

I. OVERVIEW OF THE PHILIPPINE JUDICIAL SYSTEM

Historical Background Overview

1. Judicial System Prior to the Spanish Conquest

Before the Spanish conquistadors came to the Philippines, the Filipinos had their own laws and system of administering justice. The government was patriarchal in form. The unit of government was the barangay, a settlement of about 30 to 100 families.

The barangays were independent of each other. Each barangay was governed by a datu, who gained position by inheritance, wisdom, physical prowess or wealth. The datu exercised all functions of government. He was the executive, legislative and the judge in times of peace and the commander in chief in times of war. There were elders who assisted and advised him on vital matters, such as the promulgation of laws, the trial of cases, the declaration of war and the negotiation of treaties with other barangay (Blair and Robertson, Vol. VII pp. 173-174).

Oral and written laws existed in ancient Philippines. The unwritten laws were the customs and traditions which were handed down by tradition from generation to generation. The written laws were promulgated by the datu. All ancient written laws of the Filipinos were lost with the exception of the Code of Maragtas and the Code of Kalantiaw, both from Panay Island.

The laws of the barangay were made by the datu with the help of the elders. In the confederation, the laws were promulgated by the superior datu with the aid of subordinate or lesser datu. When a law was to be made for the whole confederation, the supreme datu would summon the subordinate datu to his own house and explain to them the need for such a law. The other datu usually assented and the law was thus written down. (Teodoro A. Agoncillo, History of the Filipino People p. 42).

Cases or disputes were tried by the datu, acting as judge with the help of the barangay elders sitting as jury. Disputes between datu, or between residents of

different barangays, were sometimes settled by arbitration with some datu or elders from other barangays acting as arbiters or mediators. In this way, war was always averted (Blair and Robertson, Vol. V pp. 177 and Vol. VII p. 179).

All trials (criminal or civil) were held in public. The litigants - plaintiff and defendant - pleaded their own case and presented their witnesses. Before testifying, these witnesses took an oath to tell the truth and nothing but the truth. Perjury was rare. When the court was in doubt as to whom of the litigants were really guilty, it resorted to trial by ordeal. This is especially true in criminal cases. It was believed that the gods protected the innocent and punished the guilty and that ordeals revealed divine truth to the people. An accused person who was innocent was believed to be always successful in the ordeals because the gods made him so (Teodoro A. Agoncillo, History of the Filipino People, pp.41-44).

2. Judicial System During the Spanish Regime

The Philippine courts during the Spanish sovereignty consisted of superior courts, *Audencia Territorial de Manila*, the *Audencia de lo Criminal de Cebu* and the *Audencia de lo Criminal de Vigan*. The inferior or local courts were the Courts of First Instance and justice of the peace courts, both constituting the base of the Spanish judicature in the Philippines. The King through a royal decree made appointments to the *Audencia*. The Presiding officer was usually the Governor General who was given the power to appoint judges of the lower courts and even to fill in the *Audencia* (Jose R. Bengson, *The Philippine Judicial System* p. 6).

The first *Audencia Real* was created in Manila in order to check the powers of the Governor General. The *Audencia* was an appellate court. Appeals are made here from sentences of judges of first instance. For 300 years, the *Audencia* exercised its functions. Although it was always a judicial body, it was more than a Supreme Court. It assumed government control in case of vacancy in the gubernatorial office and it acted as an advisory body to the Governor General. (Ibid, p.7)

The *Audencia de lo Criminal of Vigan* had Luzon and the Batanes Island and the *Audencia de lo Criminal de Cebu* had Visayas and the northern part of Mindanao and had only criminal jurisdiction. They had appellate jurisdiction over all the sentences of the Courts of First Instance whether they were sentences of conviction or of acquittal. The decisions of the trial courts are not final. They are appealable to the

Audencia Territorial of Manila and those of the Audencia to the Supreme Court of Spain. (Ibid, p.7)

The Courts of First Instance were established in the provinces under the alcaides-mayor that were deprived of their executive functions. These courts were divided into three classes: de entrada, de ascenco and de termino. Sentences of the judges of the First Instance were appealed to the Audencia Territorial of Manila. The justice of the peace courts were authorized for every pueblo. Decisions of the justice of the peace were appealed to Courts of First Instance. (Ibid, p.8)

An institution known as residencia was established to check on the powers of the Governor General and other officials. It was a judicial inquest into their official conduct held at the expiration of their term and was presided by their successors. It was an effective restraint on colonial officials but was usually subject to abuse.

3. Judicial System During the American Regime

The Philippine Commission enacted Act No. 136 which abolished the Audencia or Supreme Court and Courts of First Instance. It replaced a new system modeled under the judicial system of the United States. It provided that courts of justice shall be maintained in every province in the Philippines and judicial powers of the Government of the Philippines shall be vested in a Supreme Court, Courts of First Instance and justice of the peace (Vicente G. Sinco, Philippine Political Law p. 303)

The Philippine Bill of 1902 and the Jones Law of 1916 ratified the jurisdiction of the Courts vested by the Act No. 136. It provided that Justices of the Supreme Court shall be appointed by the President of the United States with the advice and consent of the Senate and Judges of the Court of First Instance shall be appointed by the Civil Governor with the advice and consent of the Philippine Commission.

Act No. 136 established the Supreme Court. It consisted of a Chief Justice and six Associate Judges, any five of whom, when convened, formed a quorum and could transact business of the Court. They were appointed by the Philippine Commission and held office at its pleasure. The seniority of the Associate Judges was determined by the date of their respective commissions.

There was one CFI in each province grouped to form a judicial district. There were four more additional judges, called judges at large (2 Americans, 2 Filipinos) without territorial jurisdiction of their own. The Secretary of Finance or the Secretary of Justice could assign any of them to any district. They assisted in clearing dockets where

a judge could not sufficiently cope with the volume of work. The justice of the peace was important because of their accessibility to the masses. Unfortunately, they failed to maintain the respect of litigants because majority of them were poorly equipped and were political proteges.

The Supreme Court of the United States had jurisdiction to review, revise, reverse, modify, or affirm the final judgements and decrees of the Supreme Court of the Philippine Islands in all actions and proceedings in which the Constitution or any statute, treaty, title, right or privilege of the United States was involved, or in which the value in controversy exceeded \$25,000. The Tydings-McDuffie Act extended this power of review to all cases involving the Constitution of the Commonwealth.

The Philippine Commission provided for clerks of court and the concept of sheriff. One notary public was required for each municipality who was appointed by the judge of the first instance of the province. Private defenders and private counsels were provided to the accused. Courts were allowed to employ assessors to assist in trials and to advise judges.

4. Judicial System During the Commonwealth

Congress of the United States passed the Tyding-McDuffie Law that authorized the Philippine Legislature to provide for the election of delegates to the Constitution Convention. The Constitutional Convention adopted the Philippine Constitution that was signed by President Roosevelt and ratified by the Filipino people at a plebiscite. It took effect on November 15, 1935 upon inauguration of the Commonwealth of the Philippines. It became the Constitution of the present Republic upon its inauguration on July 4, 1946.

The Philippine Constitution provided for the independence of the judiciary, the security of tenure of its members, prohibition on diminution of compensation during their term of office and the impeachment method of removal for justices. The Constitution further transferred the rule-making power from the Legislature to the Supreme Court on the power to promulgate rules concerning pleading, practice and procedure in all courts and the admission to the practice of law.

The dockets of the Supreme Court were clogged with appeals involving questions of fact. Because of this, it recognized and limited the jurisdiction of cases to those involving errors or questions of law. To provide a court of last resort on questions

of facts a Court of Appeals was created originally with eleven members and later increased to fifteen. (Ibid, p. 305).

5. Judicial System during the War and Its Aftermath

The Imperial Japanese Forces occupied the City of Manila and proclaimed the military administration under Martial Law over the territory occupied by the army. Courts remained in existence with no substantial change in their organization and jurisdiction "provided that their outlines be approved by the Commander in Chief of the Imperial Japanese Forces" (Teodoro A. Agoncillo, History of the Filipino People p. 395).

Commonwealth Act No. 682 created the People's Court composed of a Presiding Judge and fourteen Associate Judges who were appointed by the president with the consent of the Commission on Appointments. The People's Court had jurisdiction to try and decide all cases of crimes against national security committed during the Japanese Occupation. The judges served until the President had certified that all cases filed within the period had been tried and disposed of. After the certification, the judge's duty ceases and they resumed their duties of office they held at the time of their appointment.

The Office of the Special Prosecutor took charge of the direction and control of the prosecution of cases cognizable by the People's Court. Preliminary examination and investigation was not required. The People's Court and the Office of the Special Prosecution were under the supervision and control of the Department of Justice.

Throughout the period since Liberation, Supreme Court has maintained and strengthened its prestige. Faced by difficult decisions during the Japanese Occupation, the Court has won respect for legal consistency and impartiality. The Court has remained indifferent to political problems and has been recognized for its fair and impartial decisions (Conrado Benitez, History of the Philippines, p. 499).