relations
- (2) Conflict of Laws
- (3) Criminal Law in General
- (4) Labor Relations Law
- (5) Corporation Law
- (6) Constitutional Law
- (7) Public Officers and Civil Service
- (8) Statutory Construction
- (9) Civil Procedure and Special Proceedings
- (10) Criminal Procedure
- (11) Evidence
- (12) Legal Ethics
- (13) Succession
- (14) Sales
- (15) Special Proceedings
- (16) Obligations and Contracts.

b. PROJECT ON WOMAN AND THE LAW

This project is focussed on a draft Decree that would accord to women equality before the law.

c. PROJECTS ON SUPREME COURT DECISIONS

The projects on the Supreme Court decisions includes an annual survey of these decisions, and a preparation of a digest and a subject index of these decisions, so that these may be the widest possible dissemination of information about these decisions which are part of the law of the land.

d. PROJECTS ON PRESIDENTIAL DECREES

Since the proclamation of Martial Law, the President of the Philippines has been exercising the power to enact laws in the form of Presidential Decrees. A subject index of these laws is annually prepared to help make them more accessible to members of the bench and the bar and the general public.

e. "PHILIPPINE LAW REPORT" PROJECT

This project, which gives every month very brief summaries of all laws and decisions promulgated by the President of the Philippines and the Supreme Court of the Philippines is to make these laws and decisions more accessible to the members of the bench and of the bar and the general public.

f. PROJECT ON LAW AMONG THE MANUVUS

This interdisciplinary project focussing on the law as it would seem to exist among the Manuvus, a non-christian tribe in Mindanao, Philippines is being funded by the U.P. Law Center.

In addition to the above projects, the U.P. Law Center responds to requests from other government bodies, re: their law reform and legal opinion needs.

Officials of the Law Center are more often than not specialists in certain fields. As a function of this specialization, these officials may sometimes make research and law reform initiatives in their fields of specialization. An example of this is the continuing interest of one of the officials of the Law Center in Patent and Copyright Law.

#### RESEARCH ORIENTATION

When I assumed the Directorship of the U.P. Law Center, on October 5, 1973, I included in my first (1973-1974) Annual Report this sentence: "Law and its role in development is a new and challenging research area that is being explored . . . . ."

In my 1974-1975 Annual Report, I began with these paragraphs:

"The Law Center is focusing its activities on law as one of our social institutions, and its impact (either positive or negative) on our development efforts.

This focus on Law and Development means that research activities shall no longer be only doctrinal research which could easily be mere exegetical exercise with the texts of statutes and court decisions. The actual effect of laws in our society, whether they are really enforced or not, to what extent they are realizing their professed objectives, are they instruments of change or of the status quo, these are some of the questions that the Law Center is beginning to inquire into, even as it looks at the New Labor Code and our Commercial laws, among others."

Happily, this orientation at the U.P. Law Center is positively received by the authorities of the University of the Philippines System.

Thus, *The U.P. System and the Future, A Perspective Development Plan* (Office of the President, University of the Philippines, March 1976) says:

"Following tradition, the programs undertaken by the U.P. Law Center in the field of law have been mainly concerned with the development or elaboration of legal doctrines. A new dimension and direction will be given to these programs so that the Center may become a still more potent and vital institution of law and justice in the country. To this end, law and its role in development shall be a new program area that shall be fully explored."

In desiring to introduce very decisively a Law and Development perspective to the over-all research program of the U.P. Law Center, we are not, however, doing away with doctrinal research.

The ILC Law and Development Monograph makes these statements:

"However, . . . we should make clear that we do not denigrate doctrinal research, which has a proud tradition of outstanding scholarship. Nor do we seek to minimize the importance of doctrinal research to the establishment and functioning of a legal system and thus to society. We are also conscious that in many of the countries we were concerned with, there is an absence of basic doctrinal research and indeed not infrequently the tools and raw materials of such research. While the situation varies between countries, we recognized that in some countries doctrinal research could claim a high priority in allocations of the resources available for legal research."

The above statements are found to be applicable at the U.P. Law Center.

There is still a very great need to authoritatively determine what the law is. This is why the Philippine Jurisprudence Project of the Law Center, which probably is more like the American "Restatement of the Law" rather than "American Jurisprudence," considering that the Philippines does not have a common law tradition.

In fact, it is a very indispensable task in the Philippines to have the texts of the laws and decisions, at least, of the Supreme Court of the Philippines as authoritatively published available soonest to members of the bench and the bar, and the general public. This was the rationale behind a big project of the Law Center, that of publishing in four volumes the "Philippine Permanent and General Statutes" covering laws enacted at the turn of the century when the Philippines became a colony of the United States, through to the time it was a Commonwealth, and since July 4, 1946 when the country became an independent republic.

Complementing the above is the *Philippine Law Report* that gives every month summaries of the latest Presidential Decrees and decisions promulgated by the President and the Supreme Court of the Philippines respectively.

But all the other major research projects of the U.P. Law Center will be LD researches.

Of course, the researches that precede specific law reform proposals will no longer be merely doctrinal. It is now realized that a specific law reform proposal must have as its support empirical data.

And even seemingly very limited research concerns like that on the prevention and settlement of labor disputes will be carried out in some phases as a basic LD research because it is possible that the study will lead to an inquiry into the nature and functions of law even as, say, one may make a comparative study of where speedier settlement may be found, in the court, or in an administrative body, at the bargaining table, or before a private third party arbitrator.

#### SOME LESSONS

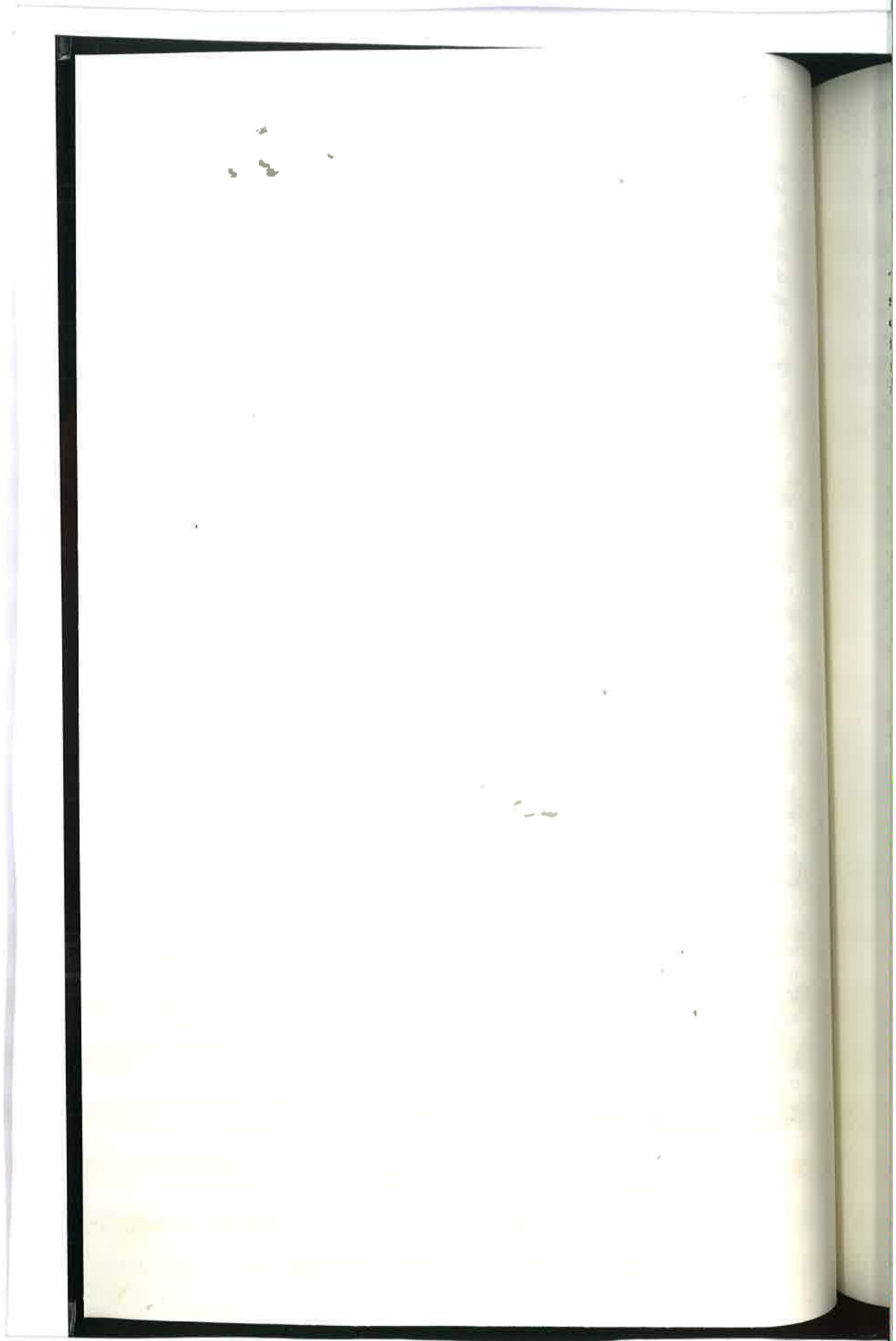
1. Involved in the work of the U.P. Law Center, is a Law Research Council with members from different disciplines. Right now, the Council is primarily concerned in determining who should receive the modest fellowship grants that is available from U.P. Law Center funds. But it is observed that a body with a composition like the Law Research Council could be organized to encourage LD researches or to design these researches, or add an LD dimension to what would otherwise have been just doctrinal research.
2. It should be realized that LD researches cannot be undertaken if the only persons involved are persons who are knowledgeable and skilled in law, but only in law in the traditional sense. Social scientists should therefore begin to be directly involved in the U.P. Law Center as an institution if it is to undertake significant LD researches.
3. LD researches, undertaken individually, appear to be quite expensive, at least, when they are compared with doctrinal researches. But LD researches may be less expensive in the future if the statistics now

gathered at the expense of public funds by the government will pay greater attention to social indicators, including certain easily concrete data that indicates the extent of compliance of a certain law and its specific impact, utilizing the professed objectives of the law as the yard stick for effectiveness.

4. Is "law" as an institution in a less developed country quite different from law as such in a more developed country? There is importance in country basic LD researches to accumulate data that may answer the above significant questions.

Froilan M. Bacungan\*

\*Director, U.P. Law Center.





## NOTES ON LEGISLATION

### INCOME TAX (AMENDMENT) ACT, 1977

The above Act has changed the outlines of taxation in Malaysia in two significant places: one is the widening of the tax net to include co-operatives within the ambit of taxation by granting exemption for the first five years only and the other, in the field of personal taxation, is the tax rebate and exemption of pensions from taxation. These and other changes are briefly described below under the respective captions.

#### *Co-operative Societies*

Co-operative Societies, especially in developing countries, have generally been granted special privileges in terms of taxation. Thus, in Malaysia until the development brought about by the above mentioned Act Co-operative Societies have been exempt (paragraph 12, Part I of Schedule 6) from taxation in cases where the principal activities consisted of —

- (a) transactions with its members or other co-operative societies so registered;
- (b) marketing the produce or products of its members; or
- (c) selling to its members good purchased for the purpose of being so sold.

However, where Co-operative Societies did not fall within the above conditions, the tax imposed was at 40%.

With effect from Year of Assessment 1977 a new paragraph 12 has been substituted and following the new provisions Co-operative Societies are taxed on the following basis:—

- (1) Income for the first 5 years period from the date of registration is exempt.
- (2) Income from the 6th year onward is taxable provided the co-operative society has members' funds more than \$500,000 on the first day of the basis period.
- (3) The tax is on scale rates as follows:

<i>Chargeable Income</i>	<i>Rate of Tax</i>
For every ringgit of the first \$10,000	5 per cent
For every ringgit of the next \$10,000	7 per cent
For every ringgit of the next \$10,000	10 per cent
For every ringgit of the next \$10,000	14 per cent
For every ringgit of the next \$10,000	20 per cent
For every ringgit of the next \$25,000	23 per cent
For every ringgit of the next \$25,000	27 per cent