

II. Judiciary and Judge

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journal or publication title	The Philippine Judicial System
volume	5
page range	6-13
year	2001
URL	http://hdl.handle.net/2344/00015196

II. JUDICIARY AND JUDGE

In the Philippines, government powers are shared and dispensed equally among three main branches – the Executive, Legislative and Judicial branches. Although seemingly triple in number and separate in identity, the three branches comprise a single and undivided entity – the *Government*.

Apart from the dictates of tradition and more than just a legacy from its forerunners, the Philippine political structure is based on the necessity of maintaining the system of checks-and-balances in the manner by which the State exerts political power upon its constituents. Thus, while the Legislature crafts the laws and the Executive Branch implements the same; the Judiciary interprets such laws and tempers abuse/s that may arise from any wrongful interpretation thereof.

Judicial power is vested by the Constitution in one Supreme Court and in such lower courts as may be established by law. (Article X, Section 1, Constitution). Batas Pambansa 129 (August 14, 1981) otherwise known as the Judiciary Reorganization Act of 1980 created the Intermediate Appellate Court (which was later renamed as the Court of Appeals by virtue of Executive Order No. 33 dated July 28, 1986), Metropolitan Trial Courts, Municipal Trial Courts in Cities and Municipal Circuit Trial Courts.

A. Classification of Courts in the Philippines

The Philippines observes the following general classifications of courts in its judicial system:

1. Regular Courts

These refer to those courts authorized to engage in the general administration of justice. These courts derive their powers from the Philippine Constitution, which is the fundamental law of the land. At the apex of the courts lumped within this classification is the Philippine Supreme Court. Below the Supreme Court are three tiers of lower-level courts that initially decide controversies brought about by litigants in the first instance.

2. Special Courts

These refer to tribunals that have limited jurisdiction over certain types of cases or controversies. While *special courts* have judicial powers just like the *regular courts*, the scope of the controversies that *special courts* can hear are limited only to those that are specifically provided in the special law creating such *special courts*. Outside of the specific cases expressly mentioned in the provisions of the statute creating the *special court*, these courts have no authority to exercise any powers of adjudication.

A distinct kind of special court that is recognized in the Philippines is the so-called Shari'a Court. (*infra.*) While the Shari'a Court has the powers of the regular courts, the subjects over whom it can wield its judicial powers are limited solely to Muslim Filipinos. Other than Muslim Filipinos, the Shari'a Court has neither right nor authority to exercise powers of adjudication.

3. Quasi-Courts / Quasi-Judicial Agencies

Technically, judicial powers pertain to and are exercised only by courts. However, the Philippine system of government allows administrative agencies to exercise adjudicatory powers in certain types of controversies, particularly if the same would facilitate the attainment of the objectives for which the administrative agency had been created. Unlike *regular* and *special courts*, *quasi-courts* do not possess judicial powers. Instead they possess and in fact, exercise what are termed as *quasi-judicial* powers. Even though they are not courts of justice, either the Constitution or the special statute empowers these agencies to exercise such *quasi-judicial* powers solely in aid of the administrative powers that they are administrative agency is allowed only for the empowered to exercise. Essentially, the exercise of judicial powers by the administrative agency is for the purpose of attaining its specific goals. If the exercise would not facilitate the attainment of the objectives of the Department, there is no basis for exercising *quasi-judicial* functions.

B. Hierarchy and Jurisdiction of Courts

1. Regular Courts

There are four (4) levels of courts in the Philippines, wherein judicial power is vested. As stated above, it is the Supreme Court that is at the apex of this four-tiered hierarchy. Below the Supreme Court are lower courts of graduating degrees of

responsibility, with the court of a lower level deferring to the authority of a higher-level court.

At the lowest level of the hierarchy are the first-level courts, consisting of the Metropolitan Trial Courts [MTCs], the Municipal Trial Courts in Cities (or Municipalities) [MTCCs], and Municipal Circuit Trial Courts [MCTCs]. These are basically trial courts.

The distinction among these courts is dictated principally by geography more than anything else. MTCs are situated in cities and municipalities within the Metro Manila area. Courts outside the Metro Manila area are called MTCCs; while those situated in municipalities [political geographical units that are smaller than cities] are called MCTCs.

2. Special Courts

As reiterated above, the Philippine judicial system recognizes the existence of tribunals that have limited jurisdiction over specific types of controversies. These tribunals are called “*special courts*”. Among the classification of *special courts* are: *Court of Tax Appeals (CTA)* and the *Sandiganbayan*. In addition, there is also the *Shari’a Court* that exercises powers of adjudication over Muslim Filipinos.

- Court of Tax Appeals (CTA). The CTA was created pursuant to Republic Act No. 1123 (June 16, 1954). A collegiate court composed of three (3) judges, the CTA is vested with the jurisdiction to review on appeal decisions of the Commissioner of Customs and the Commissioner of Customs in tax and/or tax-related cases.

- Sandiganbayan. Like the CTA, the Sandiganbayan is a special collegiate court, with jurisdiction to try and decide criminal cases involving violations of Republic Act No. 1039 (Anti-Graft & Corrupt Practices Act), Republic Act No. 1379 ;

- Shari’a Courts. Presidential Decree (P.D.) No. 1083 creates the so-called Shari’a Courts, which have limited jurisdiction over the settlement of issues, controversies or disputes pertaining to the civil relations between and among Muslim Filipinos. Specifically, these controversies require the interpretation of laws on Persons, Family Relations, Succession, Contracts, and similar laws applicable only to Muslims.

Despite the seeming exclusivity of the jurisdiction of the Shari’a Courts with regard to controversies involving Muslims, the Supreme Court retains the power to review orders of lower courts through special writs. (R.A. 6734, Art. IX, Sec.1). This review extends to decisions made by the Shari’a Courts.

3. Quasi-Courts or Quasi-Judicial Agencies

There are several quasi-courts or quasi-judicial agencies recognized in the Philippines. As stated above, these agencies can exercise powers of adjudication solely if there is legal basis for the exercise of such powers.

There are agencies that derive quasi-judicial powers from the Constitution. These include the Civil Service Commission, Commission on Elections, and the Commission on Audit.

The Civil Service Commission (CSC) is the central personnel agency for Philippine public officers and employees. As the central personnel agency of the government, the CSC is responsible for promoting morale, efficiency, integrity, responsibility, progressiveness and courtesy in the civil service; strengthening the merits and rewards system; integrating all human resources development programs; and institutionalizing a management climate conducive to public accountability. (CONSTITUTION, Art. IX-B, Sec. 3)

The *Commission on Elections (COMELEC)* is the constitutional body tasked with the enforcement and administration of Philippine election laws. (CONSTITUTION, Art. IX-C, Sec. 2 [2])

The *Commission on Audit (COA)* is the office that has the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government or any of its subdivisions, agencies or instrumentalities. (CONSTITUTION, Art. IX-D, Sec. 2 [1]) Like the two (2) other Constitutional Commissions, the COA also has the authority to decide cases brought to it for attention, with appeal from decisions thereof to be brought to the Supreme Court. (CONSTITUTION, Art. IX-A, Sec. 7)

C. Requirements for Appointment to the Judiciary

The Supreme Court shall have the power to appoint all officials and employees of the Judiciary in accordance with the Civil Service Law. (Article VIII, Section 5, Constitution) It shall likewise have the administrative supervision over all courts and its personnel. (Article VIII, Section 6). In the discharge of this constitutional function, the Court is assisted by the Office of the Court Administrator (OCA) created under the provisions of Presidential Decree No. 828, as amended by Presidential Decree 842. The

Office of the Court Administrator is tasked with the supervision and administration of the lower courts and all of their personnel. It reports and recommends to the Supreme Court all actions affecting lower court management, personnel and financial administration and administrative discipline.

The Constitution created a Judicial and Bar Council under the supervision of the Supreme Court composed of the Chief Justice as ex officio Chairman, Secretary of Justice, and a Representative of Congress as ex officio members, representative of the Integrated Bar, a professor of law, a retired member of the Supreme Court, and a representative of the private sector. (Article VIII, Section 8). The President appointed the regular members for a term of four years, the representative of the Bar shall serve for four years, professor of law for three years, retired Justice for two years, and the representative from the private sector for one year.

The Council shall have the principal function of recommending appointees to the Judiciary. It screens and selects prospective appointees to any judicial post so that only the best qualified members of the Bench and Bar with proven competence, integrity and independence are nominated thereto (1999 Annual Report of the Supreme Court, page 124). Article VIII, Section 9 provides that “members of the Supreme Court and judges of lower courts shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation. For the lower courts, the President shall issue the appointments within ninety days from the submission of the list and to fill the vacancy in the Supreme Court within ninety days from its occurrence (Article VIII, Section 4 [1]).

Section 7, Article VIII of the Constitution provides that - (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines; (2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member or of the Philippine bar; and (3) A member of the judiciary must be a person of proven competence, integrity, probity and independence.

In summary, a table below shows the number of courts in the Philippines.

Courts	Total Positions	Number of Incumbents	Number of Vacancies	Percentage (Vacancies/ Positions)
Supreme Court	15	15	0	07%
Court of Appeals	51	46	5	9.80%
Sandiganbayan	15	15	0	0%
Office of the Court Administrator	4	4	0	0%
Court of Tax Appeals	3	3	0	0%
Regional Trial Court	950	730	220	23.16%
Metropolitan Trial Court	82	64	18	21.95%
Metropolitan Trial Court in Cities	141	102	39	27.66%
Municipal Trial Court	425	264	161	37.88%
Municipal Circuit Trial Court	476	235	241	50.63%
Sharia District Court	5	2	3	60%
Sharia Circuit Court	51	19	32	62.74%
Total	2218	1499	719	32.42%

D. Court Personnel Other Than The Judge

Under the 1987 Constitution, the Supreme Court is vested with the power to appoint officials and employees of the Judiciary. This power, however, must be exercised in accordance with the Civil Service Law. An official or employee of the various courts in the country must first secure an appointment before he or she can be designated to a particular position. It presupposes that the position is vacant, or has no lawful incumbent, and that the prospective appointee has all the qualifications prescribed for that position (p.115, Draft of Manual for Court Personnel).

Proper recommendation by the Presiding Judge or the Executive Judge must be made before the Supreme Court could exercise its power to appoint. Recommendations to positions in lower courts shall be made by the Presiding Judges, in so far as their respective branches are concerned. Recommendations to all other positions in the lower courts shall be made by the Executive judges concerned. The Supreme Court enjoys

discretionary powers to either accept or reject such recommendations, however, recommendees of presiding judges shall have priority in the appointment.

Court Personnel are under the general supervision of the judge with respect to the performance of their duties. The judge has also the power to assign additional, related duties to his employees.

The Clerk of Court plans, directs, supervises and coordinates the activities of all divisions/sections/units in the court (whether it is a multi-sala court of just a particular branch).

The Court Legal Researcher conducts research work on questions of law raised by parties-litigants in cases brought before the court; prepares memoranda on evidence adduced by the parties after the hearing; prepares an outline of facts and issues involved in cases set for pre-trial for the guidance of the presiding Judge; prepares an index attached to the records showing the important pleadings filed, the pages where they may be found, and in general, the status of the case; reminds the presiding Judge of cases or motions submitted for decision or resolution, particularly, of the deadline for acting on the same.

There is a bailiff assigned to every court whose primary duty is to keep order therein during court sessions. He also performs other duties that may be assigned to him from time to time.

The Court Stenographer takes stenographic notes on all matters that transpire during court hearings or preliminary investigations and transcribes them; takes down and transcribes in final form all dictations of the Judge or Clerk of Court.

The Interpreter translates the questions and answers from local dialects and other languages into English or vice versa during the testimony given by a witness in court.; administers oath to witnesses; marks all exhibits introduced in evidence; prepares and signs all minutes of the court session; maintains and keeps custody record books of cases calendared for hearing;

The Records Officer is responsible for the custody and safekeeping of records, papers and documents of the court; answers correspondence and communication relative to the records kept in the particular section of the court;

Social Welfare Officer conducts interviews and makes home visits to parties-litigants or wards in juvenile and domestic relations cases; contacts all possible informants regarding accused minors; prepares case study reports based on interviews and home visits; provides individual or group counseling service and other necessary

social services and assistance; refers parties concerned, by direction of the Court, to appropriate agencies or individuals for rehabilitation; appears in court as witness to supplement her written case study reports;

The Clerk receives and enters in the docket books on all cases filed including all subsequent pleadings, documents and other pertinent information;

The Process Server serves court processes such as subpoenas, summonses, court orders and notices;

The Sheriff serves/executes all writs and processes of the Court; keeps custody of attached properties or goods; maintains his own record books on writs of execution, writs of attachment, writs of replevin and writs of injunction and all other processes executed by him.