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**Judicial System and Reforms in Asian Countries (Philippines)**

# **The Philippine Judicial System**

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**JAPAN**

## PREFACE

With the evolution of the market-oriented economy as well as the increase in cross-border transactions, there is an urgent need to conduct research and comparisons of judicial systems and the role of law in development in Asian countries. The Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO) established two research committees in FY 2000: Committee on “Law and Development in Economic and Social Development” and Committee on “Judicial Systems in Asia.” The former has focused on the role of law in social and economic development and sought to establish a legal theoretical framework therefor. The latter committee has conducted research on judicial systems and the ongoing reform process of these systems in Asian countries, with the aim of further analyzing their dispute resolution processes.

In order to facilitate the committees’ activities, IDE has organized joint research projects with research institutions in seven Asian countries. This publication, named *IDE Asian Law Series*, is the outcome of the research conducted by respective counterparts. This series is composed of papers which correspond to the research theme of the abovementioned committees, i.e. studies on law and development in Indonesia and Philippines, and studies on judicial systems and reforms in China, India, Malaysia, Philippines, Thailand and Vietnam. For comparative study the latter papers include description of judiciary and judges, prosecutor/prosecuting attorney, advocate/lawyer, legal education, procedures and ADR with statistical information thereof.

We believe that this is an unprecedented work in its comprehensiveness, and hope that this publication will contribute as research material and for the further understanding of the legal issues we share.

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# **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 datos 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).

## **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.

<b>Courts</b>	<b>Total Positions</b>	<b>Number of Incumbents</b>	<b>Number of Vacancies</b>	<b>Percentage (Vacancies/ Positions)</b>
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%
<b>Total</b>	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.

### **III. PROSECUTOR AND PROSECUTING ATTORNEY**

#### **A. The Department of Justice**

The Department of Justice (DOJ) is mandated to carry out the declared policy of the State to provide the government with a principal law agency which shall be both its legal counsel and prosecution arm; administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system; implement the 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 provide free legal services to indigent members of the society (Exec. Order No. 292, Rev. Adm. Code, Title III, secs. 1 and 2).

Consequently, the Department has the power to act as principal law agency of the government and as legal counsel and representative thereof, whenever so required; to investigate the commission of crimes, prosecute offenders and administer the probation and correction system; to extend free legal assistance/representation to indigents and poor litigants in criminal cases and non-commercial civil disputes; to preserve the integrity of land titles through proper registration; to investigate and arbitrate untitled land disputes involving small landowners and members of indigenous cultural communities; provide immigration and naturalization regulatory services and implement the laws governing citizenship and the admission and stay of aliens; provide legal services to the national government and its functionaries, including government-owned or controlled corporations and their subsidiaries; and perform such other functions as may be provided by law (Exec. Order No. 292, sec. 3).

The Department of Justice consists of the Department proper and several other constituent units. These units are the Office of the Government Corporate Counsel, the National Bureau of Investigation, the Public Attorney's Office, the Board of Pardons and Parole, the Parole and Probation Administration, the Bureau of Corrections, the

Land Registration Authority, the Bureau of Immigration, and the Commission on the Settlement of Land Problems (Exec. Order No. 292, sec. 4).

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 (Exec. Order No. 292, sec. 10).

The Office of the Government Corporate Counsel acts as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate offsprings and government-acquired asset corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office (Exec. Order No. 292, sec. 10).

The National Bureau of Investigation, originally called the Bureau of Investigation (It was renamed National Bureau of Investigation by virtue of Executive Order No. 94 issued on 4 October 1947), was created by virtue of Republic Act No. 157. It has the following functions: (1) investigate crimes and other offenses against the laws of the Philippines, upon its own initiative and as public interest may require; (2) assist, whenever properly requested, in the investigation or detection of crimes and other offenses; (3) act as a national clearing house of criminal and other information for the benefit and use of all prosecuting and law-enforcement entities of the Philippines, identification records of all persons without criminal convictions, records of identifying marks, characteristics, and ownership or possession of all firearms as well as of test bullets fired therefrom; (4) give technical aid to all prosecuting and law enforcement officers and entities in of the Government, as well as the courts that may request its services; (5) extend its services, whenever properly requested, in the investigation of cases of administrative or civil nature in which the Government is interested; (6) instruct and train a representative number of city and municipal peace officers at the request of their respective superiors along effective methods of crime investigation and detection in order to insure greater efficiency in the discharge of their duties (7) establish and maintain an up-to-date scientific crime laboratory and conduct research in furtherance of scientific knowledge in criminal investigation; and (8) perform such other related functions as the Secretary of Justice may assign from time to time (Rep. Act No. 157, sec. 1).

The Public Attorney's Office, formerly the Citizen's Legal Assistance Office, was created under Letter of Implementation No. 4, series of 1972, in pursuance of Presidential Decree No. 1 which provided for the reorganization of the Executive Branch of the National Government.

The Board of Pardons and Parole, created by virtue of Act No. 4103, has the following duties: (1) look into the physical, mental and moral record of the prisoners who shall be eligible for parole and determine the proper time of release of such prisoners; and (2) examine the records and status of prisoners who have met certain criteria and make recommendations in all such cases to the President with regard to the parole of these prisoners (Act No. 4103, sec. 5).

The Parole and Probation Administration was created under Presidential Decree No. 968. It has the following functions: (1) Administer the parole and probation system; (2) Exercise general supervision over all parolees and probationers; (3) Promote the corrections and rehabilitation of offenders; and (4) Such other functions as may be provided by law (Exec. Order No. 292, sec. 23).

The Bureau of Corrections is principally tasked with the rehabilitation of prisoners (Exec. Order No. 292, sec. 26).

The Land Registration Authority, formerly the Land Titles and Deeds Registration Authority is tasked with the administration of the registration of real property and the encumbrances thereon.

The Bureau of Immigration is principally responsible for the administration and enforcement of immigration, citizenship and alien admission and registration laws in accordance with the provisions of the Philippine Immigration Act of 1940 (Commonwealth Act No. 613), as amended (Exec. Order No. 292, sec. 31).

The Commission on the Settlement of Land Problems is responsible for the settlement of land problems involving small landowners and members of cultural minorities, and such other functions as may be provided by law (Exec. Order No. 292, sec. 32).

The Office of the Solicitor General (OSG) is an independent and autonomous office attached to the Department of Justice. It represents the government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent

government-owned or controlled corporations. In short, the OSG constitutes the law office of the Government which shall discharge duties requiring the services of a lawyer.

Specifically, the OSG has the following functions: (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party; (2) Investigate, initiate court action, or in any manner proceed against any person, corporation or firm for the enforcement of any contract, bond, guarantee, mortgage, pledge or other collateral executed in favor of the Government. Where proceedings are to be conducted outside of the Philippines the Solicitor General may employ counsel to assist in the discharge of the aforementioned responsibilities; (3) Appear in any court in any action involving the validity of any treaty, law, executive order or proclamation, rule or regulation when in his judgment his intervention is necessary or when requested by the Court; (4) Appear in all proceedings involving the acquisition or loss of Philippine citizenship; (5) Represent the Government in all land registration and related proceedings. Institute actions for the reversion to the Government of lands of the public domain and improvements thereon, as well as lands held in violation of the Constitution; (6) Prepare, upon request of the President or other proper officer of the National Government, rules and guidelines for government entities governing the preparation of contracts, making of investments, undertaking of transactions, and drafting of forms or other writings needed for official use, with the end in view of facilitating their enforcement and insuring that they are entered into or prepared conformably with law and for the best interests of the public; (7) Deputize, whenever in the opinion of the Solicitor General the public interest requires, any provincial or city fiscal to assist him in the performance of any function or discharge of any duty incumbent upon him, within the jurisdiction of the aforesaid provincial or city fiscal. When so deputized, the fiscal shall be under the control and supervision of the Solicitor General with regard to the conduct of the proceedings assigned to the fiscal, and he may be required to render reports or furnish information regarding the assignment; (8) Deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts and exercise supervision and control over such legal officers with respect to such cases; (9) Call on any department, bureau,

office, agency or instrumentality of the Government for such service, assistance, and cooperation as may be necessary in fulfilling its functions and responsibilities and for this purpose enlist the services of any government official or employee in the pursuit of his tasks; (10) Represent, upon instructions of the President, the Republic of the Philippines in international litigations, negotiations or conferences where the legal position of the Republic must be defended or presented; (11) Act and represent the Republic and/or the people before any court, tribunal, body or commission in any matter, action or proceeding which, in his opinions, affects the welfare of the people as the ends of justice may require; and (12) Lastly, perform such other functions as may be provided by law (Exec. Order No. 292, sec. 35).

## **B. The National Prosecution Service**

The National Prosecution Service was created by virtue of Presidential Decree No. 1275. The same law also reorganized the Prosecution Staff of the DOJ and the offices of the Provincial and City Fiscals, and regionalized the Prosecution Service.

Then President Ferdinand E. Marcos created the National Prosecution Service to improve the quality of prosecution services, to reorganize and restructure the entire prosecution system, in line with the general reorganization of the executive branch of the government which is a priority measure of the Administration; to regionalize the prosecution service in line with the government policy of decentralization, to rationalize the allocation of prosecution positions and functions in accordance with the requirements of the service, and to upgrade the salaries of all prosecutors, and of provincial and city fiscals (Pres. Decree No. 1275, Whereas clause).

The National Prosecution Service is under the supervision and control of the Secretary of Justice. Specifically, it is composed of the Prosecution Staff in the Office of the Secretary of Justice, the Regional State Prosecution Offices, and Provincial and City Fiscal's Offices (Pres. Decree No. 1275, sec. 1). The Regional State Prosecution Offices, and Provincial and City Fiscal" Offices shall be primarily responsible for the investigation and prosecution of all cases involving violations of penal laws (Ibid.).

The power of supervision and control vested in the Secretary of Justice includes the authority to act directly on any matter within the jurisdiction of the Prosecution Staff, the Regional State Prosecution Office or the Office of the Provincial

or City Fiscal and to review, modify or revoke any decision or action of the Chief of said staff or office (Ibid.).

The Prosecution Staff in the Office of the Secretary of Justice is tasked to: (1) Investigate administrative charges against fiscals and other prosecution officers; (2) Conduct of investigation and prosecution of all crimes; (3) Prepare legal opinions on queries involving violations of the Revised Penal Code and special penal laws; and (4) Review of appeals from the resolutions of fiscals and other prosecuting offices in connection with criminal cases handled by them (Pres. Decree No. 1275, sec. 2).

The Regional State Prosecutor (RSP) is under the control of the Secretary of Justice (Pres. Decree No. 1275, sec. 8). In particular, the RSP's functions are: (1) Implement policies, plans, programs, memoranda, orders, circulars and rules and regulations of the Department of Justice relative to the investigation and prosecution of criminal cases in his region; (2) Exercise immediate administrative supervision over all provincial and city fiscals and other prosecuting officers of provinces and cities comprised within his or her region; (3) Prosecute any case arising within the region; and (4) Coordinate with regional offices of other departments, with bureaus/agencies under the Department of Justice, and with local governments and police units in the region (Pres. Decree No. 1275, sec. 8).

On the other hand, the provincial fiscal or the city fiscal shall: (1) Be the law officer of the province or city, as the case may be. He shall have charge of the prosecution of all crimes, misdemeanors and violations of city or municipal ordinances in the courts of such province or city and shall therein discharge all the duties incident to the institution of criminal prosecutions; (2) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of all penal laws and ordinances within their respective jurisdictions and have the necessary information or complaint prepared or made against the persons accused. In the conduct of such investigations he or his assistants shall receive the sworn statements or take oral evidence of witnesses summoned by subpoena for the purpose; (3) Investigate commissions of criminal acts and take an active part in the gathering of relevant evidence; (4) The provincial or city fiscal may, concurrently with the Municipal Attorney or with the Provincial Attorney/City Legal Officer, act as legal adviser of the municipal or city mayor and council or sanggunian of the various municipalities, and municipal districts of the province, or the provincial or city government and its officers or of the city; and (5) Assist the Solicitor General, when so deputized in the public

interest, in the performance of any function or in the discharge of any duty incumbent upon the latter, within the territorial jurisdiction of the former, in which cases, he shall be under the control and supervision of the Solicitor General with regard to the conduct of the proceedings assigned to him and render reports thereon (Pres. Decree No. 1275, sec. 11).

## **IV. ADVOCATE/LAWYER**

A lawyer is a person trained in the law and authorized to advise and represent others in legal matters. An advocate, on the other hand, is a person who pleads the cause of another before a tribunal or judicial court.

### **A. Classification**

Philippine Lawyers may be classified as follows:

#### **1. According to their chosen fields of specialization**

Generally, lawyers in the Philippines may be classified according to the following fields of law: Civil law, Commercial law, Labor law, Lands law, Taxation law, Criminal law, Political law, and International law.

#### **2. According to Employment**

Philippine lawyers may be classified as either a government lawyer, a non-government-organization lawyer, an in-house counsel for a private company, an independent private practitioner, a full time law professor or a combination of any two or three or even all if not prohibited by law.

Government lawyers may in turn be classified as follows: (1) those working in the Legislative Branch of the government either as legislator, legal consultant, chief or member of the legal staff doing quasi-legal activities; (2) those working in the Executive Branch of the government (government agency, subsidiary, instrumentality, government-owned or controlled corporation, including the Military) as legal officers, legal consultants or themselves the executive officers or chief or members of staff doing quasi-legal activities; and (3) those working in the judiciary either as members of the bench, fiscal, or clerk of court.

### **3. According to extent of involvement**

Philippine lawyers may also be classified as either full-time, part-time, retired, or non-practising. [M.F. Bonifacio and M.M. Magallona, Survey of the Legal Profession in the Philippines, p. 50, (1982)]

Full-time lawyers are those who devote most of their time in active legal practice. An example of this class of lawyers are those who have chosen to form a law firm for the purpose of handling legal cases or conduct of litigation.

Part-time lawyers, on the other hand, are those who have chosen to devote half or less of their time to legal practice. An example of this class of lawyers are those whose main activity and source of income is anything other than legal practice, but devotes a portion of their time for legal practice e.g. businessman-lawyer.

Retired lawyers, needless to say, are those who, by reason of age are no longer engaged in the practice of law.

Non-practising lawyers are those who, being prohibited either by law or for any reason, have chosen not to engage in the practice of law.

### **4. According to location of professional activity**

#### **a. Those based in Metro Manila**

Metro Manila is the country's commercial center. It pertains to a geographical area in the country consisting of the following cities and municipalities: Makati, Marikina, Manila, Las Pinas, Pasay, Pasig, Caloocan, Mandaluyong, San Juan, and Quezon City.

#### **b. Those based in the Cities outside Metro Manila**

Outside of the country's heart of commerce are cities which are themselves centers of commerce in their respective regions. These include, among others, the cities of Cebu, Davao, Cagayan de Oro, Baguio, Bacolod, General Santos, Dumaguete, Roxas, Tagbilaran Naga, Legaspi, and Lucena.

#### **c. Those based in other places (Provinces and Municipalities)**

A handful of lawyers choose to practice in places outside of the centers of commerce. These include, among others, the following Provinces and Municipalities:

Mindoro Island, Batangas, Antique, Cavite, Cagayan Valley, Camarines, Zamboanga, Isabela, Ilocos, Pangasinan and Pampanga.

## **B. Bar Associations**

The following are the recognized Bar Associations in the Philippines: (1) The Integrated Bar of the Philippines. The Integrated Bar of the Philippines is the official national organization of lawyers composed of all persons whose names now appear or may hereafter be included in the Roll of Attorneys of the Supreme Court (*REVISED RULES OF COURT, Rule 139-A, sec. 1*). This Association requires compulsory membership and financial support of every lawyer as condition *sine qua non* to the practice of law and retention of his name in the Roll of Attorneys of the Supreme Court. It 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. (*REVISED RULES OF COURT, Rule 139-A, sec. 2*); (2) The Philippine Judges Association. Composed of only the incumbent Regional Trial Court Judges, this association is aimed at improving the administration of justice; assisting in the maintenance of a high standard of integrity, industry, and competence in the judiciary, in accord with the Canons of Professional Ethics, the Constitution and existing laws; aiding its members in the discharge of their judicial obligations faithfully in accordance with their oath of office and as demanded by public interest (The Constitution and By-Laws of the Philippine Judges Association); (3) There are other voluntary bar associations in the Philippines, among others, the Philippine Bar Association, the Philippine Lawyer's Association, The Trial Lawyers' Association of the Philippines, Vanguard of the Philippine Constitution, All Asia Bar Association, Catholic Lawyer's Guild of the Philippines, and the Philippine Society of International Law, Women Lawyers Circle, Federacion Internacional de Damas de Abogadas (E. L. Pineda, *LEGAL AND JUDICIAL ETHICS*, p. 7 [1995]). There exists also the Philippine Trial Judges League, the City Judges Association of the Philippines, the Rinconada Bar Association and the Partido Bar Association.

The sources of the Philippine rules on professional ethics are: (1) The 1987 Constitution, art. VIII sec.5, par. (5) provides for the power of the Supreme Court to promulgate rules concerning pleading, practice, and procedure, admission to the

practice of law and bar integration; Art. VII, sec. 13 prohibits the President and other executive officers to practice law; Art. VI, sec. 14 prohibits members of Congress to personally appear in certain cases; Art. IX-A, sec. 2 prohibits members of the Constitutional Commissions to practice law; and Art. XI sec. 8 prohibits the Ombudsman and his deputies to practice law.

The Supreme Court, pursuant to the constitutionally granted power to make rules concerning discipline of lawyers, has among others promulgated the Rules of Court. Rule 130 sec. 21 (b) prohibits a lawyer from testifying on matters communicated to the lawyer by his client; Rule 138 section 27 provides for the grounds for suspension and disbarment; and Rule 138 deals with Attorneys and Admission to the Bar.

The New Civil Code, Art. 1491 (5) prohibits lawyers from purchasing properties in litigation, and Art. 2208 provides instances when attorney's fees may be awarded as damages even without stipulation.

The Revised Penal Code, Art. 204 and 209 penalizes, Knowingly Rendering an Unjust Judgment, Betrayal of Public Trust, and Revelation of Secrets.

The Anti-Graft and Corrupt Practices Act (Rep. Act. No. 019, sec. 3(a) penalizes the corrupt practice of persuading, inducing, or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority; or allowing himself to be persuaded, induced or influenced to commit such violation or offense.

Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines. (New Civil Code, Article 8)

The other sources of the Philippine Rules on Professional Ethics are: The Canons of Professional Ethics, The Code of Professional Responsibility, Treatises, and sources such as the interpretation of foreign courts of foreign ethical rules adopted in the Philippines and writings of legal luminaries (J.R. Coquia, Legal Profession: Readings, Materials and Cases An Introduction On How to Become A Lawyer, p. 193 [1993]).

### **C. Liability**

A lawyer may be held either criminally, civilly or administratively liable for any violation of his duties as a lawyer. Or he may be held liable altogether for all. The liability depends on the nature of the duty violated. Hence, for revealing a confidential communication acquired in the exercise of legal profession, for example, the lawyer

may be held liable not only administratively for violating the rules on professional ethics, but criminally and civilly as well, in accord with the express provisions of the Revised Penal Code and the New Civil Code on damages.

Specifically, The Revised Penal Code punishes any judge who shall knowingly render an unjust judgment in any case submitted to him for decision. Similarly, it also punishes any attorney-at-law or solicitor who, by any malicious breach of professional duty or inexcusable negligence or ignorance shall prejudice his client, or reveal any of the secrets of the latter learned by him in his professional capacity.

Civil Liability for damages for intended omission or gross negligence resulting in the client's prejudice is specifically provided under the New Civil Code's provisions on torts and damages.

Administrative liability ranges from warning, admonition, reprimand or censure, to suspension or disbarment if warranted.

Warning is an act of putting one on his guard against an impending danger, evil consequences or penalties.

Admonition is a gentle or friendly reproof, mild rebuke, warning or reminder, counseling on a fault, error or oversight, an expression of authoritative advice.

Reprimand is a public and formal censure or severe reproof, administered to a person in fault by his superior officer or a body to which he belongs.

Suspension is the temporary withholding of a lawyer's right to practice his profession as a lawyer for an indefinite period of time. Censure is an official reprimand.

Disbarment is the act of the Philippine Supreme Court in withdrawing from an attorney the right to practice law. The name of the lawyer is stricken out from the roll of attorneys.

*A member of the bar may be disbarred or suspended from his office as Attorney by the Supreme Court for any deceit, malpractice or any other grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (REVISED RULES OF COURT, Rule 138, sec. 27).*

## **D. Disciplinary Power**

The Supreme Court has the full authority and power to warn, admonish, reprimand, suspend and disbar a lawyer.

The Court of Appeals and the Regional Trial Courts are also empowered to warn, admonish, reprimand, and suspend an attorney who appears before them from the practice of law for any of the causes mentioned in the Revised Rules of Court, Rule 138, sec. 27. They cannot disbar a lawyer.

A Regional Trial Court Judge cannot summarily suspend a lawyer as punishment for committing an indirect contempt. The inferior courts are not empowered even just to suspend an attorney, although they may hold a lawyer in contempt of court for contemptuous acts.

Justices of the Supreme Court, however, may not be disbarred unless they have been first impeached in accordance with the Constitution. The same is true with the other impeachable officers who are members of the bar.

### **1999 Statistical Data on Sanctions Imposed**

1. Disbarred	3
2. Suspended	14
3. Reprimanded	6
4. Censured	1
5. Admonished	16
6. Ordered Arrested	3
7. Fined	15
8. Warned	1

Source: 1999 Annual Report of the Supreme Court of the Philippines

Survey on Classification of Lawyers according to Location of Professional Activity

<b>Location of Professional Activity</b>	<b>Number</b>	<b>Percent</b>
Metro Manila	695	78
Cities Outside Metro Manila	97	11
All Others	<u>98</u>	<u>11</u>
<b>Total</b>	890	100

Source: Survey of the Legal Profession(1982): Manuel Flores Bonifacio and Merlin M. Magallona

## **V. LEGAL EDUCATION**

### **A. Legal Education System**

The most prestigious profession in the Philippines is the legal profession. Most Filipino parents ardently wish that one of their children would become a lawyer. An entire town or community celebrates whenever one of its members passes the Bar Examinations. Schools, clans and churches take pride in having among their alumni or ranks a full-fledged lawyer.

Such prestige and glamour with which the law profession is imbued in this country is understandable. The law profession has provided the Filipino youth with the best professional training for leadership in the community. Most of the national and local leaders are lawyers, in various fields as politics, business and economics. Lawyers often occupy top positions in the government and in private corporations. Even military and police officers take up law courses to ensure their promotion in the ranks.

It takes a lot of effort to become a lawyer. Thousands are enrolled in law schools but very few are admitted to the bar. Only about twenty to thirty percent of those taking the bar examinations eventually pass. Even those who successfully hurdled the written examinations may not be readily admitted for questionable moral character which is a requisite for admission to the profession. Law students read numerous volumes of textbooks, statutes and judicial decisions. After four years of rigorous study in law school, they still have to review for courses in preparation for the bar examinations.

### **B. Legal Education: History**

The first formal legal education training in the Philippines began at the University of Santo Tomas in 1734 with the establishment of the Faculties of Civil Law and Canon Law. The language of instruction was in Spanish. The curriculum was devoted to various fields of civil law as well as studies in economy, statistics, and

finance. The study of law was rigid and strict at that time (Cortes, I.R., *Essays on Legal Education*, p. 5).

In 1898, the Universidad Libre de Filipinas was established in Malolos, Bulacan. They offered courses on Law, Medicine, Surgery, and Notary Public. In 1899, Don Felipe Calderon, the author of the Malolos Constitution founded the Escuela de Derecho de Manila. This school later became the Manila Law College in 1924 (Bantigue, J., *History of the Legal Profession*, p. 5).

The Manila Young Men's Christian Association (YMCA) in 1910 conducted the first English law courses. English replaced Spanish as the language of instruction. On January 12, 1911, the Board of Regents established the University of the Philippines College of Law. It started with around fifty (50) Filipino and American students. Those who began at the YMCA School were admitted as sophomores and became the first graduates of the university. Its operation was suspended during the Japanese military occupation and resumed after liberation. The curriculum of the University of the Philippines formulated in 1911 became the model curricula followed by all law schools (*Id.*, p. 6).

In early times, law schools were established only in Manila. In 1911 when a person would like to study law, he had to go to Manila for the course was offered by only a handful of schools. Today, he can go and study law in his own province. There are eighty-one (81) law schools operating in many parts of the country. Each of the thirteen regions of the Philippines has at least one law school. Some years ago, only the College of Law of the University of the Philippines was supported by the State. Lately, there are the Mindanao State University in Marawi, the Western Mindanao State University in Zamboanga City, the Don Mariano Marcos University in La Union, and the Pamantasan Ng Lungsod Ng Maynila.

The eighty-one (81) law schools in the Philippines today are subject to the administrative supervision of the Commission on Higher Education as regards the initial and continuing requirements for their operation along with other private educational institutions. The University of the Philippines is governed by a special legislative act, Act No. 1870, June 18, 1908 which enables the school to operate with some degree of autonomy, together with the constitutional guarantee of academic freedom. However, as institutions of higher learning, all law schools are guaranteed academic freedom.

The power of the Supreme Court to prescribe rules on admission to the practice of law, carries with it the power to determine the subjects on which the examinations

will be given, the percentage of each subject, how the examinations will be conducted, what course an applicant for the bar examinations must take in the four year study leading to the Bachelor of Laws degree. The formal education leading to the admission for the bar examination takes eight years of tertiary education to complete: a four-year preparatory course and another four years in law school. After finishing their law degree, students enroll in courses for the bar examination.

In 1911, the only educational requirements for one to become a lawyer were a high school degree and a three-year law course. Later, the pre-law requirement was raised to two years of college work (Associate in Arts Degree) in addition to a high school degree (Cortes, I.R., *Legal Education in a Changing Society*, p. 43).

In 1960, the Supreme Court amended the Rules of Court. It increased the pre-law requirements to a 4-years bachelor's degree and increasing the law course to four years bachelor's degree and increasing the law course to four years (Romero, F.R.P., *The Challenges to Legal Education in the Philippines*, p. 78).

The sources of Philippine legal education are: (a) Spain, which gave it the Roman civil law and the canon law, (b) the United States, which gave it the English common law, and (c) Indonesia (through the Majapahit Empire and the Shri Vicaya Empire) which gave it the Islamic Law (Cortes, I.R., *Legal Education in the Changing Society*, p. 22).

Under Republic Act No. 7662 (Legal Education Act of 1993), the focus of legal education are: advocacy, counseling, problem solving, decision-making, ethics and nobility of the legal education, bench-bar partnership, and social commitment, selection of law students, quality of law schools, the law faculty, and the law curriculum, mandatory legal apprenticeship and continuing legal education.

### **C. Law Curriculum**

The law curriculum followed in the four-year law course in all Philippine law schools, except the U.P. College of Law, is the one prescribed for private schools. The courses for every semester of the four-year curriculum are specified, with their description and sequence in which they are to be taken. The content and scope of the curriculum covers the whole field of law according to a classification plan followed as early as 1911. Law students are expected to know all fields of Philippine law prescribed in the curriculum with a four-year period.

The Supreme Court declared that no applicant shall be admitted to the bar examinations unless he has satisfactorily completed the following courses in a law school or university duly recognized by the government: 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 (Rules of Court, Rule 138, sec. 6).

The law curriculum in the Philippines contains two kinds of courses: the perspective courses like legal history and jurisprudence and the bread and butter courses like criminal law, remedial law and commercial law. Since the University of the Philippines College of Law enjoys autonomy on curricular matters, sophomore and senior students may choose to enroll in certain elective courses. There is a difference in curriculum between the full-time student and the evening working student. The full-time student takes an average of 15 units per semester to finish in four years and the evening working would finish in five years.

#### **D. Law Faculty**

With the exception of the University of the Philippines College of Law, only a few law schools have full-time faculty members. Law teaching is a secondary activity done after a day's work by judges, law practitioners and lawyers in government or private enterprise. Part-time teachers report only for their part-time teaching. Teaching is only incidental to their major profession. Lawyers who devote their professional career to full-time teaching belong to a very small group. Some of those who join the ranks do not even stay very long. Greater opportunities offered by private practice and government service make them more rewarding than working as full-time faculty in a law school.

There is no uniform recruitment policy followed by law schools. Hiring or appointing members of the law faculty are through invitation and application. In the College of Law of the University of the Philippines, appointments to the law faculty are made through invitation and not on the basis of application. Generally, those appointed had some experience in teaching, private law practice or the judiciary or belong to the top ten percent of their class. In hiring faculty members, law schools take into account an applicant's academic background, professional experience or achievements and availability. Many law schools have no ranking and policies on promotion. In some

schools, promotions are applicable principally to full-time members of the faculty and they also enjoy the privilege of tenure.

### **E. Law School Admission Test**

Some law schools require admission tests and a screening process for applicants while others admit any applicant who satisfies the preparatory law requirement. At the University of the Philippines College of Law, an applicant must first take a Law Aptitude Examination (LAE) Test. This is a uniform examination designed to measure the mental qualities needed for a successful law study. Questions are formulated to gauge the individual's capacity to read, understand and reason logically. The LAE Test together with the student's pre-law grades and interviews are all considered in the screening process for admission.

### **F. Teaching Methods**

The educational background, experience and other personal circumstances of the teacher influence the methods of instruction. Some of the teaching methods are (1) Lecture Method – If classes are large and professors in this particular field are few, this method is frequently used. Majority of Metropolitan Manila law schools except the University of the Philippines always had straight lecture; (2) Question and Answer Method – Usually referred to as the “modified Socratic method.” It utilizes assigned provisions of law, court decisions or readings from textbooks and other materials as basis for classroom discussion. The teacher briefly introduces the subject then calls on students to answer questions based on the assignments; (3) Case Method – Cases are assigned to student for discussion. The teacher poses questions upon the students, gives an analysis of the case under discussion, traces the development of the doctrine and synthesizes them; (4) Problem Method – The method varies from simple studies of a single legal issue to complicated problems involving extensive library and field research work. Students are trained to appreciate facts, pick out issues, reflect on the law and doctrine and consider alternative solution; (5) Seminar Method – For more advanced undergraduate students, this is an in-depth inquiry into special areas of law. Emphasis is on student participation; the teacher guides the discussion and draws out comments,

observations, views and reactions from the students (Cortes, I.R., *Prevailing Methods of Teaching Law: An Appraisal*, pp. 138-145).

Examinations are either oral or written. Majority of law schools provides for at least two examinations in a semester. The objective type of examination is rare. A case problem followed by the essay type of examination is often used. Textbooks are most frequently used. Some schools use casebooks. Syllabi are utilized to serve as lesson plans for the teacher and as guides for the student.

## **G. Continuing Legal Education**

Continuing Legal Education is an educational program conducted for those who become qualified to practice law through admission to the bar. It is sometimes called “post-admission” programs. It consists of a formal education thru seminars, lectures or workshops, law institutes. These are all related to the practice of law and a combination of the following objectives: (1) to disseminate information in the different branches of law; (2) to develop legal skills; (3) to enhance the lawyer’s sense of responsibility to the client, to his colleagues, to the court, and the public in general.

Purely on a voluntary basis, Continuing Legal Education for lawyers is primarily conducted by the Institute of Judicial Administration under the umbrella of the U.P. Law Center. It is either initiated by it or conducted upon the request of a government agency, private organization or a local chapter of the Integrated Bar of the Philippines (IBP), the national organization of lawyers in the country.

The seminar will be conducted under the co-sponsorship of the U.P. Law Center and the requesting entity. Under this arrangement, both sponsors jointly plan the curriculum, choose the lecturers and take care of the administrative details.

While there is a co-sponsor, the U.P. Law Center takes care of inviting and compensating the lecturers, most of whom are drawn from the ranks of active law practitioners, the judiciary, the academe or from the agency which acts as co-sponsor. In provinces where the local chapter of the Integrated Bar of the Philippines is a co-sponsor, the latter handles recruitment of participants, choice of venue, publicity, advance registration and the billeting of the administrative staff members and lecturers coming from Manila. The U.P. Law Center receives the registration fee, an amount that barely covers the honoraria of lecturers, accommodation and travel expenses of lecturers and administrative staff and other similar expenses.

The Philippine Supreme Court “in the interest of the administration of justice with the end in view of improving and raising the standards of the legal profession” created a Committee on Legal Education to (1) study the adequacy of the present academic requirements for admission to law course; (2) suggest a system of admission to law schools and devise for the purpose pre-qualification examinations that will accurately determine the students’ aptitude and articulation skills; (3) determine whether or not the existing law school curriculum sufficiently and properly prepares law students for the tasks and responsibilities of a member of the Bar; (4) restudy the system of Bar examinations, evaluate its effectiveness as a determining factor in the admission of law graduates to the Bar and in the event of a positive conclusion, to formulate measures that will improve and strengthen the system.

## **H. Bar Examinations**

The power to admit qualified persons to the practice of law is vested in the Supreme Court (Sec. 5(5), Art. VIII, Philippine Constitution). They lay down the requirements for admission evidencing the moral character, qualifications, and ability of all applicants. While it is true that the Congress of the Philippines may repeal, alter or supplement these rules, the power of supervision over members of bar remains with the Supreme Court.

Every applicant for admission to the bar must be a citizen of the Philippines, at least twenty one years of age, of good moral character, and a resident of the Philippines. He must produce before the Supreme Court a satisfactory evidence of good moral character, and no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines (Rule 138, sec. 2, Rules of Court). It requires the disclosure not only of criminal cases involving moral turpitude filed or pending against the applicant but also of all other criminal cases wherein he is the accused. The Supreme Court determines what crimes involves moral turpitude (In re: Victor Lanuevo, Adm. Case No. 1162, Aug. 29, 1975).

The concealment or withholding from the court of the fact that an applicant has been charged or convicted for an alleged crime is a ground for disqualification to take the bar examination, or for revocation of his license to practice if he has already been admitted to the bar. If what is concealed is a crime which does not involve moral

turpitude, it is the fact of concealment and not the commission of the crime itself that make him morally unfit to become a lawyer.

There are applicants who may be admitted to the Bar without examination. Lawyers who are citizens of the United States before July 4, 1946, licensed members of the Philippine Bar, in actual practice in the courts of the Philippines and in good and regular standing may upon satisfactory proof be allowed by the Supreme Court to continue practice after taking the prescribed oath (Rule 138, sec. 3, Rules of Court).

Applicants for admission who are Filipino citizens, and enrolled attorneys in good standing in the Supreme Court of the United States or in any circuit court of appeals or district court or in the highest court of any state or territory of the United States are also allowed to practice law in the Philippines provided they show proof that they have been in the practice of law for at least five (5) years in any of said courts, that their practice began before July 4, 1946 and they have not been suspended or disbarred (Rule 138, sec. 4, Rules of Court).

In addition to other requirements, the applicant must show proof that he has completed the required four year bachelor's degree in arts or sciences. He must have completed the requirements of the degree of bachelor of laws as prescribed by the Department of Education in a school or university recognized by the Government (Rule 138, sec. 5, Rules of Court).

Application to the bar examination is filed with the clerk of the Supreme Court together with supporting documents at least fifteen (15) days before the beginning of the examination. It should not contain false statement or suppress any material facts (Rule 7.01, Code of Professional Responsibility).

The object of bar examinations is to determine whether the applicant has the necessary knowledge and training in the law and technicalities of procedure. The Supreme Court acts through a Bar Examination Committee in the exercise of its judicial function to admit candidates to the legal profession. This committee is composed of a Justice of the Supreme Court, who serves as chairman, and eight members of the Bar of the Philippines who serve as examiners in the eight (8) subjects with one (1) subject assigned to each member. Acting as a liaison officer between the Court, the Chairman and the Bar Examiners is the Bar Confidant who is at the same time a deputy clerk of court.

Applicants whose applications are found to be sufficient are qualified to take the written examinations. The examinations take place annually in Manila. They are

held in four days designated by the Chairman of the Committee on Bar Examinations. Candidates who failed the bar examinations for three times is disqualified from taking another examination. He must show the court that he has enrolled, passed the regular fourth year review classes and attended pre-bar review course in a recognized law school.

The Committee on Bar Examination prepares the questions for all examinees. It has to take all the necessary precautions to prevent the substitution of papers or commission of other frauds. Examinees are not suppose to place their names on the examination papers and no oral examination is given. The examinee answers the questions personally without help from anyone. The Supreme Court may allow an examinee to use a typewriter in answering the questions, if his penmanship is so poor that it will be difficult to read his answers. Only noiseless typewriters are allowed to be used (Rule 138, sec. 10, Rules of Court).

An examinee is prohibited from bringing books or notes into the examination room. He is not supposed to communicate with the other examinees or give or receive any assistance (Rule 138, sec. 10, Rules of Court). Any candidate who violates the rule is barred from the examination and is subject to a disciplinary action including permanent disqualification. To keep the bar examinee's identity a secret, the examination papers are identified by numbers and the name of the examinee is written in a piece of paper which is sealed in an envelope (Rule 138, sec. 13, Rules of Court).

To successfully pass the bar examination, a candidate must obtain the general average of 75 per cent in all subjects, without falling below 50 per cent in any subject. The Bar Examiner corrects the examination papers. After the corrected notebooks are submitted by the Bar Examiners, the Bar Confidant tallies the individual grades of every examinee in all subjects, computes the general average and prepares a comparative data showing the percentage of passing and failing in relation to a certain average. He submits the grades to the Bar Examination Committee and to the court. The court then determines the passing average (In re: Lanuevo, supra; Rule 138, sec. 1, Rules of Court).

An applicant who passed the required bar examination and found to be entitled to admission to the bar takes his oath of office before the Supreme Court (Rule 138, sec. 17, Rules of Court). The Supreme Court admits the applicant as a member of the Bar for all the courts of the Philippines. He orders an entry to the records and a certificate of record is given to him by the clerk of court which shall be his authority to practice

(Rule 138, sec. 18, Rules of Court). The clerk of the Supreme Court keeps the roll of all attorneys admitted to practice which is signed by the person admitted when he receives his certificate.

**BAR EXAMINATIONS  
THE NATIONAL PERCENTAGE**

<b>YEAR</b>	<b>APPLICANTS</b>	<b>PASSING PERCENTAGE</b>	<b>AVERAGE CONSIDERED AS PASSING</b>
1946 (August)	208	46.63 %	72 %
1946 (November)	478	56.69 %	69.45 %
1947	755	59.87 %	69 %
1948	901	62.26 %	70 %
1949	1,222	56.14 %	74 %
1950	1,325	31.92 %	73 %
1951	2,079	57.19 %	74 %
1952	2,749	62.02 %	74 %
1953	2,556	72.42 %	71.5 %
1954	3,206	75.17 %	72.5 %
1955	2,987	27.79 %	73.5 %
1956	3,647	62.60 %	73 %
1957	3,110	19.77 %	72 %
1958	3,951	21.97 %	72 %
1959	3,754	21.31 %	72 %
1960	4,178	39.9 %	72 %
1961	4,370	19.34 %	71 %
1962	4,635	19.4 %	72.5 %
1963	5,453	22.26 %	70 %
1964	3,567	25.09 %	71.5 %
1965	1,969	32.66 %	71.5 %
1966	1,947	36.72 %	74 %
1967	1,803	22.80 %	72 %
1968	1,643	21.11 %	73 %
1969	1,731	28.6 %	73 %
1970	1,761	27.9 %	73 %
1971	1,835	33.84 %	74 %
1972	1,907	28.68 %	70 %
1973	1,631	37.4 %	74 %

1974	1,956	35.02 %	70 %
1975	1,950	35.18 %	73 %
1976	1,979	49.77 %	74.5 %
1977	1,714	60.56 %	74 %
1978	1,890	56.93 %	73 %
1979	1,824	49.51	73.4 %
1980	1,800	33.61 %	73 %
1981	1,924	43.71 %	72.5 %
1982	2,112	20.5 %	75 %
1983	2,455	21.3 %	75 %
1984	2,497	22.55 %	75 %
1985	2,626	26.69 %	75 %
1986	2,609	18.88 %	75 %
1987	2,682	17.90 %	75 %
1988	2,824	24.40 %	75 %
1989	3,006	21.26 %	75 %
1990	3,089	28.03 %	75 %
1991	3,194	17.81 %	75 %
1992	2,892	17.25 %	75 %
1993	3,348	21.65 %	75 %
1994	3,337	30.87 %	75 %
1995	3,194	30.28 %	75 %
1996	3,900	31.21 %	75 %
1997	3,921	18.11 %	75 %
1998	3,697	39.63 %	75 %
1999	3,978	16.59 %	75 %

# VI. COURT PROCEDURES IN CIVIL AND CRIMINAL CASES

## A. The Philippine Judicial System

Judicial power, as defined in the 1987 Constitution, 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 (Article VIII, Section 1, *1987 Constitution*). This power is vested in the Supreme Court created by the Constitution and such other lower courts established pursuant to laws enacted by Congress. A policy of strict observance of such hierarchical organization of our courts is enforced by the Supreme Court which will 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 (Article VIII, Section 1, *1987 Constitution*).

### 1. The Supreme Court

At the apex of the Philippine judicial system is the Supreme Court which is the only constitutional court, the sole judicial body created by the Constitution itself. It is 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 (Article VIII, Section 4 (1), *1987 Constitution*). All cases involving the constitutionality of a treaty, international or executive agreement, or law, and all other cases required by the Rules of Court to be heard *en banc*, including those involving the constitutionality, application or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, are heard by the Supreme Court *en banc* and decided by it with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon (Article VIII, Section 4 (2), *1987 Constitution*).

Cases or matters heard by a division are decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. No doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc* (Article VIII, Section 4 (3), 1987 Constitution).

## **2. The Court of Appeals**

The Court of Appeals is headed by a Presiding Justice with sixty-eight (68) Associate Justices as members (*Batas Pambansa Blg. 129* (1980), as amended by Executive Order No. 33 (promulgated on July 28, 1986) and *Republic Act No. 8246* (approved on December 30, 1996)). It exercises its powers, 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 (Sec. 4, *B.P. 129*, as amended by *Republic Act No. 8246*). For its *en banc* sessions, a majority of the actual members of the Court shall constitute a quorum. For the sessions of a division, three members shall constitute a quorum, and their unanimous vote shall be necessary for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the opinion by any member of the division. If the three members fail to reach a unanimous vote, the Presiding Justice shall designate two Justices chosen by raffle to sit temporarily with them, forming a special division of five Justices, the concurrence of a majority of which is required for the pronouncement of a judgment or final resolution (Sec. 11, *B.P. 129*, as amended by Executive Order No. 33; Sections 2 and 3, Rule 51, *1997 Rules of Civil Procedure*).

The Court of Appeals shall have its permanent stations as follows: The first seventeen (17) divisions shall be stationed in the City of Manila for cases coming from the First to the Fifth Judicial Regions; the Eighteenth, Nineteenth, and Twentieth Divisions shall be in Cebu City for cases coming from the Sixth, Seventh and Eighth Judicial Regions; the Twenty-first, Twenty-second and Twenty-third Divisions shall be in Cagayan de Oro City for cases coming from the Ninth, Tenth, Eleventh, and Twelfth Judicial Regions. Whenever demanded by public interest, or whenever justified by an increase in case load, the Supreme Court, upon its own initiative or upon recommendation of the Presiding Justice, may authorize any division of the Court to

hold sessions periodically, or for such periods and at such places as the Supreme Court may determine, for the purpose of hearing and deciding cases (Section 10 of *B.P. 129*, as amended by Section 3 of *Republic Act No. 8246*).

### **3. Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts**

Regional Trial Courts (RTCs) are established in the thirteen Judicial Regions of the country. At present, there is a total of 950 existing branches of RTC, with 875 organized courts and 82 unorganized courts (Profile of Lower Courts by Provinces as of December 31, 1999 prepared by the Court Management Office of the Supreme Court, Annex "E" of the *1999 Annual Report of the Supreme Court of the Philippines*).

Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts are the so-called first level courts. There is a Metropolitan Trial Court (MeTC) in each metropolitan area established by law, a Municipal Trial Court in each of the other cities or municipalities and a Municipal Circuit Trial Court in each circuit comprising such cities and/or municipalities as are grouped together pursuant to law (Section 25, *B.P. 129*). There are 82 branches of Metropolitan Trial Court in Metro Manila for the National Capital Region (Section 27, *B.P. 129*). The Supreme Court shall constitute Metropolitan Trial Courts in such other metropolitan areas as may be established by law whose territorial jurisdiction shall be co-extensive with the cities and municipalities comprising the metropolitan area (Section 28, *B.P. 129*). There are presently 141 municipal trial courts in cities (MTCCs) (Profile of Lower Courts by Provinces, *supra*). In every city which does not form part of a metropolitan area, there shall be a Municipal Trial Court (MTC) with one branch except in certain designated cities where there shall be two or more branches (Section 29, *B.P. 129*). In each of the municipalities that are not comprised within a metropolitan area and a municipal circuit there shall be a Municipal Trial Court which shall have one branch except in certain designated municipalities which shall have two or more branches (Section 30, *B.P. 129*). There are presently 425 existing municipal trial courts, with 422 organized courts and 3 unorganized courts, while for municipal circuit trial courts, the total number is 476 (Profile of Lower Courts by Provinces, *supra*).

#### **4. Shari'a Courts**

For Filipino Muslims in Mindanao, *Shari'a* District and Circuit Courts were created under Presidential Decree No. 1083, otherwise known as the "Code of Muslim Personal Laws of the Philippines." *Shari'a* District Courts and Circuit Courts were established in five judicial regions, namely, the Province of Sulu; the Province of Tawi-Tawi; the Provinces of Basilan, Zamboanga del Norte and Zamboanga del Sur, and the Cities of Iligan and Marawi; and the Provinces of Maguindanao, North Cotabato and Sultan Kudarat, and the City of Cotabato. The territorial jurisdiction of each of the *Shari'a* Circuit Courts shall be fixed by the Supreme Court on the basis of geographical contiguity of the municipalities and cities concerned and their Muslim population (Articles 138 and 150, P.D. 1083). A third *Shari'a* court, the *Shari'a* Appellate Court, was created by Republic Act No. 6734, otherwise known as "The Organic Act for the Autonomous Region in Muslim Mindanao." It is composed of a Presiding Justice and two Associate Justices whose qualifications shall be the same as those for Justices of the Court of Appeals and must be learned in Islamic Law and jurisprudence (Article IX, Sections 4 and 13, Republic Act No. 6734 approved on August 1, 1989). In its Resolution in A.M. No. 99-4-06-SC (June 8, 1999), the Supreme Court authorized the organization of the *Shari'a* Appellate Court and directed the Committee on the Revision of the Rules of Court to draft the Internal Rules of the *Shari'a* Appellate Court.

#### **5. Other Special Courts**

The *Sandiganbayan* is a special court created pursuant to the 1973 Constitution, which will try and decide criminal and civil cases involving graft and corruption practices and other such offenses committed by public officers and employees, including those in government-owned or controlled corporations in relation to their office, as may be determined by law (Article III, Section 5). Its mandate was reaffirmed by the 1987 Constitution which provided that the *Sandiganbayan* shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law (Article XI, Section 4). The implementing law of the constitutional provision is Presidential Decree No. 1486, as amended by P.D. No. 1606 (effective December 10, 1978). Republic Act No. 7975 ("An Act To Strengthen the Functional and Structural Organization of the *Sandiganbayan*, Amending for that Purpose Presidential Decree No. 1606, As Amended," approved on March 30, 1995 and took effect on May 16, 1995) further strengthened its functions and structure, and Republic Act No. 8249 ("An Act

Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, As Amended; Providing Funds Therefor, and For Other Purposes,” approved on February 5, 1997) further defined its jurisdiction. The Sandiganbayan, composed of a Presiding Justice and fourteen Associate Justices, is a “special court, of the same level as the Court of Appeals and possessing all the inherent powers of a court of justice.” (Section 1, P.D. 1606, as amended by *Republic Act No. 8249*). It sits in divisions of three Justices each and the divisions may sit at the same time (Section 3, P.D. 1606). It shall have its principal office in the Metro Manila area and shall hold sessions thereat for the trial and determination of cases filed with it. However, cases originating from the principal geographical regions of the country, that is from Luzon, Visayas, and Mindanao, shall be heard in their respective regions of origin except only when the greater convenience of the accused and of the witnesses, or other compelling considerations require the contrary, in which instance a case originating from one geographical region may be heard in another geographical region. For this purpose, the Presiding Justice shall authorize any division or divisions to hold sessions at any time and place outside Metro Manila and, when the interest of justice so requires, outside the territorial boundaries of the Philippines. The Sandiganbayan may require the services of the personnel and the use of facilities of the courts or other government offices where any of the divisions is holding sessions and the personnel of such courts or offices shall be subject to its orders (Section 2, P.D. 1606, as amended by *Republic Act No. 8249*).

The *Court of Tax Appeals* was established under Republic Act No. 1125 and is composed of a Presiding Justice and two Associate Justices (Section 1, Republic Act No. 1125). Its mandate is to adjudicate appeals involving internal revenue tax and customs cases in order to assist the government in the expeditious collection of revenues as well as provide a forum for taxpayers against unjust and erroneous tax assessments and impositions. Taxation being a specialized and technical field of law, the Court of Tax Appeals was conceived as “a special court that would set comprehensive, logical and clear-cut judicial rulings on taxation” towards better revenue administration and development of jurisprudence on tax matters (See Explanatory Note, Senate Bill No. 2, Third Congress of the Philippines).

## 6. Family Courts

The latest addition to the Philippine judicial system is the *Family Court* created under Republic Act No. 8369, otherwise known as “The Family Courts Act of 1997,” which shall be established in every province and city. In case where the city is the capital of the province, the Family Court shall be established in the municipality which has the highest population (Section 3, Republic Act No. 8369). Family Court judges shall possess the same qualifications as those provided for Regional Trial Court judges and shall undergo training and must have the experience demonstrated ability in dealing with child and family cases (Section 4, *Republic Act No. 8369*). By providing a system of adjudication for youthful offenders which takes into account their peculiar circumstances, said law concretizes the Philippines’ commitment to the principles enshrined in the United States Convention on the Rights of the Child for the protection of the rights and promotion of the welfare of children. It also implements the constitutional provisions that strengthen and protect the family a basic institution in Philippine society (Section 2, Republic Act No. 8369; Article XV, 1987 Constitution). The Supreme Court shall promulgate special rules of procedure for the transfer of cases to the new courts during the transition period and for the disposition of family cases with the best interests of the child and the protection of the family as a primary consideration, taking into account the United Nations Convention on the Rights of the Child (Section 13, Republic Act No. 8369). Pending the establishment of such family courts, the Supreme Court shall designate from among the branches of the Regional Trial Court at least one Family Court in each of the cities of Manila, Quezon, Pasay, Caloocan, Makati, Pasig, Mandaluyong, Muntinlupa, Laoag, Baguio, Santiago, Dagupan, Olongapo, Cabanatuan, San Jose, Angeles, Cavite, Batangas, Lucena, Naga, Iriga, Legaspi, Roxas, Iloilo, Bacolod, Dumaguete, Tacloban, Cebu, Mandaue, Tagbilaran, Surigao, Butuan, Cagayan de Oro, Davao, General Santos, Oroquieta, Ozamis, Dipolog, Zamboanga, Pagadian, Iligan and in such other places as the Supreme Court may deem necessary. In areas where there are no Family Courts, cases falling within the jurisdiction of the said courts shall be adjudicated by the Regional Trial Court (Section 17, Republic Act No. 8369). A Committee formed by the Supreme Court’s Committee on Revision of Rules chaired by Mr. Justice Reynato Puno is still in the process of drafting the Rules of the Family Court. Meanwhile, pending the constitution and organization of the Family Courts and the designation of branches of the Regional Trial Courts as Family Courts in accordance with Section 17 of R.A. 8369,

the Supreme Court has ordered the transfer of all criminal cases within the jurisdiction of the Family Courts filed with the first level courts to the Regional Trial Courts (See A.M. No. 99-1-12-SC, February 9, 1999).

All hearings and conciliation of the child and family cases shall be treated in a manner consistent with the promotion of the child's and family's dignity and worth, and shall respect their privacy at all stages of the proceedings. Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge (Sec. 12, Republic Act No. 8369).

### **7. Heinous Crimes Courts**

In the interest of a speedy and efficient administration of justice, the Supreme Court has designated a number of branches of the Regional Trial Court in each judicial region to try and decide exclusively the following cases: (1) kidnapping and/or kidnapping for ransom, robbery in band, robbery committed against a banking or financial institution, violation of the Dangerous Drugs Act of 1972, as amended, regardless of the quantity involved, violation of the Anti-Carnapping Act of 1972, as amended, and other heinous crimes (R.A. No.7659) committed within their respective territorial jurisdictions; (2) Violations of intellectual property rights such as, but not limited to, violations of Art. 188 of the Revised Penal Code (substituting and altering trademarks, trade names, or service marks), Article 189 of the Revised Penal Code (unfair competition, fraudulent registration of trademarks, trade names or service marks, fraudulent designation of origin, and false description), P.D. No. 49 (protection of intellectual property rights), P.D. No. 87 (An Act Creating the Videogram Regulatory Board), R.A. No. 165 as amended (the Patent Law), and R.A. No. 166, as amended, (the Trademark Law); and (3) libel cases. These cases shall undergo mandatory continuous trial and shall terminate within sixty (60) days from commencement of the trial and judgment thereon shall be rendered within thirty (30) days from the submission for decision unless a shorter period is provided by law or otherwise directed by the Supreme Court (Administrative Order No. 104-96, October 21, 1996).

## **B. The 1997 Rules of Civil Procedure**

On the Supreme Court is vested the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules 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 (Section 5 (5), Article VIII, 1987 Constitution).

The 1964 Rules of Court had been the subject of several amendments and revisions throughout the years. In order to fully incorporate such changes in accordance with existing laws, jurisprudence and administrative issuances, the Supreme Court approved on April 2, 1997 the 1997 Rules of Civil Procedure which took effect on July 1, 1997 (Resolution of the Court En Banc dated April 8, 1997).

The Rules govern the procedure to be observed in actions, civil or criminal, and special proceedings. A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong. A civil action may either be ordinary or special, and both are governed by the rules for ordinary civil actions, subject to the specific rules prescribed for a special civil action. A criminal action is one by which the State prosecutes a person for an act or omission punishable by law. A special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact (Section 3, Rule 1). The Rules are not applicable to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not provided for by it, except by analogy or in a supplementary character and whenever practicable and convenient (Section 4, Rule 1). As to the rules of procedure of special courts and quasi-judicial agencies, they shall remain effective unless disapproved by the Supreme Court (Section 5 (5), Article VIII, 1987 Constitution).

The Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding (Section 6, Rule 2). The following are the salient features of the 1997 Rules of Civil Procedure.

### **1. Jurisdiction**

Jurisdiction is defined as the power and authority to hear, try and decide a case (*Zamora vs. Court of Appeals*, 183 SCRA 279). In order for the court to have authority to

dispose of the case on the merits, it must acquire jurisdiction over the subject matter, and the parties (*Paramount Insurance Corporation v. Japzon*, 211 SCRA 879).

Jurisdiction over the subject matter is conferred on the court by the Constitution or the law. Except for cases enumerated in Section 5 of Article VIII of the Constitution (cases over which the Supreme Court has jurisdiction), Congress has the plenary power to define, prescribe and apportion the jurisdiction of various courts (*De Leon v. Court of Appeals*, 245 SCRA 166; *Morales v. Court of Appeals*, 283 SCRA 211; Sections 2 and 5, Article VIII, 1987 Constitution). The facts alleged in the complaint and the law in force at the time of the commencement of the action determines the jurisdiction of the court (*Ching vs. Malaya*, 153 SCRA 412; *Mercado vs. Ubay*, 187 SCRA 719). The parties by their agreement cannot provide such jurisdiction where there is none (*SEAFDEC vs. NLRC*, 206 SCRA 283). But once jurisdiction attaches it cannot be ousted by the happening of subsequent events although of such a character which should have prevented jurisdiction from attaching in the first instance [the rule of adherence of jurisdiction] (*Ramos vs. Central Bank of the Philippines*, 41 SCRA 565; *Lee vs. Presiding Judge, MTC of Legaspi City, Br. I*, 145 SCRA 408). As to the effect of lack of jurisdiction over the subject matter, the general rule is that judgment is void and may be challenged any time in any proceeding (*Municipality of Antipolo vs. Zapanta*, 133 SCRA 820; *Estoesta vs. Court of Appeals*, 179 SCRA 203). However, a party may be barred from raising the question of jurisdiction on the ground of laches or estoppel (*Tijam vs. Sibonghanoy*, 23 SCRA 29; *Heirs of Fabio Masangya vs. Masangya*, 189 SCRA 234).

Jurisdiction over the parties is acquired as to the plaintiff, by the filing of the complaint, and as to the defendant, by the service of summons. The Rules require that summons be served personally on the defendant (Sec. 6, Rule 14) and if, for justifiable causes, this cannot be done within a reasonable time, substituted service may be resorted to. Substituted service is accomplished by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion residing thereat, or by leaving the copies at defendant's office or regular place of business with a competent person in charge thereof (Sec. 7, Rule 14). For a private foreign juridical entity, service may be made on any one of the following: (1) its resident agent designated in accordance with law for that purpose; (2) if there be no such agent, on the government official designated by law to that effect; and (3) in any of its officers or agents within the Philippines (Sec. 12, Rule 14). Summons by publication may be allowed by the court in any action where the defendant is designated as an unknown owner, or the like,

or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry. Service upon a non-resident defendant who is not found in or a resident defendant temporarily out of the Philippines where the action affects the personal status of the plaintiff, or concerns property situated here, may be effected outside the Philippines either by personal service or publication (Secs. 15 and 16, Rule 14). In all these cases, proof of service is required to be submitted to the court (Secs. 18 and 19, Rule 14). The defendant's voluntary appearance in the action, however, shall be equivalent to service of summons (Sec. 20, Rule 41).

## **2. Jurisdiction of the Courts**

The jurisdiction of the *Supreme Court* is defined by the Constitution which also provided that Congress may increase its appellate jurisdiction with its advice and concurrence (Section 30, Article VI, *1987 Constitution*).

The only original cases which may be filed with the Supreme Court are petitions for certiorari, prohibition, mandamus, quo warranto, habeas corpus, disciplinary proceedings against members of the judiciary and attorneys, and cases affecting ambassadors, other public ministers and consuls (Sec. 1, Rule 56; Secs. 5 (1) and 11, Article VIII, *1987 Constitution*). The Court's original jurisdiction over actions affecting public ministers and consuls is concurrently exercised by the Regional Trial Courts (Sec. 21 (2), B.P. 129). Its exclusive original jurisdiction covers petitions for the issuance of writs of certiorari, prohibition and mandamus against the Court of Appeals, Commission on Elections, Commission on Audit and Sandiganbayan. Concurrent with the Court of Appeals, it also has original jurisdiction to issue such writs against the Civil Service Commission (Sec. 9, B.P. 129, as amended by Sec. 1, Republic Act No. 7902), Court of Tax Appeals and quasi-judicial agencies (Sec. 1, Rule 43; Sec. 1, Rule 65), regional trial courts and lower courts. And concurrent with the Court of Appeals and Regional Trial Courts, it has original jurisdiction over petitions for habeas corpus and quo warranto and petitions for issuance of writs of certiorari, prohibition and mandamus against lower courts or bodies (Sec. 9 (1), B.P. 129; *Vergara vs. Suelto*, 156 SCRA 753; Sec. 21 (1), B.P. 129).

As to its appellate jurisdiction, the Supreme Court is empowered by the Constitution to review, revise, reverse, modify, or affirm on appeal on certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in all cases: (a) in which the constitutionality or validity of any treaty, international or

executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question; (b) involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto; (c) in which the jurisdiction of any lower court is in issue; (d) all criminal cases in which the penalty imposed is reclusion perpetua or higher; and (e) in which only an error or question of law is involved (Sec. 5, Article VIII, 1987 Constitution). An appeal to the Supreme Court may be taken only by a petition for review on certiorari, except in criminal cases where the penalty imposed is death (automatic review), reclusion perpetua or life imprisonment (by notice of appeal) (Sec. 3, Rule 56; Sec. 3 (b) and (e), Rule 122). Appeal by petition for review on certiorari may be taken from judgments or final orders or resolutions of the Court of Appeals (Sec. 5 (2), Article VIII, 1987 Constitution; Sec. 1, Rule 45), the Sandiganbayan (on pure questions of law, except cases where the penalty imposed is reclusion perpetua, life imprisonment or death) (Sec. 7, P.D. 1606 as amended by Republic Act No. 8249; Nuñez vs. Sandiganbayan, 111 SCRA 433; Sec. 1., Rule 45), the Regional Trial Court (if no question of fact is involved in cases referred to in Sec. 5[a], [b] and [c] Art. VIII, 1987 Constitution) (Sec. 1, Rule 45). These petitions shall raise only questions of law which must be distinctly set forth (Sec. 5 (2) [a], [b] and [c], Article VIII, 1987 Constitution; Sec. 9 (3), B.P. 129). The Supreme Court has exclusive appellate jurisdiction over judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit (Sec. 1, Rule 64). Where in criminal cases the death penalty is imposed by the Regional Trial Court, the Sandiganbayan, or by the Court of Appeals, the case shall be elevated to the Supreme Court for automatic review (See Republic Act Nos. 7659 and 8249; Sec. 13, Rule 124). Cases decided by the Sandiganbayan over the criminal and civil cases filed by the Philippine Commission on Good Government (PCGG), as well as the incidents arising therefrom, are subject to review on certiorari exclusively by the Supreme Court (Olague vs. RTC of Manila, 170 SCRA 478 (1989); PCGG vs. Judge Aquino, Jr., 163 SCRA 363 (1988)).

The Court of Appeals is vested with exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts which may be based only on the grounds of extrinsic fraud and lack of jurisdiction (Sec. 9 (2), B.P. 129; Secs. 1 and 2, Rule 47). It exercises exclusive appellate jurisdiction over judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency among which are the Civil Service Commission, 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 under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law (Sec. 9 (3), B.P. 129 as amended by Republic Act No. 7902). Appeal from the Court of Tax Appeals, the Civil Service Commission and other quasi-judicial agencies shall be by petition for review (Sec. 5, Rule 43). Appeal by certiorari to the Supreme Court from decisions or final orders of the Ombudsman is authorized by Section 27 of Republic Act No. 6770 ("Ombudsman Act of 1989" which took effect on November 17, 1989). On the other hand, the Rules expressly excluded from the appellate jurisdiction of the Court of Appeals, judgments or final orders issued under the Labor Code of the Philippines (Sec. 2, Rule 43).

However, in the case of *Fabian vs. Hon. Aniano A. Desierto* (G.R. No. 129742, September 16, 1998, 295 SCRA 470), the Supreme Court declared as invalid Section 27 of Republic Act No. 6770, together with Section 7, Rule III of Administrative Order No. 07 (Rules of Procedure of the Office of the Ombudsman) and any other provision of law or issuance implementing the aforesaid Act and insofar as they provide for appeals in administrative disciplinary cases from the Office of the Ombudsman to the Supreme Court on the ground that the aforesaid law expanded the appellate jurisdiction of the Supreme Court under rule 45 without its advice and consent, in violation of Sec. 30, Article VI of the Constitution (Sec. 30, Art. VI provides that "No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence."). The Court stressed that its appellate jurisdiction under Rule 45 was to be exercised only over "final judgments and orders of lower courts" which term refers to the courts composing the integrated judicial system and does not include the quasi-judicial bodies or agencies. Accordingly, the Court held that appeals from the decisions or rulings of the Office of the Ombudsman in administrative disciplinary cases should be taken to the Court of Appeals under the provisions of Rule 43 (*supra*, pp. 491, 493).

Simultaneous with this ruling is the Supreme Court's reexamination of the "functional validity and systemic impracticability of the mode of judicial review it has long adopted and still follows with respect to decisions of the NLRC" in the landmark case of *St. Martin Funeral Home vs. NLRC* (G.R. No. 130866, September 16, 1998, 295 SCRA

494). Believing that there may have been an oversight in the course of the deliberations of Republic Act No. 7902 (“An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the purpose Section Nine of Batas Pambansa Blg. 129, As Amended, Known as the Judiciary Reorganization Act of 1980,” approved on February 3, 1995), the Court expressed the opinion that ever since appeals from the NLRC to the Supreme Court were eliminated, the legislative intent was that the special civil action of certiorari was and is still the proper vehicle for judicial review of decisions of the NLRC and that appeals by certiorari and the original action for certiorari are both modes of judicial review addressed to the appellate courts, with the special civil action of certiorari being within the concurrent original jurisdiction of the Supreme Court and the Court of Appeals. The Supreme Court thus ruled that all references in the amended Section 9 of B.P. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted to mean and refer to petitions for certiorari under Rule 65. Consequently, the Court decreed that “all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired” (*St. Martin Funeral Home v. NLRC*, *supra*, pp. 507-509). In view of these decisions, the Supreme Court subsequently directed that all special civil actions arising out of any decision or final resolution or order of the NLRC filed with the Court after June 1, 1999 shall no longer be referred to the Court of Appeals but shall forthwith be dismissed and, that any appeal by way of petition for review from a decision or final resolution or order of the Ombudsman in administrative cases, or special civil action relative to such decision, resolution or order filed with the Court after March 15, 1999 shall no longer be referred to the Court of Appeals but must forthwith be dismissed, respectively (A.M. No. 99-2-01-SC, February 9, 1999; A.M. No. 99-2-02-SC, February 9, 1999).

The foregoing developments underscore the fact that the Supreme Court has the power to regulate, by virtue of its rule-making powers, procedural aspects such as the court and the manner an appeal can be brought (See *First Lepanto Ceramics, Inc. v. Court of Appeals*, 231 SCRA 30 (1994)). Moreover, as reasoned by the Supreme Court in *Fabian vs. Desierto*, it has been generally held that rules or status involving a transfer of cases from one court to another, are procedural and remedial merely and that, as such, they are applicable to actions pending at the time the statute went into effect or, when its invalidity was declared. Accordingly, it said that even from the standpoint of jurisdiction *ex hypothesi*, the validity of the transfer of appeals in said cases to the Court of Appeals can be sustained (*supra*, p. 493).

The Sandiganbayan is a court with special jurisdiction because its creation as a permanent anti-graft court is constitutionally mandated and its jurisdiction is limited to certain classes of offenses (*Republic of the Philippines v. Judge Asuncion, et al.*, G.R. No. 108208, March 11, 1994, 231 SCRA 211 *Quiñon v. Sandiganbayan*, 271 SCRA 575).

The Sandiganbayan exercises exclusive original jurisdiction over the following cases: (1) Over all violations of Republic Act No. 3019 (“The Anti-Graft and Corrupt Practices Act,” approved on), as amended; Republic Act No. 1379; and Chapter II, Sec. 2, Title VIII of the Revised Penal Code [Art. 210, Direct Bribery; Art. 211, Indirect Bribery; and Art. 212, Corruption of Public Officials]; and other offenses committed by public officials and employees in relation to their office, and private individuals charged as co-principals, accomplices and accessories including those employed in government-owned or -controlled corporations, where one or more of the accused are officials occupying positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense.

They are officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), including provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads; city mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads; officials of the diplomatic service occupying position of consul and higher; Philippine army and air force colonels, naval captains, and all officers of higher rank; PNP officers while occupying the position of provincial director and those holding the rank of senior superintendent or higher; city and provincial prosecutors, their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor; presidents, directors or trustees, or managers of government-owned or government-controlled corporations, state universities or educational institutions or foundations.

Included also are members of Congress and officials thereof classified as grade 27 and up under the Compensation and Position Classification Act of 1989; Members of the Judiciary without prejudice to the provisions of the Constitution; Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and all other national and local officials classified as grade 27 and higher under the Compensation and Position Classification Act of 1989;

Sandiganbayan also exercises exclusive original jurisdiction over all other offenses or felonies -- whether simple or complexed with other crimes -- committed by the abovementioned public officials and employees in relation to their office; and over civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A issued in 1986 (Sec. 4, P.D. 1606, as amended by Republic Act No. 8249).

In criminal cases, the offense charged must be committed by any of the public officials or employees enumerated in Sec. 4, P.D. 1606, as amended, in relation to their office, which criminal offenses must be other than those violations covered by Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act); violations of Republic Act No. 1379; and violations of Chapter II, Sec. 2, Title VII of the Revised Penal Code. Otherwise, jurisdiction lies not with the Sandiganbayan but with the proper Regional Trial Court if the penalty prescribed for the offense is higher than prison correccional or imprisonment for six (6) years or a fine of P6,000.00, or otherwise, to the proper municipal trial court (*Subido v. Sandiganbayan*, G.R. No. 122641, January 20, 1997, 266 SCRA 379; Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249). As to cases involving the “funds, moneys, assets and properties illegally acquired by former President Ferdinand E. Marcos,” the Sandiganbayan shall have exclusive and original jurisdiction which extends not only to the principal causes of action, i.e. , the recovery of ill-gotten wealth, but also to all incidents arising from, incidental to, or related to, such cases, such as the dispute over the sale of the shares, the propriety of the issuance of ancillary writs or provisional remedies relative thereto, the sequestration thereof, which may not be made the subject of separate actions or proceedings in another forum (Sec. 2, Executive Order No. 14; *First Philippine Holdings Corp. v. Sandiganbayan*, G.R. No. 88345, February 1, 1996, 253 SCRA 30). The Sandiganbayan exercises original jurisdiction, concurrent with the Supreme Court, over petitions for the issuance of the writs of certiorari, prohibition, mandamus, habeas corpus, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14, and 14-A (1986) (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249; See *Garcia, Jr. v. Sandiganbayan*, 237 SCRA 552, 562-564).

The Sandiganbayan is vested with exclusive appellate jurisdiction over appeals from the decisions and final orders or resolutions of the Regional Trial Courts in the exercise of their original or appellate jurisdiction over those cases enumerated in P.D. 1606, as amended by Republic Act No. 8249, if committed by the by the officials or

employees occupying positions lower than salary grade 27, or not otherwise covered therein (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249).

In all civil actions, the Regional Trial Courts exercise exclusive original jurisdiction over the following cases, provided under Sec. 19, B.P.129, as amended by Republic Act No. 7691 (“An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known as the ‘Judiciary Reorganization Act of 1980,’” approved on March 25, 1994). They include: (1) Actions where the subject of litigation is incapable of pecuniary estimation; (2) Actions involving title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds P20,000.00, or, for civil actions in Metro Manila, where such value exceeds P50,000.00 except actions for forcible entry and unlawful detainer of lands or buildings; (3) Actions in admiralty and maritime jurisdiction where the demand or claim exceeds P200,000.00, or Metro Manila, where such demand or claim exceeds P400,000.00 (Under Sec. 19 (3) of B.P. 129, as amended by Sec. 1 of Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction “In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds One hundred thousand pesos (P100,000.00) or in Metro Manila, where such demand or claim exceeds Two hundred thousand pesos (P200,000.00).” Sec. 5 of Republic Act No. 7691, provided that “After five years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19 (3), (4) and (8); and Sec. 33 (1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000.00). Five years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00): Provided, however, That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000.00).” Pursuant thereto, Circular No. 21-99 dated April 15, 1999 was issued directing that said adjusted jurisdictional amounts after the first five-year period will take effect on March 20, 1999); (4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds P200,000.00, or, in Metro Manila, where such gross value exceeds P400,000.00 (Under Sec. 19 (4) of B.P. 129, as amended by Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction “In all matters of probate, both testate and intestate, where the gross value of the estate exceeds One hundred thousand pesos (P100,000.00) or, in probate matters in Metro Manila, where such gross value exceeds Two hundred thousand pesos.” See preceding note on the adjusted jurisdictional amounts); (5) Actions involving the contract of marriage and marital relations; (6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions; (7) Actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic

Relations Court and of the Court of Agrarian Relations as now provided by law; and (8) All other cases where the demand, exclusive of interests, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds P200,000.00, or, in such other cases in Metro Manila, where the demand, exclusive of the aforementioned items, exceeds P400,000.00 (Under Sec. 19 (8) of B.P. 129 as amended by Sec. 1 of Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction "In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand Pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (P200,000.00)." See note 96 on the adjusted jurisdictional amounts).

As to criminal cases, the Regional Trial Courts exercise exclusive original jurisdiction in all those cases not within the exclusive jurisdiction of any court, tribunal or body, which include cases involving offenses where the imposable penalty exceeds six (6) years, irrespective of the amount of the fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof (Sec. 20 in relation to Sec. 32 of B.P. 129 as amended by Sec. 2 Republic Act No. 7691). The Supreme Court has clarified that the exclusion of the term "damages of whatever kind" in determining the jurisdictional amount under Sec. 19 (8) and Sec. 33 (1) of B.P. 129, as amended by R.A. No. 7691, applies to cases where the damages are merely incidental to or a consequence of the main cause of action. In cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the court (Administrative Circular No. 09-94, June 14, 1994). As to criminal cases involving public officials or employees where none of the principal accused are occupying positions corresponding to salary grade 27 or higher, as prescribed in Republic Act No. 6758, or are PNP officers occupying the rank of superintendent or higher, or their equivalent, the Regional Trial Courts will have exclusive jurisdiction if the imposable penalties are imprisonment exceeding six (6) years, irrespective of the amount of the fine, and regardless of other imposable accessory or other penalties, including their civil liability arising from such offenses or predicated thereon, irrespective of the kind, nature, value or amount thereof (Sec. 4, P.D. 1606, as amended by Sec. 2, Republic Act No. 7975). In criminal cases where one or more of the accused is below eighteen (18) years of age, or when one or more of the victims is a

minor at the time of the commission of the offense, exclusive original jurisdiction is now conferred on the newly created Family Courts (Sec. 5 (a) , Republic Act No. 8369).

Concurrent with the Supreme Court, Regional Trial Courts exercise original jurisdiction in actions affecting ambassadors and other public ministers and consuls; and concurrent with the Supreme Court and the Court of Appeals, over petitions for certiorari, prohibition, mandamus against lower courts and bodies, as well as in for habeas corpus and quo warranto (Sec. 21, B.P. 129). Jurisdiction to try agrarian reform matters granted to Regional Trial Courts under Sec. 19 (7) was transferred to the Department of Agrarian Reform which was vested with “primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR)” (Executive Order No. 229, effective August 29, 1987; Sec. 50, Republic Act No. 6657, “The Comprehensive Agrarian Reform Law” (June 15, 1988)). It is now the Department of Agrarian Reform Adjudication Board (DARAB) created by virtue of Executive Order No. 229-A which exercises those powers and functions with respect to the adjudication of agrarian reform matters. The Housing and Land Use Regulatory Board (HLURB), in the exercise of its function to regulate the real estate trade and business, was also granted exclusive jurisdiction to hear and decide cases of the following nature: (1) unsound real estate business practices; (2) claims involving refund and any other claims involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman (Sec. 1 of Presidential Decree No. 957, as amended by Presidential Decree No. 1344; Executive Order No. 648 (1981) transferring the regulatory functions of the NHA under P.D. Nos. 957, 1216, 1344 and other related laws, to the Human Settlements Regulatory Commission which was renamed Housing and Land Use Regulatory Board by Executive Order No. 90 issued on December 17, 1986; *Solid Homes Inc. v. Payawal*, 177 SCRA 721; *Sandoval v. Caneba*, 190 SCRA 77; *Union Bank of the Philippines v. HLURB*, 210 SCRA 558). Concurrent with the Insurance Commissioner, Regional Trial Courts has original jurisdiction over claims not exceeding P100,000.00 (Sec. 416, P.D. 612 (Insurance Code)), but if the subject of the action is not incapable of pecuniary estimation, jurisdiction of the Regional Trial Courts is concurrent with the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts).

The Regional Trial Courts exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective territorial jurisdictions (Sec. 22, B.P. 129).

Family Courts are vested with exclusive original jurisdiction to hear and decide the following cases: a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense: Provided That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the “Child and youth Welfare Code”; (b) Petitions for guardianship, custody of children, habeas corpus in relation to the latter; (c) Petitions for adoption of children and the revocation thereof; (d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains; (e) Petitions for support and/or acknowledgment; (f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the “Family Code of the Philippines”; (g) Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56 (Series of 1986), and other related laws; (h) Petitions for the constitution of the family home; (i) Cases against minors cognizable under the Dangerous Drugs Act, as amended; (j) Violations of Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” as amended by Republic Act No. 7658; and (k) Cases of domestic violence against: (1) Women - which are acts of gender based violence that result, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman’s personhood, integrity and freedom of movement; and (2) Children - which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development (Sec. 5, Republic Act No. 8369).

In cases of domestic violence, if an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties. If any question on any of matters enumerated above should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court (Sec. 5 (k), Republic Act No. 8369).

The Family Courts are empowered to grant provisional remedies as follows: (1) in cases of violence among immediate family members living in the same domicile or household, it may issue a restraining order against the accused or defendant upon a verified application by the complainant or the victim for relief from abuse; (2) the court may order the temporary custody of children in all civil actions for their custody; and also order support pendente lite, including deduction from the salary and use of the conjugal home and other properties in all civil actions for support (Sec. 7, Republic Act No. 8369).

The exclusive original jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in civil cases pertains to the following: (1) Civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed P200,000.00, or, in Metro Manila where such does not exceed P400,000.00 (Under Sec. 33 of B.P. 129, as amended by Republic Act No. 7691, the jurisdictional amounts were P100,000.00 and in Metro Manila, P200,000.00. Pursuant to Sec. 5 of Republic Act No. 7691, Circular No. 21-99 dated April 15, 1999 was issued directing that the adjusted jurisdictional amounts after the first five-year period provided therein will take effect on March 20, 1999. (See note 96)), exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs the amount of which must be specifically alleged; Provided, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: Provided further, That where there are several claims or causes of action between the same or different parties embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; (2) Cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of ownership; and

(3) Civil actions which involve title to, or possession of, real property or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in case of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots (Sec. 33 of B.P. 129, as amended by Republic Act No. 7691; Circular No. 21-99, April 15, 1999).

Pursuant to Section 138 of Batas Pambansa Blg. 881, otherwise known as the "Omnibus Election Code," petitions for inclusion and exclusion of voters shall be brought before the municipal trial court. Likewise, an action to nullify or enforce amicable settlement or award before the Barangay is cognizable by the proper municipal court (Sec. 11, P.D. 1508; Secs. 416, 417, Republic Act No. 7160 (Local Government of 1991)).

In criminal cases, these courts exercise exclusive original jurisdiction in the following: (1) All violations of city or municipal ordinances committed within their respective territorial jurisdiction (Sec. 32 (1), B.P. 129, as amended by Sec. 2, Republic Act No. 7691); (2) All offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other impossible accessory or other penalties, including civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof (Sec. 32 (2), B.P. 129 as amended by Sec. 2, Republic Act No. 7691); (3) All offenses, including violations of Republic Act No. 3019, Republic Act No. 1379, and Arts. 210 to 212, of the Revised Penal Code, committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, and by private individuals charged as co-principals, accomplices, or accessories, where the penalty is not more than six (6) years of imprisonment regardless of fine or accessory or other penalties, provided that the position of the accused official or employee is lower than Salary Grade '27' under the Compensation and Position Classification Act of 1989 (RA 6758) (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249); and (4) In cases where the only penalty provided by law is a fine not exceeding Four thousand pesos (P4,000.00) (Administrative Circular No. 09-94, June 14, 1994).

The procedure in the Municipal Trial Courts shall be the same as in the Regional Trial Courts, except (a) where a particular provision expressly or impliedly applies only to either of said courts, or (b) in civil cases governed by the Rule on Summary Procedure (Sec. 1, Rule 5). The Supreme Court was authorized to adopt special rules or procedures applicable to special cases in order to achieve an expeditious and inexpensive determination thereof without regard to technical rules. Such simplified procedures may provide that affidavits and counter-affidavits may be admitted in lieu of oral testimony and that the periods for filing pleadings shall be non-extendible (Sec. 36, B.P. 129).

The following cases are governed by the Rule on Summary Procedure:

In Civil Cases, they include: (1) Forcible entry and unlawful detainer, except where the question of ownership is involved, or where the damages or unpaid rentals sought to be recovered by the plaintiff exceed twenty thousand pesos (P20,000.00) at the time of the filing of the complaint; and (2) All other civil cases, except probate proceedings, where the total amount of the plaintiff's claim does not exceed ten thousand pesos (P10,000.00), exclusive of interest and costs.

In Criminal Cases, they include: (1) Violations of traffic laws, rules and regulations; (2) Violations of the rental law; (3) Violations of municipal or city ordinances; (4) All other criminal cases where the penalty prescribed by law for the offense charged does not exceed six months imprisonment, or a fine of one thousand pesos (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom, including offenses involving damage to property through criminal negligence where the imposable fine does not exceed ten thousand pesos (P10,000.00) (Sec. 1, Rule on Summary Procedure in Special Cases, as amended).

Although they are courts of limited jurisdiction, *Shari'a Courts* are part of the Philippine judicial system (Art. 137, P.D. 1083). There are two kinds of Shari'a Courts created under Presidential Decree No. 1083, otherwise known as the "Code of Muslim Personal Laws of the Philippines," namely, the Shari'a District Courts, whose judges must also possess qualifications of a judge of the Regional Trial Court and enjoy the same privileges and receive the same compensation, and the Shari'a Circuit Courts who receive the same compensation and enjoy the same privileges as that of a judge of the Municipal Circuit Courts (Arts. 140, 141, 142, 153, 154, P.D. 1083).

Shari'a Circuit Courts have original exclusive jurisdiction over the following: (1) All cases involving offenses defined and punished under the Code; (2) All civil actions and proceedings between parties who are Muslims or who have been married in accordance with Art. 13 of the Code involving disputes relating to: marriage, divorce recognized under the Code, betrothal or breach of contract to marry, customary dower (mahr), disposition and distribution of property upon divorce, maintenance and support, and consolatory gifts, (mut'a), and restitution of marital rights; and (3) All cases involving disputes relative to communal properties (Art. 155, P.D. 1083).

Shari'a District Courts, on the other hand, have exclusive original jurisdiction in the following cases: (1) All cases involving custody, guardianship, legitimacy, paternity and filiation arising under the Code; (2) All cases involving disposition, distribution and settlement of the estate of deceased Muslims, probate of wills, issuance of letters of administration or appointment of administrators or executors regardless of the nature or the aggregate value of the property; (3) Petitions for the declaration of absence and death and for the cancellation or correction of entries in the Muslim Registries mentioned in Title VI of Book Two of the Code; (4) All actions arising from customary contract in which the parties are Muslims, if they have not specified which law shall govern their relations; and (5) All petitions for mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and processes in aid of its appellate jurisdiction (Art. 143 (1), P.D. 1083).

Concurrently with existing civil courts, the Shari'a District Courts have original jurisdiction over (1) petitions by Muslims for the constitution of a family home, change of name and commitment of an insane person to an asylum; (2) all other personal and real actions not mentioned in paragraph 1 (d) of Art. 143 wherein the parties involved are Muslims except those for forcible entry and unlawful detainer, which shall fall under the exclusive original jurisdiction of the Municipal Circuit Court; and (3) all special civil actions for interpleader or declaratory relief wherein the parties are Muslim or the property involved belongs exclusively to Muslims (Art. 143 (2), P.D. 1083). The Shari'a District Courts shall also have appellate jurisdiction over all cases tried in the Shari'a Circuit Courts within their territorial jurisdiction and shall decide every appealed case on the basis of the evidence and records transmitted as well as such memoranda, briefs or oral arguments as the parties may submit (Art. 144, P.D. 1083).

The Shari'a Appellate Court exercises exclusive original jurisdiction over petitions for certiorari, prohibition, mandamus, habeas corpus, and other auxiliary writs and processes in aid of its appellate jurisdiction, but this shall not be exclusive of the power of the Supreme Court under the Constitution to review orders of lower courts through the special writs (Secs. 1 and 5, Art. IX, Republic Act No. 6734). Moreover, this court has exclusive appellate jurisdiction over all cases tried in the Shari'a District Courts. While the law provides that its decisions shall be final and executory, this shall not affect the original and appellate jurisdiction of the Supreme Court under the Constitution (Sec. 6, Art. IX, Republic Act No. 6734).

### **3. The Rule on Venue**

Under the old Rules, there were separate provisions for venue in the municipal trial courts and in the regional trial courts. With the amendments introduced by *Republic Act No. 7691* and in line with the uniform procedure intended to be followed by both regional trial courts and inferior courts pursuant to Sec. 9 of the Interim Rules and Guidelines (January 11, 1983), the Supreme Court promulgated Circular No. 13-95 amending said Rule 4. This new rule on venue is now incorporated in the 1997 Rules of Civil Procedure.

For real actions, these shall be commenced and tried in the proper court which has jurisdiction over the area where the real property involved, or a portion thereof, is situated. Forcible entry and unlawful detainer actions shall be commenced and tried in the municipal trial court of the municipality or city wherein the real property involved, or a portion thereof, is situated (Sec.1, Rule 4).

As to personal actions, these may be tried in the court of the place where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff (Sec. 2, Rule 4). The venue of actions against non-resident defendants where the action affects the personal status of the plaintiff, or any property of any of said defendants located in the Philippines, lies with the court of the place where the plaintiff resides, or where the property or any portion thereof is situated or found (Sec. 3, Rule 4).

The parties may, however, change the venue of an action by a valid agreement in writing on the exclusive venue of the action before filing the same in court. The rule

on venue is not applicable in those cases where a specific rule or law provides otherwise (Sec. 4, Rule 4).

#### **4. Additional Requisite for Civil Complaints, Other Initiatory Pleading and Petitions, To Prevent “Forum-Shopping”**

The Supreme Court frowned upon the undesirable practice of litigants and their counsel who file multiple petitions and complaints involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, with the result that said tribunals or agency have to resolve the same issues. In order to prevent such “forum-shopping”, the Supreme Court has required every petition or complaint filed with it or the Court of Appeals to contain a certification under oath by the party that he has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, and that to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency. If there is any other action pending, he must state the status of the same. If he should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, he should notify the court, tribunal or agency within five (5) days from such notice. Failure to comply with these additional requisites shall be a cause for the summary dismissal of the multiple petition or complaint. Any willful and deliberate forum-shopping by any party and his lawyer with the filing of multiple petitions or complaints to ensure favorable action shall constitute direct contempt of court. Likewise, the submission of a false certification as required shall constitute contempt of court, without prejudice to the filing of criminal action against the guilty party while the lawyer may also be subjected to disciplinary proceedings (Circular No. 28-91, September 4, 1991). The requirement of a certification against forum-shopping has been incorporated under Sec. 2, Rule 42.

To better enforce the policy against forum-shopping, the requisite certification under oath by the plaintiff, petitioner, applicant or principal party, now also applies to civil complaints, petitions and other initiatory pleadings filed in all courts and agencies, other than the Supreme Court and the Court of Appeals (Administrative Circular No. 04-94, April 1, 1994). This requirement is found in Sec. 5, Rule 7.

## **5. Execution Upon Judgments or Final Orders**

Section 2 of Rule 36 states that “the date of finality of the judgment or final order shall be deemed to be the date of its entry.” The date of entry shall be the starting point of the six months period for filing a petition for relief (Sec. 3, Rule 38), as well as the five years period for filing a motion for execution and the ten years period of prescription of judgments (Sec. 6, Rule 39).

The prevailing party may move for execution of a judgment or order that disposes of the action or proceeding upon the expiration of the period of appeal if no appeal has been duly perfected, in which case execution shall issue as a matter of right. If the appeal taken from said judgment had been resolved, the prevailing party may now move for execution in the court of origin, without waiting for the return of the records of the case to the court of origin, on the basis of certified true copies of the judgment or judgments sought to be enforced. However, in the event the court of origin refuses to issue the writ of execution, the appellate court may, on motion in same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

The above amended Section 1 of Rule 39 was based on Circular No. 24-94 promulgated on June 1, 1994.

Pending appeal, the prevailing party may, with notice to the adverse party, move for execution of the judgment or final order in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion. The trial court may, in its discretion, order execution of the judgment or final order even before the expiration of the period to appeal (Sec. 2 (a), Rule 39).

Whether by notice of appeal or by record of appeal, the court loses jurisdiction over the case or the subject matter thereof upon the perfection of the appeals filed in due time and the expiration of the time of appeal of the other parties (Sec. 9, Rule 41). In either case, prior to the transmittal of the original records or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal and allow withdrawal of the appeal (Sec. 9, fifth paragraph, Rule 41). Where the motion for execution is filed on time, it may be granted even after the court has lost jurisdiction but before the transmission of the records to the appellate court (Sec. 9, Rule 41; *Universal Far East Corporation vs. Court of Appeals*, 131 SCRA 642). After the trial court has lost

jurisdiction and the records have been transmitted to the appellate court, the motion for execution pending appeal may be filed with the appellate court (Sec. 2 (a), Rule 39; *Philippine British Assurance Co. vs. IAC*, 150 SCRA 520). Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing (Sec. 2 (a), Rule 39).

Within five years from the date of its entry, a final and executory judgment or order may be executed on motion by the prevailing party. Thereafter, a judgment may be enforced by action within the ten years period of prescription of judgments. The revived judgment may also be enforced by motion within five years from the date of its entry and thereafter by action but within ten years from the date of its finality (Sec. 6, Rule 39; *Philippine National Bank vs. Bondoc*, 14 SCRA 770).

## **6. Appeals**

The right to appeal is not a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirement of the rules. Failing to do so, the right of appeal is lost (*Villanueva v. Court of Appeals*, 205 SCRA 537 (1992)). Nevertheless, an appeal is an essential part of our judicial system. Courts should proceed with caution so as not to deprive a party of the right to appeal (*National Waterworks and Sewerage Authority v. Municipality of Libmanan*, 97 SCRA 139 (1980)). The right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interest of substantial justice would be served by permitting the appeal (*United Feature Syndicate, Inc. v. Munsingwear Creation Manufacturing Company*, 179 SCRA 260 (1989), citing *Siguenza v. Court of Appeals*, 137 SCRA 570 (1985)).

The Rules provide for the remedy of appeal only from a judgment or final order “that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable” (Sec. 1, Rule 41). Thus, the following are not subject to appeal but the aggrieved party may file an appropriate special civil action under Rule 65: (1) An order denying a motion for new trial, the proper remedy being an appeal from the judgment or order that disposes of the case, and if such order of denial is issued without or in excess of jurisdiction or with grave abuse of discretion, the extraordinary remedy of certiorari is proper, without prejudice to the appeal (Sec. 9,

Rule 37); (2) An order denying a petition for relief or any similar motion seeking relief from judgment based on the ground of fraud, accident, mistake or excusable negligence (Sec. 1, Rule 38); (3) An interlocutory order; (4) An order disallowing or dismissing an appeal; (5) An order denying a motion to set aside a judgment by confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent; (6) An order of execution; (7) A judgment or final order in separate claims, counterclaims, cross claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and (8) An order dismissing an action without prejudice (Sec. 1, Rule 41).

An appeal from a judgment or final order of a Municipal Trial Court may be taken to the Regional Trial Court exercising jurisdiction over the area to which the former pertains, within 15 days after notice to the appellant of said judgment or order, and within 30 days thereafter in cases where a record on appeal is required (Secs. 1 and 2, Rule 40). In cases decided by the Regional Trial Court in the exercise of its original jurisdiction, appeal may be taken to the Court of Appeals by notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. If the case was decided by the Regional Trial Court in the exercise of its appellate jurisdiction, appeal to the Court of Appeals shall be by petition for review in accordance with Rule 42. But where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45 (Sec. 2, Rule 41).

In petitions for review, if the Court of Appeals finds prima facie that the lower court or agency has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may give due course to the petition (Sec. 6, Rule 42; Sec. 22, B.P. 129, adopted in Sec. 22 (b) of the Interim Rules; Sec. 10, Rule 43).

As to the judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of any quasi-judicial agency in the exercise of its quasi-judicial functions, appeal shall be taken to the Court of Appeals within 15 days from notice of said judgment, final order, award or resolution, or of the denial of the motion for new trial or reconsideration, by filing a verified petition for review with the Court of Appeals (Secs. 1, 3, 4 and 5, Rule 43). Review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided (Secs. 1 and 2, Rule 64).

Appeal from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may be taken to the Supreme Court by filing a verified petition for review on certiorari, raising only questions of law which must be distinctly set forth, within 15 days from notice of said judgment, final order or resolution, or of the denial of motion for new trial or reconsideration (Secs. 1 and 2, Rule 45). Certiorari is not a substitute for a lost appeal. It is settled that where appeal would have been the adequate remedy but was lost through inexcusable negligence, certiorari is not in order and cannot take the place of appeal (*Limpot v. Court of Appeals*, 170 SCRA 367 (1989)). When the remedy of appeal is available, the extraordinary remedy of certiorari cannot be resorted to because the availability of appeal proscribes recourse to the special civil action of certiorari (*Municipality of Biñan v. Laguna*, 219 SCRA 69 (1993)). The remedies of appeal and certiorari are mutually exclusive and not alternative or successive (*Federation of Free Workers v. Inciong*, 208 SCRA 157 (1992)).

An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds: (1) failure of the record on appeal to show on its face that the appeal was taken within the period fixed by the Rules; (2) failure to file the notice of appeal or the record on appeal within the period prescribed by the Rules; (3) failure of the appellant to pay the docket and other lawful fees as provided in Section 4 of Rule 41; (4) unauthorized alterations, omissions or additions in the approved record on appeal as provided in Sec. 4 of Rule 44; (5) failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by the Rules; (6) absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in Sec. 13, paragraphs (a), (c), (d) and (f) of Rule 44; (7) failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the in its order; (8) failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause; and (9) the fact that the order or judgment appealed from is not appealable (Sec. 1, Rule 50).

An appeal to the Court of Appeals taken from the Regional Trial Court raising only questions of law shall be dismissed, as issues purely of law not being reviewable by the Court of Appeals. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright (Sec. 2, Rule 50, which is based on Circular No. 2-90 (March 9, 1990) and the Resolution of the Court En Banc in UDR-9748, *Anacleto Murillo v. Rodolfo Consul*, March 1, 1990, 183 SCRA xi).

### **C. Rules on Criminal Procedure**

Rules 110 to 127 govern criminal procedure, as amended per Resolutions adopted on June 17, 1988 and July 7, 1989, and further amended by Administrative Circular No. 12-94, August 16, 1994.

The Supreme Court recently came out with the Revised Rules of Criminal Procedure, which took effect on December 1, 2000. This is the fourth amendment of the rules on criminal procedure since its incorporation in the Rules of Court in 1940. The first was in 1964, the second in 1985, and the third amendment in 1988.

#### **1. The Revised Rules of Criminal Procedure (As Amended, December 1, 2000)**

On October 3, 2000, the Supreme Court En Banc approved the Proposed Rules of Criminal Procedure which was submitted to it by the Committee on the Revision of Rules of Court on June 9, 2000. Said Committee believes that the proposed rules are (1) more understandable because they have been simplified; (2) while simplified, yet they are comprehensive for they incorporated the latest ruling case law and relevant administrative issuances of the Court; and (3) while comprehensive, they will not hamper the delivery of speedy criminal justice without diminishing the rights of an accused.

The Revised Rules of Criminal Procedure took effect on December 1, 2000 following its publication in the Official Gazette and two newspapers of general circulation not later than October 31, 2000.

#### **2. Salient Features of the Revised Rules of Criminal Procedure**

The new rules on criminal procedure contain substantial amendments to the 1988 Rules of Criminal Procedure. Following are the significant provisions of the Revised Rules of Criminal Procedure:

**a. Institution of Criminal Actions**

For offenses where a preliminary investigation is required, criminal actions shall be instituted by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation. For all other offenses, they shall be instituted by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters. Such institution of criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws. (*Secs. 1 and 2, Rule 110*)

A complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated. An information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court. (*Secs. 3 and 4, Rule 110*) The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (*Sec. 8, Rule 110*)

A complaint or information may amended in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused. However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party. If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense, provided the accused shall not be placed in double jeopardy. The court may require the witnesses to give bail for their appearance at the trial. (*Sec. 14, Rule 110*)

**b. Prosecution of Civil Action**

When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action. Such reservation shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation. No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action. The criminal action for violation of Batas Pambansa Blg. 22 (Bouncing Checks Law) shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed. (*Sec. 1, Rule 111*)

The death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. However, the independent civil action provided in Articles 32 (impairment or obstruction of exercise of constitutional rights and freedoms), 33 (defamation, fraud and physical injuries), 34 (refusal of police force member to render aid or protection to any person in case of danger to life or property) and 2176 (*quasi-delict*) of the Civil Code of the Philippines, or which thereafter is instituted to enforce liability arising from other sources of obligation may be continued against the estate or legal representative of the accused after proper substitution or against said estate, as the case may be. The heirs of the accused may be substituted for the deceased without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs. If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased. (*Sec. 4, Rule 111*)

A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests. The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the

issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed. (*Secs. 6 and 7, Rule 111*)

**c. Preliminary Investigation**

Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial. A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day without regard to the fine. (*Sec. 1, Rule 112*) However, when a person is lawfully arrested without a warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing Rules. In the absence of unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person. Before the complaint or information is filed, the person arrested may ask for a preliminary investigation but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, in the presence of his counsel. Notwithstanding the waiver, he may apply for bail and the investigation must be terminated within fifteen (15) days from its inception. After the filing of the complaint or information in court without a preliminary investigation, the accused may, within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense. (*Sec. 7, Rule 112*)

**d. Arrest**

An arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense. (*Sec. 1, Rule 113*)

The head of the office to whom the warrant of arrest was delivered for execution shall cause the warrant to be executed within ten (10) days from its receipt. Within ten (10) days after the expiration of the period, the officer to whom it was assigned shall make a report to the judge who issued the warrant. In case of his failure to execute the warrant, he shall state the reasons therefor. (*Sec. 4, Rule 113*)

A peace officer or a private person may, without a warrant, arrest a person: (a) When in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 of Rule 112. *(Sec. 5, Rule 113)*

When making an arrest by virtue of a warrant, the officer shall inform the person to be arrested of the cause of the arrest and the fact that a warrant has been issued for his arrest, except when he flees or forcibly resists before the officer has opportunity to so inform him, or when the giving of such information will imperil his arrest. The officer need not have the warrant in his possession at the time of the arrest but after the arrest, if the person arrested so requires, the warrant shall be shown to him as soon as practicable. *(Sec. 7, Rule 113)*

When making an arrest without a warrant, the officer shall inform the person to be arrested of his authority and the cause of the arrest, unless the latter is either engaged in the commission of an offense, is pursued immediately after its commission, has escaped, flees, or forcibly resists before the officer has opportunity to so inform him, or when the giving of such information will imperil the arrest, *(Sec. 7, Rule 113)*

**e. Bail**

Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, to guarantee his appearance before any court as required under the conditions hereafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognizance. *(Sec. 1, Rule 114)*

All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before

conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment. (Sec. 4, Rule 114)

Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court. (Sec. 5, Rule 114)

No person charged with a capital offense, or an offense punishable by *reclusion perpetua*, or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution. (Sec. 7, Rule 114) A capital offense is an offense which, under the law existing at the time of its commission and of the application for admission to bail, may be punished with death. (Sec. 6, Rule 114)

Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein.

Where the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application may only be filed in the court where the case is pending, whether on preliminary investigation, trial, or appeal.

Any person in custody who is not yet charged in court may apply for bail with any court in the province, city, or municipality where he is held. (Sec. 17, Rule 114)

An application for or admission to bail shall not bar the accused from challenging the validity of his arrest or legality of the warrant issued therefor, or from assailing the regularity or questioning the absence of a preliminary investigation of the charge against him, provided that he raises them before entering his plea. The court shall resolve the matter as early as practicable but not later than the start of the trial of the case. (Sec. 26, Rule 114)

**f. Arraignment and Plea**

The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but failure to do so shall not affect the validity of the proceedings. When the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him. When the accused pleads guilty but presents exculpatory evidence, his plea shall be deemed withdrawn and a plea of not guilty shall be entered for him. Unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period. (*Sec. 1, Rule 116*) The accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired. (*Sec. 9, Rule 116*)

At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary. (*Sec. 2, Rule 116*)

Upon motion by the proper party, the arraignment shall be suspended in the following cases: (a) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his mental examination and, if necessary, his confinement for such purpose; (b) There exists a prejudicial question; and (c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; *provided*, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office. (*Sec. 11, Rule 116*)

**g. Double Jeopardy and Provisional Dismissal**

When an accused has been convicted or acquitted, or the case against him is dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in

form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances when: (a) the grave offense developed due to supervening facts arising from the same act or omission constituting the former charge; (b) the facts constituting the graver charge became known or were discovered only after a plea was entered in the former complaint or information; or (c) the plea of guilty to the lesser offense was made without the consent of the prosecutor and of the offended party except as provided in Sec. 1 [f] of Rule 116 (where the court allows the accused to enter a plea of guilty to a lesser offense which is necessarily included in the offense charged with the conformity of the trial prosecutor alone since the private offended party failed to appear despite due notice).

In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense. (*Sec. 7, Rule 117*)

A case shall not be provisionally dismissed except with the express consent of the accused and with notice to the offended party.

The provisional dismissal of offenses punishable by imprisonment not exceeding six (6) years or a fine of any amount, or both, shall become permanent one (1) year after issuance of the order without the case having been revived. With respect to offenses punishable by imprisonment of more than six (6) years, their provisional dismissal shall become permanent two (2) years after issuance of the order without the case having been revived. (*Sec. 8, Rule 117*)

#### **h. Pre-Trial**

Pre-trial is mandatory in all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, to be held after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person accused, unless a shorter period is provided for in special laws or circulars of the

Supreme Court. The objectives of the pre-trial conference are as follows: (a) plea bargaining; (b) stipulation of facts; (c) marking for identification of evidence of the parties; (d) waiver of objections to admissibility of evidence; (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. (*Sec. 1, Rule 118*)

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters above-mentioned shall be approved by the court. (*Sec. 2, Rule 118*)

#### **i. Trial**

The provisions of Republic Act No. 8493 (“Speedy Trial Act of 1998”) as interpreted in Supreme Court Circular No. 38-98 dated August 11, 1998, were fully incorporated in the Revised Rules of Criminal Procedure.

Trial shall commence within thirty (30) days from receipt of the pre-trial order. Time limits were set with respect to the period from arraignment to trial, and trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause. Such time limitations, however, shall not apply where special laws or circulars of the Supreme Court provide for a shorter period of trial. (*Secs. 1 and 2, Rule 119*)

Sanctions in the form of fines and denial of the right to practice before the court trying the case for a period not exceeding thirty (30) days, are imposed in any case in which private counsel for the accused, the public attorney, or the prosecutor: (a) Knowingly allows the case to be set for trial without disclosing that a necessary witness would be unavailable for trial; (b) Files a motion solely for delay which he knows is totally frivolous and without merit; (c) Makes a statement for the purpose of obtaining continuance which he knows to be false and which is material to the granting of a continuance; or (d) Willfully fails to proceed to trial without justification consistent with the provisions hereof. (*Sec. 8, Rule 119*)

If the accused is not brought to trial within the time limit required by Sec. 1(g), Rule 116 and Sec. 1, as extended by Sec. 6 of Rule 119, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving the motion but the prosecution shall have

the burden of going forward with the evidence to establish the exclusion of time under Sec. 3 of this Rule. The dismissal shall be subject to the rules on double jeopardy. Failure of the accused to move for dismissal prior to trial shall constitute a waiver of the right to dismiss under this Rule. (*Sec. 9, Rule 119*) No provision of law on speedy trial and no rule implementing the same shall be interpreted as a bar to any charge of denial of right to speedy trial guaranteed by Sec. 14 (2), Art. III, of the 1987 Constitution. (*Sec. 10, Rule 119*)

After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court. If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (*Sec. 23, Rule 119*)

At any time before finality of the judgment of conviction, the judge may, *motu proprio*, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it. (*Sec. 24, Rule 119*)

#### **j. Judgment**

The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

The proper clerk of court shall give notice to the accused personally through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried *in absentia* because he jumped bail or escaped from prison, the notice to him shall be served at his last known address. In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice,

the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or through his counsel.

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these Rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. (*Sec. 6, Rule 120*)

A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied, or when the accused has waived in writing his right to appeal, or has applied for probation. (*Sec. 7, Rule 120*)

**k. New Trial or Reconsideration**

At any time before a judgment of conviction becomes final, the court may, on motion of the accused or at its own instance but with the consent of the accused, grant a new trial or reconsideration on any of the following grounds: (a) That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial; (b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment. (*Secs. 1 and 2, Rule 121*)

The court shall grant reconsideration on the ground of errors of law or fact in the judgment, which requires further proceedings. (*Sec. 3, Rule 121*)

**l. Appeal**

Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy. (*Sec. 1, Rule 122*) An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion

for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run. *(Sec. 6, Rule 122)*

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter. *(Sec. 10, Rule 122)*

An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter. The appeal of the offended party from the civil aspect shall not affect the criminal aspect of the judgment or order appealed from. Upon perfection of the appeal, the execution of the judgment or final order appealed from shall be stayed as to the appealing party. *(Sec. 11, Rule 122)*

#### **m. Search and Seizure**

A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court. *(Sec. 1, Rule 126)*

A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines. *(Sec. 4, Rule 126)* The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted. *(Sec. 5, Rule 126)* If the judge is satisfied of the existence of facts upon which the application is based or that there is probable cause to believe that they exist, he shall issue the warrant, which must be substantially in the form prescribed by these Rules. *(Sec. 6, Rule 126)*

No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality. *(Sec. 8, Rule 126)* The warrant must direct that it be served in the day time, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night. *(Sec. 9, Rule 126)* A search warrant shall be valid for ten (10) days from its date; thereafter, it shall be void. *(Sec. 10, Rule 126)*

A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant. *(Sec. 13, Rule 126)*

A motion to quash a search warrant and/or to suppress evidence obtained thereby may be filed in and acted upon only by the court where the action has been instituted. If no criminal action has been instituted, the motion may be filed in and resolved by the court that issued the search warrant. However, if such court failed to resolve the motion and a criminal case is subsequently filed in another court, the motion shall be resolved by the latter court. *(Sec. 14, Rule 126)*

#### **D. Draft Rules of Family Courts**

The Supreme Court's Committee on Revision of the Rules of Court has constituted a Committee that will draft the Rules of the Family Courts. The drafting of the Rules of Family Courts is "expected to effect important and decisive changes in the disposition and handling of cases concerning child abuse, petitions for custody and adoption, summary judicial proceedings that fall under the Family Code, criminal cases involving children, and domestic violence against women and children, among others" *(1999 Annual Report of the Supreme Court of the Philippines, p. 117)*.

#### **E. The Philippine Judiciary: Problems and Issues**

Judicial processes in the country have consistently been described as slow and such delay in the administration of justice is a reality accepted by most of our citizens. The clogging of court dockets is the pervasive malady afflicting the judicial system and disposing of the existing backlog of cases in all courts is indeed a formidable task for

the Supreme Court which exercises administrative supervision over all courts and their personnel.

This administrative supervision is exercised over 2,130 lower courts nationwide consisting of 950 Regional Trial Courts (RTCs), 80 Metropolitan Trial Courts (MeTCs), 141 Municipal Trial Courts in Cities (MTCCs), 425 Municipal Trial Courts (MTCs), 476 Municipal Circuit Trial Courts (MCTCs), 5 Shari'a District Courts, and 51 Shari'a Circuit Courts, and their personnel consisting of 1,421 judges and some 25,443 employees (Tradition and Transition: The First Year of the Davide Watch (2000). p. 63; See Annex "E" of 1999 Annual Report of the Supreme Court of the Philippines, pp. 201-204). On the other hand, as of December 31, 1999, the Court of Appeals has 51 Justices and a total of 1,124 employees the Sandiganbayan has 15 Justices; and the Court of Tax Appeals has 48 regular permanent officials and employees, including 3 judges, 8 casual personnel and 1 contractual employee (1999 Annual Report of the Supreme Court, pp. 211, 215-216, 229).

The present leadership of the Supreme Court have set definite goals and taken concrete measures to address the identified problems in the judicial system. These objectives, policies and programs were outlined in the "Davide Watch," which is aimed at effecting the needed reforms to improve significantly the delivery of justice in the country.

The following statistics show the number of pending and new cases per year in each court and the number of cases disposed of for that year.

## **VII. ALTERNATIVE MODES OF DISPUTE RESOLUTION: THE PHILIPPINE PRACTICE**

In the Philippines, like in many other parts of the world, there is a growing dissatisfaction with litigation as a mode of dispute settlement. Litigation is viewed as a rigid process involving technicalities which often produce rather than avert delay in the resolution of cases. As a result, the litigants are unnecessarily exposed not only to needless expenses on account of a long-drawn legal battle but also, to impeded opportunities for future business transaction or expansion.

In an era where transactions among individuals and various juridical entities extend way beyond the geographic and political boundaries of any given country, litigation as a mode of dispute settlement will have to take the backseat. Multinational and domestic transactions may involve various interests covering issues highly technical or specialized in character. Legal solutions or frameworks for resolving such issues are not limited to Philippine laws and jurisprudence as certain situations may call for the application of foreign laws. Hence, the intricacy of the commercial transactions and the complexity of the issues and the subject matters, among others, require innovative and expeditious modes of dispute resolution alternative to litigation.

As disputes may unavoidably arise from various commercial transactions, rarely can one find a contract without a provision for dispute resolution. In the Philippines, contracts usually provide for submission of a dispute to a court, with such stipulation indicating merely the venue of the action. In a limited sense, this shows the increasing number of commercial transactions the protagonists of which consciously adopt modes of dispute settlement alternative to litigation.

Collectively termed as alternative dispute resolution (“ADR”), the most popular techniques of this approach to legal disputes are arbitration and mediation. Although there exists other equally useful techniques that evolved from their respective practices in other countries (Parlade, *Construction Arbitration* 1-12 (1997)), the recognition of arbitration and mediation in this jurisdiction is a consequence of the legislative involvement in enacting regulatory laws that accepted and recognized its

features (Examples are Republic Act No. 876, otherwise known as the Arbitration Law and Arts. 2028-2046 of the Civil Code of the Philippines on compromise and arbitration).

In this regard, ADR offers to the parties a method of adjudication that is speedy, assures confidentiality of the proceedings, less costly in terms of total time, finances, opportunities compared to litigation, and a fair and just resolution of cases (Parlade, *supra*. at p. 11).

By description, arbitration is a voluntary process wherein disputes may be referred to arbitration only if the parties have entered into an arbitration agreement or a submission agreement. In arbitration, the arbitrator makes a determination of the facts and applies the law to those facts to resolve a dispute independently of the actual result desired by the parties. On the other hand, in mediation, the mediator assists the parties in reaching a mutually agreeable settlement. The mediator actively participates in resolving the dispute then gives a decision or opinion, though not binding, on how to resolve the dispute. In other words, mediation is a non-binding dispute resolution process where a neutral third person chosen by the parties explores the means of settling the dispute or even put forward proposals that the parties are completely free to accept or reject.

Although mediation and conciliation are used interchangeably, the distinction is that the conciliator participates merely in the preliminary steps of facilitating discussion between the parties and, perhaps, helps them frame the issues for discussion (*Id.* at p. 3; citing Thmas Oehmke, *Construction Arbitration* 7 (1988)).

### **A. History of ADR in the Philippines**

The earliest legally recognized and accepted mode of dispute resolution alternative to litigation is arbitration. The Philippine Supreme Court in 1921 recognized arbitration, in that, “(t)he settlement of controversies by arbitration is an ancient practice at common law. In its broad sense, it is a substitution, by consent of the parties, of another tribunal for the tribunals provided by the ordinary processes of law; x x x. Its object is the final disposition, in a speedy and inexpensive way, of the matters involved, so that they may not become the subject of future litigation between the parties” (*Chan Linte vs. Law Union and Rock Insurance Co., et al.*, 42 Phil. 548 (1921)).

However, despite such pronouncement, arbitration as an alternative mode of dispute resolution had not been given a blanket and unregulated recognition in its incipiency. Courts of earlier times tended to nullify arbitral clauses that absolutely oust the judiciary of its jurisdiction. Such that “unless the agreement is such as to absolutely close the doors of the courts against the parties, which agreement would be void, the courts will look with favor upon such amicable agreements and will only with great reluctance interfere to anticipate or nullify the action of the arbitrator” (Manila Electric Co. vs. Pasay Transportation Co., 57 Phil. 600 [1932]).

With such judicial decisions came the legislative confirmation. In 1950, the Civil Code was enacted containing general provisions relating to compromise and arbitration. On the other hand, in 1953, the Philippine Legislature passed Republic Act No. 876 (“Rep. Act. No. 876”), otherwise known as the Arbitration Law which became the cornerstone of legislative participation in elevating arbitration as a recognized and viable mode alternative to litigation in settlement of disputes.

The Philippine Senate in 1965 adhered to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, thereby allowing the enforcement of international arbitration agreements between parties of different nationalities within a contracting state (National Union Fire Insurance Co. of Pittsburgh vs. Stolt-Nielsen Phils., Inc., G. R. No. 87958, April 26, 1990, 184 SCRA 682).

As the foregoing legislative acts validated the acceptability of ADR, it was clear that the Philippine Legislature took an active role in its promotion by subsequently enacting laws containing the features of either arbitration or mediation.

## **B. Sources of Law on ADR in the Philippines**

With the primordial character of ADR as largely consensual, it operates principally upon the procedure stipulated by the parties in their agreement. However, in the absence or insufficiency of specific procedure, Rep. Act No. 876 will apply suppletorily.

But Rep. Act No. 876 is not the only source of law on ADR. Also applicable are Articles 2028 to 2046 of the Civil Code of the Philippines, international convention and treaties and judicial decisions promulgated by the Philippine Supreme Court applying or interpreting laws (Civil Code, Article 8).

In recent years though, laws have been enacted providing either arbitration or mediation as features for dispute resolution. Among these are the Local Government Code of 1991 on Katarungang Pambarangay (Republic Act No. 7160), Consumer Act of the Philippines of 1992 (Republic Act No. 7394), the Mining Act of 1995 (Republic Act No. 7942), and the Intellectual Property Code of 1998 (Republic Act No. 8293).

### **C. Other Modes of ADR**

Although eventually resolved through arbitration and litigation, corporate disputes usually commercial in nature are principally resolved through consultation and negotiation among the parties. Should negotiations fail, it is common for the parties to seek the assistance of a third party to informally facilitate the resolution of the conflict through mediation and conciliation and not to impose any settlement. Such third party is usually a common relative or friend with ascendancy; a political and/or religious leader; and a reputable business associate or colleague.

Parties may also avail of the facilities of arbitration institutions like the Philippine Dispute Resolution Center, Inc. or the Construction Industry Arbitration Commission. Although these involve formal processes and generally avoided, continuing efforts to evolve an acceptable dispute resolution methods are being carefully undertaken.

### **D. Prevalent ADR Practices in the Philippines**

Ultimately the success of ADR techniques depends to a large extent upon the sincerity of the parties to reach an amicable settlement. Nonetheless, different variations have been proposed to enhance and promote ADR in the Philippines, such as: (1) fact-finding, wherein a neutral third person chosen by the parties is tasked to ascertain the facts of the dispute and evaluated the position of each party, presents his findings and recommends his solution (Parlade, *supra.* at pp. 3-4); (2) reference to an expert concerning the valuation or on account of the specialized knowledge of the subject matter in dispute; (3) reference by a court to a special master for determination of the dispute including the production of evidence and its admissibility. The special master may be a magistrate, referee, or a private person whose decision, however, is not generally binding on the parties (*Id.*).

In the Philippines, however, the generally popular ADR techniques are arbitration and mediation. Resolution of disputes through arbitration generally utilizes Rep. Act. No. 876, in the absence of specific procedure stipulated in the contract of the parties.

Mediation, on the other hand, is the less known ADR technique which is sanctioned under the provisions of the Local Government Code of 1991 on Katarungang Pambarangay.

Parties though are not limited in their choices of ADR since the Civil Code of the Philippines itself recognizes, subject to limitations provided by law, compromise contract “whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced” (Civil Code, Article 2028).

### **1. Characterization of ADR Practice**

Arbitration practice, being the common ADR technique adopted in Philippines, can be generally described according to choice of process or methods.

The law grants the parties the choice of arbitrator/s and to choose the procedure to be followed in the proceeding, including utilization of rules of other agencies or bodies. As long as the requirement of arbitration is present, the parties are allowed to conduct the same in the manner so stipulated provided that the same is not “contrary to law, morals, good customs, public order or public policy” (Civil Code, Article 1306).

The parties can also avail of the so-called institutionalized arbitration, wherein associations or institutes offer facilities and provide their own different arbitration procedure such as the Philippine Dispute Resolution Center, Inc. or Construction Industry Arbitration Commission.

On the other hand, mediation being the informal technique aids primarily in preventing litigation or even arbitration. Mediation is in certain cases considered to be a condition precedent for the filing of a case (Section 412, R. A. 7160).

### **2. Restrictions and Limitations of ADR Practice**

Although the parties may avail themselves of ADR procedure in the settlement of disputes, it does not necessarily follow that any or all disputes can be the subject of ADR. By express statutory restriction, the following may not be the subject of ADR: (1) civil status of persons (Civil Code, Article 2043 in relation to Article 2035); (2) validity of marriage or legal separation (*Id.*); (3) any ground for legal separation (*Id.*). (4) future

support (*Id*); (5) the jurisdiction of courts (*Id*); (6) future legitime (*Id*); and (7) criminal liability (Civil Code, Article 2043 in relation to Article 2034).

Further, certain disputes have been vested in particular tribunals pursuant to express provisions of law. Under the Consumer Act of the Philippines or Rep. Act No. 7394, consumer arbitrators are vested with original and exclusive jurisdiction to mediate, conciliate, hear or adjudicate all consumer complaints (Section 160, Rep. Act No. 7394). Said consumer arbitrators are government employees appointed by either the Secretaries of Health, Agriculture or Trade depending on the nature of disputes.

The Mining Act of 1995, or Rep. Act No. 7942, provides for the appointment of a panel of government-employed arbitrators in every regional office of the Department of Environment and Natural Resources which has exclusive and original jurisdiction involving disputes over (a) mining areas; (b) mineral agreements or permits; (c) surface owners or occupants and claimholders or concessionaires (Rep. Act No. 7942, Sections 77 and 78).

On the other hand, under the Intellectual Property Code of 1998 it is explicitly stated that “(i)n the event the technology transfer arrangement shall provide for arbitration, the Procedure of Arbitration of the Arbitration Law of the Philippines or the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) or the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC) shall apply and the venue of arbitration shall be the Philippines or any neutral country” (Rep. Act No. 8293, Section 88.3).

There are other disputes that fall under the jurisdiction of particular agencies of government to hear, conciliate and mediate similar to those mentioned. In the case of the National Conciliation and Mediation Board (Executive Order Nos. 126 and 251 creating the National Conciliation and Mediation Board), although dealing principally with labor disputes, it nevertheless follows the same direction of ADR.

Finally, under the Local Government Code of 1991, or Rep. Act No. 7160, the parties may, at any stage of the proceeding before the barangay, agree in writing that they shall abide by the arbitration award of the lupon chairman or the pangkat. Such agreement to arbitrate may be repudiated within five (5) days from the date thereof on grounds of vitiated consent through fraud, violence or intimidation. The arbitration award shall be made after the lapse of the period for repudiation and within ten (10) days thereafter (Rep. Act No. 7169, Section 413 in relation to Section 418).

### 3. Arbitration Practice

The Philippine Arbitration Law, or Rep. Act No. 876, allows the parties to arbitrate controversy existing between them subject to the limitations discussed. Such that where the parties agree to arbitrate their disputes, their agreement is binding on them and they are expected to abide in good faith with the arbitral clause of their contract (*Toyota Motor Philippines Corp. vs. Court of Appeals*, G. R. No. 102881, December 7, 1992, 21 SCRA 236). And not even the presence of third party renders the arbitral agreement dysfunctional (*Id.*).

But there are moments when parties refuse to abide by the arbitral agreement. In which case, the party seeking arbitration may either file a petition before the Regional Trial Court to compel arbitration and/or proceed *ex-parte* (without the participation of the other side) with the arbitration proceeding without the defaulting party.

Giving effect to the expeditious character of arbitration, the filing of petition to compel arbitration does not allow the party who refused to raise defenses touching upon the merits of the case since the proceeding is only a summary remedy to enforce the agreement to arbitrate (*Mindanao Portland Cement Cop. Vs. McDonough Construction Company of Florida*, G. R. No. L-23890, April 24, 1967, 19 SCRA 808).

On the other hand, should a party file a court action without resorting first to arbitration, the court in which the action is pending, upon being satisfied with arbitrability of the controversy, shall suspend the action until an arbitration has been had in accordance with its terms (Section 7, Rep. Act No. 876).

However, should the defaulting party still refuse to proceed with arbitration despite notice, the party seeking arbitration shall present evidence *ex-parte* (*Umbao vs. Yap*, 100 Phil. 1008 [1957]) which shall be the basis of the award later on (Section 12, Rep. Act No. 876).

The arbitrator is a crucial element in the arbitration proceeding. His ability, skills, expertise and fairness will determine the credibility of the proceeding and the acceptability of arbitration as alternative mode of dispute resolution.

Contracts may provide either a sole arbitrator or a panel of arbitrators. Should the contract be silent on the number, the arbitration law gives the court discretion to appoint one or three arbitrators, according to the importance of the controversy involved (Section 8 (e), Rep. Act No. 876).

In regard to appointment, arbitrators are appointed in the accordance with the submission agreement or arbitration clause through nomination of specific or ascertainable person/s; or providing for specific procedure; and referring to institutional arbitration rules or laws.

Should there be no appointed arbitrator, the Regional Trial Court shall make the appointment under the following instances into account the willingness or refusal of the party to name his choice of arbitrator/s (Id. Section 8 (a) – (d)): (1) when the parties are unable to agree upon a single arbitrator; (2) when the arbitrator appointed is unwilling or unable to serve and his successor has not been appointed; (3) if either party fails or refuses to name his arbitrator; and (4) if the arbitrators appointed fail to agree/select upon the third arbitrator (Id.).

If the arbitral agreement provides for the specific time for the constitution of the arbitrator/s, the same is invariably followed. However, in the absence of such provision, the Arbitration Law did not provide a time limit for the constitution of the arbitral tribunal except that the Regional Trial Court shall appoint the arbitrator in case of failure of either party to name the same within 15 days after receipt of the demand for arbitration and that the arbitrators appointed shall decline or accept their appointments within 7 days from receipt of such appointment (Id.).

Of course, the qualification of the arbitrator must be taken into consideration. In addition to the general characteristics of impartiality, neutrality, and integrity, Philippine Arbitration Law provides for qualifications for arbitrators, to wit: (1) of legal age; (2) have full enjoyment of civil rights; (3) know how to read and write; (4) not related by blood or by marriage within the sixth degree to either party; (5) have, or had, no financial, fiduciary, or other interest in the controversy or cause to be decided or in the result of the proceeding; and (6) have no personal bias which might prejudice the right of any party to a fair and impartial award (Id., at Section 10).

Also, not only is an arbitrator precluded from acting as a champion or advocate for either of the parties to arbitration (Id.), but he is likewise prohibited from functioning as a mediator in, and even attending, the negotiations for the settlement of the dispute (Id. at Section 20).

In this connection, the arbitrators, by the nature of their functions, act in a quasi-judicial capacity (*Oceanic Bic Division (FFW) vs. Romero*, G. R. No. L-43890, July 16, 1984, 130 SCRA 392) and must accordingly demonstrate unquestioned fairness and impartiality in their decision.

Any challenge to the appointment of arbitrators must relate to the disqualifications recognized by law and must be made before the arbitrators (Section 11, Rep. Act No. 876). If the arbitrator does not give way to the challenge, it may be made before the Regional Trial Court in which case the arbitration proceeding shall be momentarily suspended pending the resolution of the incident (Id.).

The powers granted to the arbitrators are neither blanket nor unrestrained. They are subject to the express stipulation of issues presented by the parties and the proscriptions laid down by law.

Arbitrators are empowered to resolve only those issues that have been submitted to them under the submission agreement (Id., at Section 20). This is necessarily so considering that parties to a submission agreement are only bound by the award to the extent and in the manner prescribed by the contract and only if the award is in conformity to the contract (Id., at Section 24. *Assets Privatization Trust vs. Court of Appeals, et al.*, G. R. No. 121171, December 29, 1998). Otherwise, the award can be assailed and vacated before the proper Regional Trial Court (Id.).

In reference to the fees of the arbitrators, they shall receive P50.00 or approximately \$1.00 per day, unless the parties stipulate otherwise (Id., at Section 21).

When disputes arise from the contract of the parties that contains arbitration clause, a demand for arbitration is made by one party to the other party to resolve such dispute through arbitration in accordance with the contract provision (Id., at Section 5 (a)). In the absence of such arbitration clause, a submission agreement instead is made by both parties agreeing to submit to arbitration an existing controversy (Id., at Section 5 (c)).

There is no specific form for the submission agreement or demand for arbitration except that the same “must be in writing and subscribed by the party sought to be charged or by his lawful agent” (Id., at Section 4).

On the other hand, the minimum contents of the demand for arbitration are the following: (1) names and addresses of the parties; (2) nature of the controversy; (3) the amount involved, if any; (4) the relief sought; (5) the true copy of the agreement providing for arbitration; (6) the specific time within which the parties shall agree upon the arbitrator, where the arbitration is, by agreement, to be conducted by a single arbitrator; and (7) should the arbitration agreement provide for arbitration by a panel of three members, one of whom is to be selected by each party, the name of the arbitrator appointed by the party making the demand and shall require that a party upon whom the

demand is made shall advise the demanding party on writing within fifteen days the name of the arbitrator appointed by the second party (Id., at Section 5).

With respect to the submission agreement, the same is required to set forth the following: (1) the names of the parties; (2) nature of the controversy; and (3) the amount involved, if any (Id., at Section 5 (c)).

In the course of the presentation of evidence, arbitration proceedings, in general, are conducted orally with the presentation of evidence accomplished at the scheduled hearings (Id., at Section 15).

However, the parties may waive the conduct of oral hearings and presentation of oral testimony by executing a written agreement submitting their dispute to arbitration other than oral hearing (Id). For this purpose, the parties may be directed to do the following: (1) submit an agreed statement of facts; (2) submit their respective written contentions to the duly appointed arbitrators together with all documentary proof supporting the statement of facts; (3) submit a written argument; and (4) reply in writing to any of the other party's statement and proofs within seven days after receipt of such statement and proofs (Id. at Section 18). After submission of the foregoing, the arbitrator then declares the hearing closed (Id).

With the closing of the hearing comes the final resolution of the controversy that is embodied in the arbitral award. However, for the same to be valid, the award must comply with both the scope stated in the arbitration/submission agreement and with the formalities directed by law.

The award must be rendered within the period prescribed in the contract of the parties or submission agreement. In its absence, the award, in writing, must be rendered within thirty-(30) days after closing of the hearings, or if the oral hearings shall have been waived, within thirty-(30) days after the arbitrators shall have declared such proceedings in lieu of hearings closed (Id., at Section 19).

As to the form and contents, the arbitral award must be in writing, signed and acknowledged by the majority of the arbitrators, if more than one; and by the sole arbitrator, if there is only one (Id., at Section 20). The award must decide only those issues and matters submitted for arbitration. Although the arbitrators are granted the power to assess in their award the expenses of any party against another party when such assessment shall be deemed necessary (Id).

With regard to the voting procedure for the validity of an award, the parties may opt to provide in the arbitration or submission agreement the required voting,

provided that in the case of multiple arbitrators, at least a majority of the arbitrators concur therewith, unless the concurrence of all of them is expressly required in the submission or contract to arbitrate (Id., at Section 14 in relation to Section 20).

In the arbitration proceedings, the award, after becoming final, is generally not self-executing and must be confirmed and executed by court order (Civil Code, Article 2037 in relation to 2043).

One exception is the award granted by Construction Industry Arbitration Commission that can be enforced by said tribunal having been authorized to issue writs of execution involving its arbitral award (Executive Order No. 1008, 04 February 1985).

Another exception is in the case of arbitration award granted under the Local Government Code of 1991 wherein the award may be enforced by execution by the lupon within six (6) months from the date of the settlement. After the lapse of such time, the settlement may be enforced by action in the appropriate city or municipal court (Rep. Act No. 7160, Section 417).

Any party to the controversy may, within one-(1) month after the award is made, file with the Regional Trial Court having jurisdiction a motion to confirm the award (Section 23, Rep. Act No. 876). The court must grant the motion for confirmation unless the award is vacated, corrected or modified (Id.).

Upon confirmation, judgment is entered in conformity therewith in the court where the application is filed (Id., at Section 27). Such judgment so entered shall have the same effect as a judgment in an action and may be enforced as if it had been rendered in the same court in which it has been entered (Id., at Section 28).

To obtain an entry for such confirmation, the party applying shall, at the time of filing of such motion, also file with the Clerk of Court the following: (1) the submission, or contract to arbitrate; the appointment of the arbitrator; and each written extension of time, if any, within which to make the award; (2) a verified copy of the award; and (3) each notice, affidavit, or other paper used upon the application to confirm, modify, correct or vacate such award, and a copy of each order of the court upon such application (Id).

In this connection, the finality of the arbitral award is not absolute and can still be vacated, corrected or modified subject to proof of the grounds provided by law (Civil Code, Articles 2038 to 2040; also, Section 24 and 26, Rep. Act No. 876). Under the Civil Code, the grounds for annulling the arbitral award are mistake, fraud, violence, intimidation, undue influence, or falsity of documents, among others (Id.).

Also, the following are valid grounds to vacate the arbitral award: (1) corruption, fraud or other means in procuring the award; (2) evident partiality or corruption in the arbitrators or any of them; (3) misconduct of the arbitrators in refusing to postpone the hearing upon sufficient cause shown or misconduct in refusing to hear pertinent and material evidence; (4) deliberate failure of one or more arbitrators from disclosing disqualification; (5) any other misbehavior of the arbitrators materially prejudicing the right of the parties; or (6) arbitrators exceeded their powers or imperfectly executed them resulting in the absence of a mutual, final and definite award (Id., at Sections 24 and 26).

The award may likewise be modified or corrected on the basis of the following grounds: (1) evident, miscalculation of figures or evident mistake in the description of any person, thing, or property in the award; (2) award upon a matter not submitted to the arbitrator which does not affect the merit of the decision upon the matters submitted; or (3) the award is imperfect in form not affecting the merits of the controversy, and if it had been a commissioner's report the defect could have been amended or disregarded by the court (Id., at Section 15).

However, under the Local Government Code of 1991, any party may repudiate the arbitral award within ten (10) days from the date of settlement by filing with the Punong Barangay or Pangkat Chairman a sworn statement stating grounds of fraud, violence and intimidation (Rep. Act No. 7160, Section 418).

#### **4. Mediation**

Mediation has not been elevated to the same level as arbitration. Though recognized and sanctioned by law, no definite procedure has been carried out to develop such form of ADR. In the Philippines, mediation and conciliation have been used interchangeably and do not carry the technical description as discussed above.

Parties submitting their dispute to mediation must agree on the following: (1) the selection of the mediator or of the process by which the mediator may be selected; (2) the role of the mediator and the type of mediation contemplated, whether a rights mediation or interest mediation; (3) the submission by the representatives of the parties full settlement authority and the form in which such authority may be embodied; (4) the participation or non-participation of counsel in the mediation proceedings; (5) the time and place of the mediation sessions; (6) whether the mediator may meet both parties in joint sessions or separately in what are known as ex-parte caucuses; (7) whether the

evaluation to be made by the mediator of the dispute shall be facilitative or evaluative; (8) whether the statements, both oral and written, made by a party is admissible in evidence in a subsequent litigation; (9) whether a mediation is terminated at will by either party; (10) the pre-mediation submission of basic, non-controversial documents, including claim documents, and such statements which either party may submit to give as much information as possible to the mediator about the facts of the dispute, and whether such submissions and documents shall be kept confidential or shall be provided by one party to the other; (11) the scheduling of the mediation sessions and the submission of documents or information to the mediator; (12) in complex cases, the possibility of co-mediation; and (13) any agreement as to the sharing of the costs of mediation and the payment of the mediator's fees.

Mediation can be categorized as either rights mediation or interest mediation. A rights mediation is evaluative. In this mediation, the mediator must examine carefully the facts surrounding the dispute, clarify the issues involved in the dispute, both factual and legal and evaluate for the benefit of each party the possible decision of a court of law (Green, *Mediation in Construction Dispute Resolution Formbook*, 1997).

On the other hand, interest mediation is facilitative in that the issue being brought before the parties is not who is right or wrong but that the mediator helps the parties clarify their concerns, interests, values, and priorities (*Id.*). If the issues are mainly factual, especially if they are highly technical, the parties may choose a mediator who possesses the requisite specialization and experience with regard to such issues. In purely facilitative mediation, the mediator is reluctant to express any opinion on the merits underlying the dispute (*Id.*).

Philippine law recognizes mediation as alternative mode of dispute settlement in the level of barangay. Under the Local Government Code of 1991, or Rep. Act No. 7160, the provisions on Katarungang Pambarangay purportedly establish mediation and conciliation as channel for settlement of dispute at the first level of the political unit of government.

Under the structure, a *Lupong Tagapamayapa* ("Lupon"), composed of the *punong barangay* as chairperson and ten (10) to (20) members, is constituted in every barangay (Rep. Act No. 7160, Section 399). A conciliation panel consisting of three (3) members shall be chosen by the parties to the dispute from the list of members of the *Lupon*. This panel is known as *Pangkat Tagapagkasundo*.

The procedure commences once an individual who has a cause of action against another individual involving any matter within the authority of the Lupon complains, orally or in writing to the lupon chairman of the barangay (Id., at Section 410 (a)). Upon receipt of the complaint, the lupon chairman shall, within the next working day, summon the respondent(s), with notice to the complainant(s) for them and their witnesses to appear before him for a mediation of their conflicting interests (Id., at Section 410 (b)). If he fails in his mediation effort within fifteen (15) days from the first meeting of the parties before him, he shall forthwith set a date for the constitution of the pangkat (Id.).

Interestingly, in all katarungang pambarangay proceedings, the parties must appear in person without the assistance of counsel or representatives, except for minor or incompetents who may be assisted by their next-of-kin who are not lawyers (Id., at Section 415). Further, mediation before the lupon or the pangkat becomes a condition precedent for the filing of a petition, complaint, action or proceeding in court covering any matter within the jurisdiction or authority of the lupon. A certification to the effect that no conciliation or settlement has been reached will be needed to a valid filing of such action before the court (Id., at Section 412 (a)).

The settlement shall be in writing, in a language or dialect known to the parties, signed by them, and attested to by the lupon chairman or the pangkat chairman, as the case may be (Id., at Section 411). Moreover, under the same law, customs and traditions of indigenous cultural communities are recognized in resolving controversies and disputes between and among members of the cultural communities (Id., at Section 412 (c)).

With respect to the effect of any amicable settlement, the same shall have the force and effect of a final judgment of a court upon the expiration of ten (10) days from the date thereof, unless repudiated or a petition for nullification has been filed with the proper municipal or city court (Id., at Section 416). Repudiation of settlement may be made by any party within ten (10) days from the date of settlement by filing with the lupon chairman a statement to that effect sworn to before him, on the ground of fraud, violence, or intimidation (Id., at Section 418).

Execution however of the amicable settlement can only be enforced by the lupon within six-(6) months from the date of settlement, after which it may be enforced by action in an appropriate municipal or city court (Id., at Section 417).

There is a potential for mediation to aid in preventing further clogging of court dockets. The informal process serves the purpose of the parties in making the

discussion free-flowing and without the anticipated legal technicalities and maneuverings. Indeed, not only will mediation be inexpensive but it offers avenue for conflict resolution accessible to ordinary people.

## **E. Conclusion**

The ADR practice in the Philippines has not yet reached its full potential. At present, there is a continuing process of adopting successful the alternative modes already being practiced by various institutions in different countries and in developing and evolving unique mode/s suitable and in keeping with the cultural and economic development of the Philippines. As can be gleaned, the Philippines is treading the right path towards the promotion of alternative modes of dispute resolution. And the success of ADR in this country will depend entirely on the consistent and meaningful exposure of the Filipino people to a speedy and inexpensive administration of justice that ADR offers.

## VIII. CURRENT TRENDS

### A. Judicial Education

No less than the Philippine Constitution requires members of the Judiciary to be persons of “*proven competence, integrity, probity and independence.*” (CONSTITUTION, Art. VIII, Sec. 6 [3]) The Constitutional requirement as to the competence of members of the Judiciary is further supported by the Canons of Judicial Ethics that requires judges to be faithful to the law and maintain professional competence in it.

Verily, the competence of judges is a requirement that is founded on both statutory law and necessity or expediency. Unlike ordinary public officers, the members of the judiciary assume a higher position in the political hierarchy. Necessarily, therefore, higher requirements are imposed upon such officers of the court.

In order to ensure that the members of the judiciary meet the standards of competence, the Judicial Branch of government, through the initiation of the Supreme Court, promotes education and awareness among its ranks via a system of continuing judicial education. At the helm of the Supreme Court’s efforts in the promotion of continuing legal and judicial education is the Philippine Judicial Academy (PHILJA).

Originally, the PHILJA was created by virtue of an Administrative Order issued by the Supreme Court in 1996. PHILJA became legally institutionalized with the enactment of Republic Act No. 8557 (1998). The rationale for the creation of the PHILJA is to formulate and implement an institutionalized, integrated, professionalized and continuing system of judicial education for justices, judges, court personnel and lawyers.

In view of its mandate, the PHILJA was tasked to devise and implement a course curriculum for both the formal and non-formal judicial education of lawyers and judges. It provides trainings, seminars, teach-ins and other similar methods of instruction covering various areas of the law and jurisprudence for the benefit of lawyers and judges. (R.A. 8557, Secs. 1 & 2)

The following are the specific projects undertaken by the Supreme Court in line with the continuing judicial education program:

**1. Training the Trainors Program for Family Courts.**

This training was conducted in line with the mandate of R.A. 8369 (Family Courts Act of 1997), and was intended to provide training to individuals who would in turn, train and orient the judges and court personnel assigned in the designated Family Courts.

**2. Gender Sensitivity Seminar for the Philippine Judiciary.**

This seminar was conducted to enlighten judges on the issues of gender equality and sensitivity, thereby making the courts more conscious in the application of laws that promote the welfare of children and women, both of whom are recognized in this jurisdiction are deserving of more protection under the law.

**3. Workshop of Judges on the Anti-Domestic Violence Bill**

In line with the protectionist policy of Philippine law with respect to women, certain members of Congress proposed a bill which will criminalize the commission of violence against female spouses committed in the family home. The workshop provided judges with the opportunity to study the bill in anticipation of its eventual enactment into law.

**4. Workshop on Video-Conferencing in Trial Courts Involving the Testimony of Children**

This workshop focused on a new method currently being explored in regard to the taking of testimony of children in legal proceedings. Considering the trauma caused to children who serve as witnesses in legal proceedings, it is proposed that their testimonies be taken through video; thus, obviating with their physical presence in the court room. This innovation is in line with the policy of promoting the rights of the child.

**5. Securities & Exchange (SEC) Program**

This is a program conducted for the hearing officers of the SEC to improve their competence in performing their quasi-judicial functions.

Recently, the PHILJA has embarked on the computerization of its files, circulating the so-called “PHILJA Updates” in electronic format, in collaboration with CD Asia. The Updates contain current statutes, administrative proceedings against officers of the court, and an update on the administrative circulars / memoranda issued by the Supreme Court. Likewise, computerization of the records of the courts is on-going.

These computerization projects support the efforts of the Supreme Court towards full computerization of records in the various courts. In 1989, the Supreme Court installed the “Case Administration System”, which is the computerized system for information storage and retrieval, for use in the management of the court’s docket. There is also, at present, a web site devoted exclusively to the Supreme Court. With the joint efforts of the Supreme Court and the PHILJA, a fully-computerized court system would soon be forthcoming.

## **B. TQM and TPCMS**

Apart from the foregoing, PHILJA has introduced seminars on the so-called “*Total Quality Management (TQM) for Trial Court Judges and Court Personnel.*” TQMs were designed to strengthen the managerial capabilities of judges such that there would be an improvement in the quality of judicial service received by the general public. In order to facilitate the learning of the judges and court personnel, TQM Seminars adopt a participatory rather than a hierarchical approach. Considering the practicality of the methodology used in TQM Seminars, it would be easier to achieve the goal of improving the quality of service delivered by the judiciary.

Coupled with the TQMs, the Supreme Court devised the Trial Court Performance Standards and Measurement System (TPCMS) that set five (5) key areas by which judges would gauge the standards of their performance. These five (5) standards include:

- Access to justice
- Expedition and Timeliness
- Equality, Fairness and Integrity
- Independence and Accountability
- Public Trust and Confidence

### **C. Private Initiatives in Support of Judicial Education**

Aside from the initiatives of the Supreme Court, the promotion of judicial education in the Philippine bench and bar is actively supported by private agencies that include the *United Nations Development Program (UNDP)*; *United States Agency for International Development (USAID)* through *The Asia Foundation (TAF)* and the *Trade and Investment Policy Analysis and Advocacy Support (TAPS)*. In addition to the foregoing, the *World Bank (WB)* also grants appropriate funding for various projects designed to enhance the administration of justice in the Philippine court system.

Among the above-mentioned entities, it is the UNDP that is most active in providing support to the judicial education efforts of the Supreme Court. In June 1999, the UNDP in collaboration with PHIL-EXPORT TAPS, funded the “Pilot Project on Mediation / Conciliation” within selected RTCs and MTCs. This project was attended by judges, clerks of court and prospective mediators. As a result thereof, twenty (20) out of the twenty-eight trainees passed the examinations, and have now qualified as mediators.

It was also last year that the UNDP sponsored the “Management Study of the Judiciary,” a component of the principal project called the SC-UNDP Technical Assistance to the Philippine Judiciary on Justice and Development, which was completed through the initiative of the PHILJA. This project consisted of a report on the organizational structure and management procedures, identification of the problems, capability gaps and overlapping functions within the entire spectrum of the Philippine court system. The project rationale of the Management Study of the Judiciary can be summarized, to wit:

- a. Manage the administrative processes with maximum efficiency and effectiveness without interfering with the adjudication of cases;
- b. Create a new environment in the administration of courts where good management practices can thrive to enhance judicial decision-making;
- c. Strengthen the judicial system so that it can quickly and easily adapt to changing circumstances and confront future changes, e.g., increase in population, increase in cases filed, complexity of the rules of procedure and the cases filed; and

- d. Develop at least a 1-year, a 3-year, and a 5-year development plan, to keep them in tune with the times.

#### **D. Continuing Re-Organization of Courts and Speedy Disposition of Cases**

Recent trends in the Philippine court system also witnessed the “specialization” of courts into specific fields of law wherein they can exercise their powers of adjudication. This “specialization” is intended to enhance general court efficiency in the administration of justice in the Philippines.

Among the concrete measures taken toward such “specialization” is the creation of Family Courts under R.A. No. 8369 (“Family Courts Act of 1997”). Pursuant to this law, certain second-level courts ( RTCs) were assigned to exclusively hear cases pertaining to Family Law. These cases include domestic violence against women, child abuse and annulment of marriages.

On October 2, 1995, Administrative Order No. 113-95 of the Supreme Court designated special courts to hear and decide cases involving violations of the Intellectual Property Rights, as contained in the pertinent laws, i.e., Revised Penal Code (Arts. 188 & 189); R.A. 165 & 166; PD 49; and RA 8293, An Act Prescribing the Intellectual Property Code.

There are also first-level and second-level courts ( RTCs and MTCs) that are assigned to hear and try criminal actions for violations of RA 6425 or the “Dangerous Drugs Act of 1972.” Considering that the court dockets are usually clogged, it was deemed expedient to assign specific courts to hear drug-related cases.

On April 21, 1993, by virtue of Administrative Circular No. 64-93, certain MetTcs, MTCCs, MTCs, and MCTCs were constituted to hear and decide cadastral or land registration cases covering lots over which there is no controversy or opposition, or contested lots the value of which does not exceed PhP 20,000.00. Like in the case of the courts handling purely drug cases, these courts were constituted to decongest the courts dockets that are clogged with such cases.

On 21 November 2000, by virtue of Administrative Matter No. 00-11-03, certain Regional Trial Courts were designated to try and decide Securities and Exchange Commission cases enumerated in Section 5 of Presidential Decree No. 902-A (Reorganization of the Securities and Exchange Commission).

To further reinforce the “specialization” of the courts in the attempt to decongest the clogged dockets and enhance efficiency in the administration of justice, the Congress enacted R.A. 8493, the “Speedy Trial Act of 1998.” This law was enacted not only upon considerations of practical expediency, but more importantly, by virtue of the express provision of the Constitution that states:

“All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.” (CONSTITUTION, Art. III, Sec. 16)

Under the Speedy Trial Act, the in criminal cases cognizable by the MTC, MCTC, MeTC, RTC and the Sandiganbayan, pre-trial shall be mandatory. In crimes where the penalty prescribed by law does not exceed six (6) months imprisonment or a fine of PhP 1,000.00 or both, the judge, upon consultation with the prosecutor and counsel for the accused, shall set the case for continuous trial on a weekly or the short time possible, and in no case shall the trial period exceed 180 days from the first day of trial. There shall be a 30-day limit from the filing of the information to the appearance of the accused before the court. Where an accused pleads not guilty to the crime, he shall have 15 days within which to prepare for the trial that shall commence within 30 days from arraignment. After judgment has been rendered and the accused moves for a new trial, the same will commence within 30 days from the order granting the prayer for new trial that shall not exceed 180 days therefrom. Failure to observe the time limits set by the law warrants the dismissal of the case. The provisions of the “Speedy Trial Act” have been incorporated in the Revised Rules of Criminal Procedure as interpreted by Circular No. 38-98.

### **E. Mandatory Continuing Legal Education (MCLE)**

In Bar Matter No. 850, the Supreme Court passed a *Resolution Adopting the Rules on Mandatory Continuing Legal Education for Members of the Integrated Bar of the Philippines*.

The continuing legal education is required of all members of the Integrated Bar of the Philippines (IBP) to ensure that they keep themselves updated of recent law and jurisprudence, maintain the ethics of the profession, and augment the standards of law practice. Under the MCLE, the members of the IBP are required to complete every three (3) years at least thirty six (36) hours of continuing legal education activities approved by the MCLE Committee. A member who does not attend the MCLE, and

after given the opportunity to explain the reason for failing to attend the same, still fails to do so, may be considered a delinquent member. These are efforts to further improve the level of competence among the ranks of judges.

## **F. Conclusion**

The pursuit of continuous development is the thrust of the Philippine Judiciary which is being pursued with greater determination in recent times. Toward this goal, the Supreme Court is being actively supported by private international organizations such as the UNDP.

The long-term objective of this pursuit is to enhance the administration of justice in the Philippines. Apart from education, the Supreme Court and the Legislative Department, have taken measures towards “specialization” – that is, assigning courts to specialize in particular areas of adjudication. Subsequently, it is hoped that the dockets of the courts would eventually be decongested so that justice for the greater number would truly be served. In addition, stringent rules now require that cases be disposed within specific time frame/s in consonance with the precept that “justice delayed is justice denied.”

As regards the trend in cases brought before the courts, aside from the usual civil and criminal cases, there are now cases that are filed for the purpose of preserving the rights of women and children as enunciated in express laws. The child/women-protectionist policy of the State has allowed the introduction of new cases over which the courts exercise adjudicatory powers in order to guarantee a just and humane society whereby parties seemingly unequal in power are placed on an equal footing.

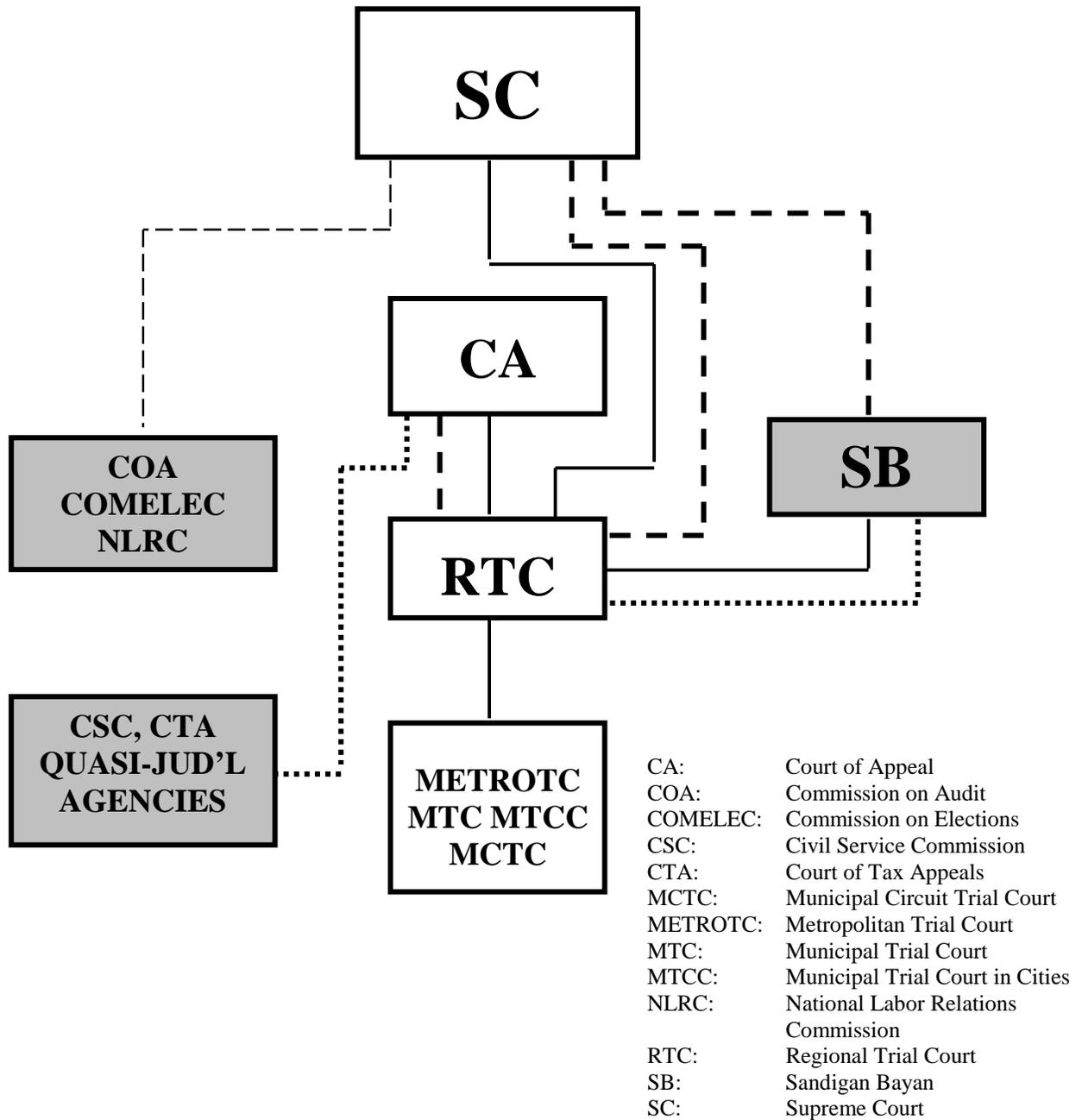
With the growing complexity of legislation – i.e., laws on electronic commerce (E-commerce), revision of criminal laws, etc.- it is expected that there would be also be a growing complexity in the quality of cases handled by Philippine courts. There is, thus, the need to innovate and adopt more advanced technology to enable the local courts to cope with the challenges that lie ahead.

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## TOTAL COURT SYSTEM IN THE PHILIPPINES



**Legend:**

- — — Petition for *certiorari* (Rule 65)
- ..... Petition for Review
- - - Petition for review on *certiorari* (Rules 45, 122)
- Ordinary appeal (Rules 40, 41, 122); N.B. From the RTC to SC, when *reclusion perpetua* or life imprisonment is imposed or for automatic review of death penalty.

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