

FOREWORD

SISYPHUS' LAMENT, PART V.I:* **LAYING FOUNDATIONS AND REINFORCING AN INSTITUTION** **THROUGH AN EFFECTIVE INTERNSHIP PROGRAM**

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Membership in the editorial board of a law review is a much-coveted opportunity many students aspire for. Indeed, for law students, membership in a law review opens doors for prospects of further studies or lucrative employment.¹

But much lament has been made on the inexperience and incompetence of student editors of a law review.² According to Judge Richard Posner, student editors are “inexperienced not only as students of the law but also as editors, writers, supervisors, and managers.”³ Others have gone so far as to mock this predicament that befalls the institution.⁴ Needless to say, this trouble of inexperience and incompetence of student editors on the workings of a law review in turn affects the stability of the institution.

I. The Workings of a Law Journal

* The internship program has been previously discussed by Chair Juan Paolo Fajardo in his *Sisyphus' Lament, Part V*. Thus, considering the fact that the idea is not his own but is a mere continuation of a practice pioneered by Chair Oscar Tan and institutionalized by Chair Fajardo, the author opted to number his *Lament* in this wise. Cite as Johann Carlos Barcena, Foreword, *Sisyphus' Lament, Part V.I: Laying Foundations and Reinforcing an Institution through an Effective Internship Program*, 84 PHIL. L.J. i, (page cited) (2010).

* Chair, PHILIPPINE LAW JOURNAL (2009; Member, 2006); J.D., University of the Philippines College of Law (2010).

¹ See Conchita Carpio-Morales, Foreword, *The Philippine Law Journal and the Centennial Year of the University of the Philippines*, 83 PHIL. L. J. 1, 2 (2008); citing Bernard Hibbitts, *Last Writes: Reassessing the Law Review in an Age of Cyberspace*, 71 NEW YORK UNIV. L. REV. 615 (1996).

² See Oscar Franklin Tan, Foreword, *Sisyphus' Lament, Part II: Editing, or the Student's Art of Not Being One's Own Worst Enemy*, 79 PHIL. L. J. 233 (2004); Carol Sanger, *Editing*, 82 GEO. L. J. 513 (1993).

³ Richard Posner, *The Future of Student-Edited Law Review*, 47 STAN. L. REV. 1131, 1132 (1995).

⁴ Professor Roger Cramton drew up a rather amusing fictional conversation on article deliberation by student editors in *The Most Remarkable Institution: The American Law Review*, 36 J. Legal Educ. 1, 8 (1986); cited in Tan, Foreword, *Sisyphus' Lament, Part II*, *supra* note 2, at 236-37.

A. Editing

It is indeed true that “law students who are ambitious enough to join a journal staff do not always have an editorial background or training.”⁵ The same is most true for the PHILIPPINE LAW JOURNAL considering that since the time of its organization up to the present, those qualified to become members of the editorial board are chosen on the basis of academic excellence.⁶ This is especially troublesome for the JOURNAL considering that students from the College of Law have never been taught how to edit an article. As aptly noted by Professor Perea:

In most cases, this is not a skill we are born with; it must be learned over a significant period of time. Unfortunately, the law review process as we know it provides neither the training nor the time to both learn to be an effective editor and to perform good edits.⁷

Notable as well is the fact that the closest encounter of an ordinary law student to the workings of the JOURNAL is during their senior year when they are asked to write their supervised legal research papers as a required subject of the law curriculum. But certainly, to learn how to write an article is much different from learning how to edit one.⁸

I too have once fallen victim to this quagmire of inexperience in editing (or perhaps more appropriately, it was the JOURNAL that fell victim to my inexperience). During my stint as member of the editorial board of Volume 81, Chair Leandro Angelo Aguirre sent me an article on corporate takeovers to edit. I stared blankly at the computer screen utterly clueless on what I was supposed to do. Being a sophomore then, I had not yet taken any course on commercial law; and worse, I did not have a clear idea on what ‘edit’ entailed. For unlike him, I had not the privilege of undergoing an internship program under Chair Oscar Tan prior to my membership in the Editorial Board.

Thus, it seems that students vie for a position they haven’t the faintest clue of the duties and responsibilities that come with it. To put it more bluntly, students do not know what they are getting into.

B. Article Solicitation

⁵ Terri LeClercq, *The Nuts and Bolts of Article Criteria and Selection*, 30 STETSON L. REV. 437, 437 (2000)

⁶ Amelia Custodio, *History of the Philippine Law Journal*, 35 PHIL. L.J. 1461 (1960).

⁷ Juan Perea, *After Getting to Yes: A Survival Guide for Law Review Editors and Faculty Writers*, 48 FLA L. REV. 867 (1996)

⁸ For a discussion on substantive and technical editing, see Tan, Foreword, *Sisyphus’ Lament, Part II*, *supra* note 2, at 241-45.

Justice Irene Cortes⁹ noted that part of the problems in publishing the JOURNAL is that the dearth of contributions can at times be acute.¹⁰ Faculty contributions have not always been forthcoming, especially now when the U.P. Law Center is coming out with two faculty-edited journals. Members on the editorial board also may not readily respond to the call for contribution, or seriously take the editorial task of putting out the JOURNAL. This is the price of pooling together academically excellent students who constantly struggle to maintain their academic standing. Hence, the task of making the JOURNAL relevant and up-to-date has long eluded its editors.¹¹

As Chair Tan aptly stated, to begin editing upon receiving the final draft of an article is already too late. One must oversee an article from its conception until it finds its way into the Journal.¹² The editorial board therefore, must be proactive and must seek not just articles already finished, but must also initiate and influence its creation. Indeed there is no better way to answer that clarion call to come out with a relevant JOURNAL other than by identifying pressing and nascent legal issues and then seeking experts in such field to fill the lacuna in the law. The JOURNAL has always been an instrument for legal education and guidance. Such a proactive role requires no less than a proactive process.

However, new members of the editorial board are not always aware of the manner by which the JOURNAL acquires articles for publication. Some may actually think that they are to wait for articles to be submitted for publication. And for those who are aware that acquisition of articles entails proactive solicitation, not all possess the network or connections to experts in different fields of law, nor do all have the audacity to approach and engage them to write an article on what seems to be a gray area in the present state of law and practice.

More importantly, the members of the editorial board themselves are expected to write notes or comments, if not full-blown articles, on nascent issues of law. As JOURNAL editors, they too have to contribute to the wealth of legal literature.

II. Solutions and Problems to Solutions

⁹ Former Associate Justice; Faculty Adviser of the JOURNAL; member of the Editorial Board; and Dean of the College of Law.

¹⁰ Irene Cortes, *Legal Education in the Philippines: The Role of the Philippine Law Journal in the 1990s*, Lecture delivered during the 75th Anniversary Symposium of the PHILIPPINE LAW JOURNAL.

¹¹ *Id.*

¹² Tan, *supra* note 2, at 247.

To remedy such problem of inexperience on the workings of a law journal, it has been suggested that “law journal members should begin educating next year’s staff the day the new staff is chosen” and that such education should “include both a formal exchange of information and an informal shadowing of the current editor.”¹³ This remedy, however, is not without its own difficulties.

First, is the reality that members of the editorial board constantly struggle to maintain their academic standing on top of the responsibilities of putting out the JOURNAL. Such is indeed the price of pooling together academically excellent students to work on an admittedly extra-curricular endeavor. Thus, once their term ends, members of the editorial board focus all their time and energies to studying and would not take too seriously “shadowing” the new members of the editorial board (that is assuming they even take up the task).

Second, the editorial board normally has graduating seniors as members. Needless to say, after they graduate these people hole up in some undisclosed place in preparation for the dreaded bar examinations, and afterwards, go on that much deserved traditional long vacation. By the time they get back in circulation, the academic year would be nearing its end. Half of Volume 84’s editorial board is in fact composed to graduating seniors.

Finally, I do not think it has ever been prudent tactics to send soldiers off to war and then only teach them how to fire a gun when they enter the combat zone. In the same vein, there is just something not right as well about teaching incumbent members of the editorial board how to be members of the editorial board.

Browsing through the almighty *Google*, it appears that some law reviews have surmounted this problem of inexperience through a promotion system in their selection of Editorial Board members. In the *Akron Law Review* for example, students who have completed the first year program in the school of law may be candidates for membership as Assistant Editors – subject to certain academic qualifications as well. Upon successful completion of the requirements of service to the law review as an Assistant Editor, they are automatically promoted to the position of Associate Editor Elect. And it is only these Associate Editors Elect that are eligible to serve as members of the Editorial Board. Moreover, none of these Associate Editors

¹³ LeClercq, *supra* note 5.

Elect can serve as a member of the Editorial Board unless they have completed the second year program of the school of law.

This is in stark contrast to the system of the PHILIPPINE LAW JOURNAL wherein a student, at the beginning of his/her sophomore year, can actually become the Chair of the JOURNAL – without prior experience or exposure to its workings.¹⁴

Other law reviews such as the *University of Toronto Faculty of Law Review* have opted to invest in freshman students and to train them on the workings of the law review. These freshmen may choose to volunteer with the law review as Assistant Editors – for substantive evaluation of papers in a particular topic area – or as Production Editors – for technical editing and polishing of accepted papers. Hence, at the end of their freshman year, certain students have already been exposed to substantive and technical editing and are equipped to take on the greater task of being a Senior Editor.

III. The Philippine Law Journal Internship Program (PLJIP)

It appears that the present system of selection of the Editorial Board of the JOURNAL places a high premium on talent and knowledge of the law. However, such talent and knowledge cannot be a complete substitute for skill and experience in running a law review. To remedy this predicament, the JOURNAL turns to its internship program.

When Chair Tan pioneered the internship program, he “was restricted by his faculty adviser’s refusal to support the first batch of interns, for fear that they would hold themselves out as editors after graduation.”¹⁵ Ironically, Volume 84 opted to continue this internship program revived under Chair Fajardo’s term out of a greater fear that relatively inexperienced members of the editorial board would indeed hold themselves out as editors after graduation. For while there is no misrepresentation in doing so, there may however, what can very well be considered a breach of warranty if they were not able to acquire the level of skill and experience expected of a member of the Editorial Board.

While the Chair practically has unbridled power to lay down the rules and policy for his/her Volume, this power does not include the appointment of members of the Editorial Board, as such members are

¹⁴ In the recent history of the JOURNAL, however, only Chair Maximo Paulino Sison III was able to accomplish this feat, chairing Vol. 82 during his sophomore year.

¹⁵ Juan Paolo Fajardo, *Sisyphus’ Lament, Part V: Reinigorating the Philippine Law Journal as the Crucible of Legal Writing*, 83 Phil. L. J. 5, 8-9 (2008).

chosen solely on the basis of the qualifying examinations.¹⁶ Thus, the system of promotion of law reviews such as the *Akron Law Review* cannot be adopted by the Editorial Board.¹⁷ What the JOURNAL is able to adopt is a system akin to that of the *University of Toronto Faculty of Law Review* with the difference that (a) the interns of the JOURNAL are not part of the Editorial Board; (b) the internship program is open to all year levels; and (c) they undergo a screening process as determined by the Editorial Board.¹⁸

It is assumed that those who undertake to take part in the internship program aspire to become members of the Editorial Board. Thus, apart from teaching interns the unappreciated skill of citation, they are taught methods of research and advanced legal theories as well. But more importantly, the program aims to impart to the interns a philosophy of scholarship and a tradition of excellence. For while law students take courses on legal bibliography and legal theory during their freshman year, only true scholars fully appreciate the value of such knowledge. All this in the hope that eventually, these interns will find their way into the Editorial Board, and it is in this way that we lay down the foundations of the succeeding editorial boards so that they will stand firm against the bludgeoning of inexperience.

Fortunate is Volume 84 that majority of its members have prior experience with the workings of the JOURNAL. As earlier mentioned, I myself was a member of the Editorial Board of Volume 81, while Vice-Chair Mary Rhauline Lambino was an intern under Chair Fajardo's Volume 83, along with Michelle Sabitsana. Among the other members, Maximo Paulino Sison III was himself Chair of Volume 82, while Gerard Joseph Jumamil was an intern under Chair Oscar Tan and also member of the Editorial Board of Volume 82. Through the internship program and a bit of luck, succeeding Boards will hopefully have experienced members among them as well.

But the envisioned reach of the internship program far extends beyond membership in the Editorial Board. It has been remarked that articles and comments found in prominent law reviews in the United States – such as the *Harvard Law Review*, *Yale Law Journal*, and the *Columbia Law*

¹⁶ New Rules Governing Membership in the Student Editorial Board of the Philippine Law Journal, III(E) [Last amended, Jun. 27, 2009].

¹⁷ On the basis of the New Rules, it would seem that the power to amend the Rules Governing Membership in the Student Editorial Board rests with the PLJ Board of Judges – which changes every year – and subject to the approval of the Dean of the College of Law.

¹⁸ In the internship programs of Chairs Tan and Fajardo, however, students were accepted into the internship program by simply volunteering for the task. But the number of those who wish to volunteer have significantly increased, thus necessitating a screening process to cut them down to a more manageable number.

Review – find their way into the decisions of the U.S. Supreme Court “partly because of the influence of their law clerks who had been with these law reviews during their law studies.”¹⁹ Of the eight-member editorial board of the JOURNAL, it is indeed rare that even just one of them goes on to clerk in the Philippine Supreme Court. But by extending training to students other than those in that eight-member board, the probability that a student schooled in the philosophy of the JOURNAL will find his/her way to the highest court of the land and influence Philippine jurisprudence, not just in form, but also in substance. Who knows, perhaps even the problem of lack of uniformity of citation in Philippine Supreme Court decisions will be solved as well.²⁰

Indeed, the road towards the institution of the internship program has been long, but the journey that lies ahead, is even longer. And for the following individuals, that journey has just begun:

JOURNAL INTERNS (VOL. 84)

TINA ANDREA AMADOR
MICHELLE ARIAS
PAOLO CELERIDAD
JAYSON LOPEZ
MARK CHRISTIAN LUCIANO
NATHAN MARASIGAN
ALEXANDRIA IXARA MAROTO
GOLDA MINOZA
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¹⁹ Jovito Salonga, *On the Philippine Law Journal*, 79 PHIL. L.J. 541, 543 (2004).

²⁰ See Oscar Franklin Tan, *Sisyphus' Lament, Part III: Citation and the Little Black Book*, 79 PHIL. L.J. 547, 555 (2004).