

ETHICAL ISSUES RELATED TO JUDICIAL EDUCATION

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There are ethical issues in Philippine judicial education common to all education, particularly professional education; there are others peculiar to judicial education.

Control of content

Philippine jurisprudence on academic freedom is robust. Shortly after a constitutional revision introduced the guarantee of academic freedom, our Supreme Court ruled that the freedom had for its parameters the right to determine “what to teach, who should teach, whom to teach and how to teach”.¹ Lately, the Court has even gone further and has recognized the right of the professor to innovate as to teaching and instructional strategy to be within the ambit of academic freedom.²

As the Philippine Judicial Academy is a component, albeit distinct agency, of the Supreme Court of the Philippines it has recognized of and respected academic freedom. Courses in our Academy are planned by the Academic Affairs Office headed by an Assistant Chancellor who first conducts a Training Needs Analysis, principally soliciting from the judges themselves what they perceive to be their training needs. The plan is then submitted to the Academic Council that is constituted by the heads of the thirteen curricular departments – all distinguished jurists and academics – who then introduce their own contributions. Each curricular chair then asks one of the professors in his department to handle the session. Every professor is at liberty to treat the subject assigned him in the manner he sees fit, and to use such methods as he may deem

¹ *Garcia v. Faculty Admissions Committee*, 68 SCRA 277 (1975)

² *Camacho v. Coresis*, G.R. 134372 (August 22, 2002)

effective. Of course, every professor's presentation is subject to peer-evaluation, specially when the participants react adversely to the session.

There are of course built-in confines to the exercise of a professor's discretion because the Judicial Academy does have its educational philosophy and its specific goals – and instruction must obviously not be alien to these. As Chancellor, I have never directed any professor as to the content of his sessions, nor has any curricular chair ever done so, nor does it seem likely that this will ever happen, principally because of the regard the chairs and professors have for their own colleagues. One never applies to be a professor of the Academy. One is invited to join the professorial corps. In large measure then it is the regard that the chairs and professors have for each other's stature and competence that guarantees the academic freedom of each professor in this regard.

I hasten to add however that negatively put one of the purposes of the Academy is to keep judges from being administratively dealt with for "gross ignorance of the law". My interaction with fellow judges and justices from other jurisdictions makes me aware that it is not in all jurisdictions that "gross ignorance of the law" is administratively actionable against judges. In the Philippines, it is, and the Supreme Court has wielded its supervisory and disciplinary authority over judges to sanction them and in, some cases, to dismiss them from the service on this ground. In several cases, the Supreme Court has characterized this offense as ignorance of the law's basic precepts and commands³. It demands more than just cursory acquaintance with the law, and exacts the competence to properly apply it.⁴

Sourcing and Funding

Unlike judicial education in other jurisdictions that is often a private or corporate initiative, the Philippine Judicial Academy receives its share of the budget allocated to

³ *Hermini v. Calimag*, A.M.-RTJ-99-1472 (September 20, 2001)

the Supreme Court. This in large measure insulates the Academy from the importuning of interest groups that would be in a capacity to fund judicial education projects.

This is not to say however that the Academy does not partner with others. We have had joint projects with The Asia Foundation, the Asian Development Bank, the World Bank, USAID, AUSAID, CIDA, NJI the Centre for Democratic Institutions, as well as with foreign governments through their agencies and others. We have however adopted a policy of shunning partnerships with advocacy groups most likely to litigate particularly before the Supreme Court – and the discernment of such groups has been left largely to our Academic Council and our Board of Trustees.

And even in relation to the groups we choose to be our partners, we are aware that each has its agenda, but we insist that at all times program planning and implementation must be led by the Philippine Judicial Academy and driven principally by the Academy's own educational philosophy and objectives. We are grateful however for the assistance that we have received from our partners for in several respects our partnerships have allowed the Academy to broaden areas of interest and concern.

Mandatory Participation

Participation in the programs of the Philippine Judicial Academy is mandatory in the Philippines by virtue of statutory provision as well as administrative regulation. The Supreme Court, convinced as it is of the necessity of continuing judicial education, directs the participation of judges. After all, our Supreme Court has always considered judicial education an integral component of judicial reform – enabling it to administer justice efficiently and competently.

But precisely because participation is mandatory, the Court also reimburses all traveling expenses and defrays the costs of accommodation. We take pride at the Judicial Academy in the fact that our programs cover one-hundred percent of all our judges – so

⁴ *Cortes v. Agcaoili*, A.M.-RTJ0940-1414 (August 20, 1998)

that even the first-level trial court judge in the loneliest judicial outpost participates in our yearly judicial education programs.

Instead of meeting with resistance, the programs of the Academy have always been welcome to our judges, and we have consistently received highest ratings for the profitability and usefulness of our programs. This is not to say that it has always been a walk in the park. We have had to struggle with the birth-pangs of judicial education and have had to cope with a share in the already meager budget that the Philippine Judiciary receives as its share in the national pie.