

SESSION II

COUNTRY REPORTS ON JUDICIAL REFORM (2)

The Philippine Judicial System

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I. A Brief History of the Philippine Judiciary

Before the advent of legal regimes patterned after the Spanish and American models, the Philippines had an indigenous system of laws enforced by political units called the *barangays* presided over by local chieftains (*datos*). Settlement of disputes was governed by both written and unwritten laws, consisting of ancient codes and oral customs and traditions. Peace and order were maintained through these indigenous procedures and sometimes spiritual beliefs on divine punishment and retribution guided the communities in determining the guilt of individuals during public trials.¹

Under both the Spanish and American regimes, the first courts were established under the laws of the colonial governments. The Spaniards created a supreme court in Manila, the *Audencia Real*, to check the powers of the Governor General; the *Audencia Territorial* of Manila which is an appellate court; and the Courts of First Instance and justice of the peace courts which were established in the territories where the Spaniards exercised sovereignty.²

The above-mentioned courts were abolished during the American regime and replaced with a new system modeled after the American judicial system. A Supreme Court was created consisting of a Chief Justice and six associate justices who were appointed by the Philippine Commission and held office at its pleasure. In each province there was one court of first instance, and additional judges also served wherever they were assigned. The *1935 Constitution* provided for an independent judiciary as the rule making power was transferred from the Legislature to the Supreme Court, to promulgate rules concerning pleading, practice and procedure in all courts and the admission to the practice of law.

When the Imperial Forces of Japan occupied the Philippines during the Second

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World War, courts remained in existence with no substantial change in their organization and jurisdiction, with the Supreme Court able to preserve its impartiality and legal consistency under a military administration until the restoration of normalcy after the war.³

II. The Philippine Judiciary

Judicial power, as defined under the *1987 Constitution of the Philippines*, includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.⁴ This power is vested in the Supreme Court created by the Constitution and such other lower courts established pursuant to laws enacted by Congress.⁵ Appointments to the judiciary are limited to natural-born Filipino citizens and members of the Philippine Bar, and a Member of the Supreme Court must be at least forty years old and must have been for fifteen years or more a judge of the lower court or engaged in the practice of law in the Philippines.⁶ A Judicial and Bar Council, under the supervision of the Supreme Court, was created by the Constitution to screen and recommend applicants to judicial positions who must possess proven competence, integrity and independence.⁷ The Office of the Court Administrator, on the other hand, assists the Supreme Court in the supervision and administration of the lower courts and their personnel.⁸

At the apex of the Philippine judicial system is the *Supreme Court* composed of a Chief Justice and fourteen Associate Justices, who may sit *en banc* or in its discretion, in divisions of three, five or seven members.⁹ The *Court of Appeals* is headed by a Presiding Justice with fifty one (51) Associate Justices as members, which exercises its functions and duties through seventeen divisions, each division composed of three members, and sits *en banc* only for the purpose of exercising administrative, ceremonial or other non-adjudicatory functions.¹⁰

Regional Trial Courts are established in the thirteen judicial regions of the country, of which at present there are 950 existing courts, each branch presided over by a judge. *Metropolitan Trial Courts*, *Municipal Trial Courts*, *Municipal Trial Courts in Cities*, and *Municipal Circuit Trial Courts* are the first level courts. There are presently 82 Metropolitan Trial Courts in Metro Manila for the National Capital Region; 141

Municipal Trial Courts in Cities; 425 Municipal Trial Courts; and 476 Municipal Circuit Trial Courts.¹¹ For Muslim Filipinos in Mindanao, *Shari'a District and Circuit Courts* were created and established in five judicial regions therein, to adjudicate disputes and matters under the provisions of the *Code of Muslim Personal Laws of the Philippines*.¹² The *Shari'a Appellate Court* was also created to exclusively decide appeals from cases tried in the Shari'a District Courts.¹³

A special court, the *Sandiganbayan*, was established to try and decide cases of graft and corruption committed by certain public officers or employees in relation to their office, as provided by law. It is composed of a Presiding Justice and fourteen Associate Justices, and sits in divisions of three members each and the divisions may sit at the same time.¹⁴ Another special court is the *Court of Tax Appeals* which adjudicates appeals involving internal revenue and customs cases in order to assist the government in the expeditious collection of taxes as well as provide a forum for taxpayers against unjust and erroneous tax assessments and impositions. It is composed of a Presiding Judge and two Associate Judges.¹⁵

In addition to the regular trial courts, Congress recently created *Family Courts* which shall be established in every province and city. These courts shall exclusively try criminal cases involving minor offenders or victims, civil cases for annulment of marriage, marital property relations, as well as petitions for guardianship, custody, adoption, and all other cases of domestic violence committed against women and children.¹⁶ Also, in the interest of a speedy and efficient administration of justice, selected regional trial courts have been designated to try and decide exclusively "heinous crimes" such as kidnapping, robbery, illegal drugs possession and sale, violations of intellectual property laws and libel.¹⁷

Lastly, there are the quasi-judicial agencies which derive their quasi-judicial powers either from the Constitution or their respective charters. There are three constitutional commissions: the Civil Service Commission, the Commission on Audit and the Commission on Elections.¹⁸ Other quasi-judicial agencies are the Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform (in implementation of the Comprehensive Agrarian Reform Law), Government Service Insurance System, Employees Compensation

Commission, Agricultural Inventions Board, Insurance Commission, Board of Investments, and Construction Industry Arbitration Commission.¹⁹

The *barangay* as a local government unit also fulfills an important function in the judicial process. Disputes in certain cases have to be brought initially before the *barangay* conciliation panel as a pre-condition for filing an action in court. The parties therein may also agree in writing to submit the case for arbitration to the said panel. An amicable settlement or arbitration award may be enforced by execution as any court decision within the prescribed period.²⁰

III. The Department of Justice

The Department of Justice is the government's principal law agency which serves as its legal counsel and prosecution arm. Its functions include investigation of crimes; prosecution of offenders; administration of the correctional system; implementation of laws on the admission and stay of aliens, citizenship, land titling system, and settlement of land problems involving small landowners and members of indigenous cultural minorities; and provision of free legal services to indigent citizens.²¹

The Department is organized into the Department Proper and other constituent units. The Department Proper is composed of the Office of the Secretary and the Undersecretaries, Technical and Administrative Service, Financial Management Service, Legal Staff and the Office of the Chief State Prosecutor. Other constituent units of the Department are: Office of the Government Corporate Counsel, National Bureau of Investigation, Public Attorney's Office, Board of Pardons and Parole, Parole and Probation Administration, Bureau of Corrections, Land Registration Authority, Bureau of Immigration, and, Commission on the Settlement of Land Problems.

The National Prosecution Service is under the supervision and control of the Secretary of Justice, and is comprised by the Prosecution Staff in the Office of the Secretary of Justice, the Regional State Prosecution Offices, the Provincial and City Fiscal's Offices. The Regional State Prosecution Offices, and Provincial and City Fiscal's Offices are primarily responsible for the investigation and prosecution of all cases involving violations of penal laws.²²

IV. Lawyers and Legal Education

In the Philippines, the practice of law is a privilege granted only to Filipino

citizens. An applicant for admission to the Philippine Bar must be a resident of the Philippines, at least 21 years of age and of good moral character who must show that no charges against him or her involving moral turpitude have been filed or pending in court.²³ The required educational qualifications is a bachelor's degree in arts and sciences (pre-law course) and the four-year law course with completed courses on civil law, commercial law, remedial law, criminal law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation and legal ethics.²⁴ In addition, the applicant must obtain a passing average in the bar examinations administered annually by the Supreme Court.²⁵

The Integrated Bar of the Philippines (IBP) is the official national organization of lawyers and membership therein is compulsory. This compulsory membership and financial support to the IBP is aimed at elevating the standards of the legal profession, improving the administration of justice, and enabling the bar to discharge its public responsibility more effectively.²⁶ For judges, there is the Philippine Judges Association composed of incumbent Regional Trial Court judges, which aims to improve the administration of justice and maintain a high standard of integrity, industry, and competence in the judiciary. Lawyers may also join voluntary bar associations such as the Philippine Bar Association, the Philippine Lawyer's Association, The Trial Lawyer's Association of the Philippines, Vanguard of the Philippine Constitution, All Asia Bar Association, Catholic Lawyers' Guild of the Philippines, Philippine Society of International Law, and Women Lawyers Circle.

Professional ethics is governed by the rules provided in the Constitution, laws enacted by Congress, court decisions, and rules promulgated by the Supreme Court concerning the discipline of lawyers and judges. Lawyers holding certain public offices, including those of the President, Members of Congress, other executive officers, governors, city and municipal mayors, judges and other judicial officials or employees, are prohibited by either the Constitution or legislation to engage in the practice of law during their incumbency.²⁷ The Supreme Court exercises disciplinary powers over all lawyers throughout the country, about three-fourths of which are based in Metro Manila.²⁸ It has meted out various actions against erring members of the Philippine Bar, ranging from fine and censure to the severe punishment of disbarment.

Lawyers are expected to fulfill their sworn duties to the public, the Court, the Bar, and the client. They should promote respect for law, keep abreast of legal developments, uphold the integrity of the profession, respect the court and judicial

officers, assist in the speedy and efficient administration of justice, and serve their clients with candor, fairness, loyalty, diligence and competence. Failure to live up to these standards may subject the lawyer to criminal, civil or administrative liability in the proper cases.

V. Court Procedures

On the Supreme Court is vested the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading and practice and procedure in all courts, which shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase or modify substantive rights.²⁹ Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.³⁰

A policy of strict observance of the hierarchical organization of courts is maintained by the Supreme Court which shall not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for its primary jurisdiction.³¹ Jurisdiction of the various courts are conferred by laws enacted by Congress, without prejudice to the jurisdiction of the Supreme Court in those cases enumerated in the Constitution.³²

The *1997 Rules of Civil Procedure* amended Rules 1-71 of the *1964 Rules of Court*, as amended, incorporating therein the new rules on venue of real and personal actions, the additional requirement for certification under oath by the principal party against “forum-shopping” in initiatory pleadings as well as petitions before the Supreme Court and the Court of Appeals, execution of judgment pending appeal, and procedure on appeal, among others.

The *Rules of Criminal Procedure* also underwent revision just recently. The *Revised Rules of Criminal Procedure* has been approved by the Supreme Court and shall take effect on December 1, 2000 after its publication. Changes were made in the provisions governing the prosecution of civil action in criminal cases by disallowing any counter-claim, cross-claim or third party complaint of the accused which cause of action may be litigated in a separate action, but making an exception for criminal cases involving violations of the Bouncing Checks Law where the civil action shall always be instituted with the criminal case. Other amendments include the incorporation of the

provisions of the “Speedy Trial Act of 1998” under Rule 119 (Trial); the addition of a provision under Rule 114 (Bail) which entitles the accused to challenge the validity of his arrest or the legality of the arrest warrant, the absence of irregularity of the preliminary investigation, despite his having applied for bail, provided he raises such objections before entering his plea; and a new provision stating that the prosecution for violation of special laws shall be governed by the provisions thereof (Sec. 5, Rule 110).

Rules of Family Courts are still being drafted by a Committee formed by the Supreme Court, which are expected “to effect important changes in the disposition and handling of cases concerning child abuse, petitions for custody and adoption, summary judicial proceedings under the Family Code, criminal cases involving children, and domestic violence against women and children, among others.”³³

Judicial processes in the Philippines have been criticized as slow and delivery of justice often delayed. The clogging of court dockets remains a formidable challenge to the present Supreme Court leadership which has already begun implementing the needed reforms and actions to address the problems identified. Current measures being undertaken are geared not only at preparing the Philippine judiciary for the e-technology global society but also at further strengthening the independence and integrity of the judiciary as a co-equal branch of government.

VI. Current Trends and Developments

The present leadership of the Supreme Court is determined to effect genuine and relevant reforms in the judiciary towards improving significantly its efficiency and effectiveness. Imbued with missionary zeal, the Supreme Court under the competent leadership of Mr. Chief Justice Hilario G. Davide, Jr., set forth the following objectives and goals: (1) Dispose of the existing backlog of cases in all courts; (2) Study and address the causes of failure to observe the periods to decide cases mandated by the Constitution; (3) Vigorously implement the programs of the Philippine Judicial Academy (PHILJA) on conducting continuing legal education on a broader basis; (4) Engage in long-range planning, especially as regards allocation of human and other resources, to effectively respond to changes while preserving the core values of the Judiciary; (5) Promote alternative modes of dispute resolution; (6) Exact strict observance of working hours; and (7) Maximize available court technology and adopt new and appropriate forms of technology.³⁴

The Technical Assistance (TA) to the Philippine Judiciary on Justice and

Development Project is being implemented by the Supreme Court with the assistance of the United Nations Development Programme (UNDP) and the National Economic Development Authority (NEDA). The objective of the Project is to “strengthen the quality of justice in the Philippines by enhancing the efficiency and effectiveness of the Philippine Judiciary in the next millennium towards sustainable human development.” The technical assistance phase aims to “enhance the efficiency and administration capacity of the Philippine Judiciary by undertaking a system-wide institutional research on its judicial rules, processes and operating systems focusing on how to further increase access to justice, especially the poor and disadvantaged.”³⁵

At the forefront of judicial reforms implementation is the *Philippine Judicial Academy* established and institutionalized as the educational arm of the Supreme Court. On top of its seminars, symposia and training for judges, lawyers and court personnel under the continuing judicial education program, PHILJA also assisted the Supreme Court in the implementation of the Pilot Project on Mediation/Conciliation (funded by the SC-UNDP and PHIL EXPORTS-TAPS) under the court-led alternative dispute resolution (ADR) program in the Regional Trial Courts of Mandaluyong City and Valenzuela City, and, in the completion of the “Management Study of the Judiciary” (a component of the SC-UNDP Technical Assistance). The policy of promoting the different modes of alternative dispute resolution (ADR) was adopted in response to the dramatic increase in the number of cases filed in court, the growing complexity of these cases, the need for specialized and technical knowledge in their resolution, and the inherent limitations of litigation.

In 1999, the PHILJA conducted the following: “Training the Trainors Program for Family Courts,” “Gender-Sensitivity Seminar for the Philippine Judiciary,” “Judges Workshop on the Anti-Domestic Violence Bill,” Workshop on Video-Conferencing in Trials of Cases Involving the Testimony of Children,” and “Securities and Exchange Commission (SEC) Program.” To strengthen the managerial capabilities of judges, PHILJA has introduced seminars on “Total Quality Management (TQM) for Trial Court Judges and Court Personnel.” In relation to this, the Supreme Court has devised the Trial Court Performance Standards (TPCS) which set five key areas by which judges would gauge their performance: access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and performance.

Aside from the UNDP, other private international agencies are actively

supporting the Philippine judicial reform program: United States Agency for International Development (USAID) through The Asia Foundation (TAF) and the Trade Investment Policy Analysis and Advocacy Support (TAPS). The World Bank is also extending its support on the belief that an effective, efficient and fair judicial system would contribute to improved economic performance.

Just recently, the Supreme Court approved the Rules on Mandatory Continuing Legal Education (MCLE) recommended by the Integrated Bar of the Philippines, which will require lawyers to complete 36 hours of continuing legal education in legal ethics, trial and pre-trial skills, alternative dispute resolution, updates on substantive and procedural laws and jurisprudence, legal writing and oral advocacy, and international law and international conventions. The MCLE program is envisioned to develop “a legal profession that provides quality, ethical, accessible and cost-effective legal service to our people.”³⁶

Conclusion

The foregoing judicial reforms are but a necessary and integral aspect of the current reforms in the Philippine public sector. The goal is to transform the Philippine judiciary into a dynamic and responsive branch of government that is “independent, effective and efficient, and worthy of public trust and confidence.”³⁷ As a democratic and republican State, the Philippines is committed to promote social justice in all phases of national development.³⁸ And as a member of the community of nations seeking new ways to strengthen and enhance their democratic institutions, it reaffirms its commitment to the rule of law and equality of all peoples.

¹ Teodoro A. Agoncillo, *History of the Filipino People*, pp. 41-44.

² Jose R. Bengson, *The Philippine Judicial System*, pp. 6-8.

³ Agoncillo, *supra*, p. 395; Conrado Benitez, *History of the Philippines*, p. 499.

⁴ Article VIII, Section 1, *1987 Constitution*.

⁵ Article VIII, Section 1, *1987 Constitution*.

⁶ Article VIII, Section 7, *1987 Constitution*.

⁷ Article VIII, Section 8, *1987 Constitution*.

⁸ Article III, Section 6, *1987 Constitution*.

⁹ Article VIII, Section 4 (1), *1987 Constitution*.

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- ¹⁰ *Batas Pambansa Blg. 129* (1980), as amended by Executive Order No. 33 (promulgated July 28, 1986) and *Republic Act No. 8246* (approved on December 30, 1996).
- ¹¹ Profile of Lower Courts by Provinces as of December 31, 1999 prepared by the Court Management Office of the Supreme Court, See Annex “E” of the *1999 Annual Report of the Supreme Court of the Philippines*.
- ¹² *Presidential Decree No. 1083*, promulgated on February 4, 1977.
- ¹³ *Republic Act No. 6734*, “The Organic Act for the Autonomous Region in Muslim Mindanao,” approved on August 1, 1989.
- ¹⁴ *Presidential Decree No. 1486*, as amended by *Presidential Decree No. 1606* (effective December 10, 1978), *Republic Act No. 7975* (approved on March 30, 1995), and *Republic Act No. 8249* (approved on February 5, 1997).
- ¹⁵ *Republic Act No. 1125* (1954)
- ¹⁶ *Republic Act No. 8369*, “The Family Courts Act of 1997.”
- ¹⁷ Administrative Order No. 104-96, October 21, 1996.
- ¹⁸ Article IX, (A) Section 1, *1987 Constitution*.
- ¹⁹ Rule 43, 1997 Rules of Civil Procedure.
- ²⁰ *Republic Act No. 7160* (Local Government Code of 1991), Book III, Title One, Chapter 7, Secs. 399-422.
- ²¹ Executive Order No. 292, *Revised Administrative Code*, Title III, sections 1 and 2.
- ²² *Presidential Decree No. 1275*, Section 1.
- ²³ Article XII, Sec. 14, second paragraph, *1987 Constitution*; Sec. 2, Rule 138, Revised Rules of Court.
- ²⁴ Secs. 5 and 6, Rule 138.
- ²⁵ Secs. 9, 10, 11 and 14, Rule 138.
- ²⁶ Rule 139-A, Sec. 1.
- ²⁷ Art. VII, Sec. 13, Art. VI, Sec. 14, Art. IX-A, Sec. 2, Art. XI, Sec. 8, *1987 Constitution*; Rule 138, Sec. 35; *Republic Act No. 7160* (The Local Government Code of 1991), Sec. 90.
- ²⁸ Manuel Flores Bonifacio and Merlin M. Magallona, *Survey of the Legal Profession* (1982).
- ²⁹ Art. VIII, Sec. 5 (5), *1987 Constitution*.
- ³⁰ *Ibid.*
- ³¹ *Philnabank Employees Association v. Estanislao*, 227 SCRA 804 (1993); *Santiago v. Vasquez*, 217 SCRA 633 (1993).
- ³² Art. VIII, Secs. 2 and 5, *1987 Constitution*.
- ³³ 1999 Annual Report of the Supreme Court of the Philippines, p. 117.
- ³⁴ Davide Watch.
- ³⁵ Tradition and Transtion: The First Year of the Davide Watch, pp. 101-102.
- ³⁶ *Ibid*, p. 100.
- ³⁷ Davide Watch.
- ³⁸ Art. II, Secs. 1 and 10, *1987 Constitution*.