Update on the Rule of Law for Human Rights in ASEAN: The Path to Integration
The Republic of
The Philippines
PHILIPPINES

TABLE 1
SNAPSHOT

<table>
<thead>
<tr>
<th>Formal Name</th>
<th>Republic of the Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City</td>
<td>Manila</td>
</tr>
<tr>
<td>Independence¹</td>
<td>12 June 1898 (Independence from Spain)</td>
</tr>
<tr>
<td></td>
<td>4 July 1946 (Independence from the United States)</td>
</tr>
</tbody>
</table>
| Historical Background² | The Philippines became a Spanish colony during the 16th century until it was ceded to the United States in 1898 following the Spanish-American War. In 1935, the Philippines became a self-governing commonwealth. Manuel Quezon was elected president and was tasked with preparing the country for independence after a 10-year transition. In 1942, the islands fell under Japanese occupation during World War II, and US forces and Filipinos fought together in 1944-45 to regain control. On 4 July 1946, the Republic of the Philippines attained its independence.

A 20-year rule by Ferdinand Marcos ended in 1986, when a “people power” movement in Manila (EDSA 1) forced him into exile and installed Corazon Aquino as president. Her presidency was hampered by several coup attempts that prevented a return to full political stability and economic development. Fidel Ramos was elected president in 1992. His administration was marked by increased stability and by progress on economic reforms. Joseph Estrada was elected president in 1998. He was succeeded by his vice-president, Gloria Macapagal-Arroyo in January 2001, after Estrada’s stormy impeachment trial on corruption charges broke down and another “people power” movement (EDSA 2) demanded his resignation. Macapagal-Arroyo was elected to a six-year term as president in May 2004. Her presidency was marred by several corruption allegations but the Philippine economy was one of the few to avoid contraction following the 2008 global financial crisis, expanding each year during her administration. Benigno Aquino III was elected to a six-year term as president in May 2010. During his term, there was an increase in government transparency and accountability of public officers with several Senators being indicted as well as an impeachment of a Chief Justice. However, allegations of corruption still persisted particularly regarding the “pork barrel” system of Congress. In May 2016, the people elected Rodrigo Duterte as the Republic’s next president.²


² Ibid


### Philippines

| Size | Total: 300,000 sq. km  
|      | Land: 298,170 sq. km.  
|      | Water: 1,830 sq. km.  |
| Land Boundaries | No land boundaries  
| Archipelago of 7,107 islands situated between the Philippine Sea and Pacific Ocean in the east, the South China Sea (West Philippine Sea) in the west, the Luzon Strait in the north and the Celebes Sea in the south.  |
| Population | 100,981,437 (increase of 12,417 million since 2011)  
|           | Projected population by 2020: 111.78 million  |
| Demography | 0-14 years: 34.02% (male 17,531,370/female 16,828,067)  
|           | 15-24 years: 19.18% (male 9,891,032/female 9,484,089)  
|           | 25-54 years: 36.72% (male 18,810,887/female 18,273641)  
|           | 55-64 years: 5.8% (male 2,673,756/female 3,183,809)  
|           | 65 years and over: 4.28% (male 1,802,632/female 2,519,093) (2015 est.)  |
| Ethnic Groups | Tagalog 24.4%  
|             | Cebuano 9.9%  
|             | Ilocano 8.7%  
|             | Bisaya/Binisaya 11.4%  
|             | Hiligaynon/Ilonggo 8.4%  
|             | Bikol 6.8%  
|             | Waray 4.0%  
|             | Other 26.4% (2010 census)  |
| Languages | Filipino, English (Official)  
|           | Tagalog, Cebuano, Ilocano, Hiligaynon/Ilonggo, Bicol, Waray, Pampango, Pangasinan (major regional languages)  |

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7 CIA World Factbook
8 Ibid.
11 CIA World Factbook
12 Philippine in Figures
13 CIA World Factbook

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2 Update on the Rule of Law for Human Rights in ASEAN:  
The Path to Integration
<table>
<thead>
<tr>
<th>Religion</th>
<th>Population (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roman Catholic</td>
<td>80.6%</td>
</tr>
<tr>
<td>Muslim</td>
<td>5.6%</td>
</tr>
<tr>
<td>Evangelical</td>
<td>2.7%</td>
</tr>
<tr>
<td>Iglesia ni Kristo</td>
<td>2.4%</td>
</tr>
<tr>
<td>Non-Roman Catholic and Protestant (National Council of Churches in the Philippines)</td>
<td>1.2%</td>
</tr>
<tr>
<td>Aglipayan</td>
<td>1.0%</td>
</tr>
<tr>
<td>Seventh Day Adventist</td>
<td>0.7%</td>
</tr>
<tr>
<td>Bible Baptist Church</td>
<td>0.5%</td>
</tr>
<tr>
<td>United Church of Christ in the Philippines</td>
<td>0.5%</td>
</tr>
<tr>
<td>Jehovah’s Witness</td>
<td>0.4%</td>
</tr>
<tr>
<td>None</td>
<td>0.1%</td>
</tr>
<tr>
<td>Others/not reported</td>
<td>4.3% (2010 census)</td>
</tr>
</tbody>
</table>

| Adult Literacy | 96.3% (2015 est) |

<table>
<thead>
<tr>
<th>Gross Domestic Product</th>
<th>$742.2 billion (2015 est.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(an increase of $417.9 billion from 2011)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Government Overview</th>
<th>There has been no change in the main branches of the national government and the Constitution since 1987</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Branch: President, Vice President and other executives such as heads of local government units</td>
<td></td>
</tr>
<tr>
<td>Legislative Branch: Senate and House of Representatives</td>
<td></td>
</tr>
<tr>
<td>Judicial Branch: Supreme Court and inferior courts</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Human Rights Issues</th>
<th>Internal displacement (due to fighting between government troops and insurgents or rebel groups)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human trafficking</td>
<td></td>
</tr>
<tr>
<td>Extralegal killings</td>
<td></td>
</tr>
<tr>
<td>Enforced disappearances</td>
<td></td>
</tr>
<tr>
<td>Illegal arrests</td>
<td></td>
</tr>
<tr>
<td>Arbitrary detention</td>
<td></td>
</tr>
<tr>
<td>Torture</td>
<td></td>
</tr>
<tr>
<td>Human rights abuses by militia, paramilitaries and private armies.</td>
<td>(This enumeration is not exhaustive.)</td>
</tr>
</tbody>
</table>

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14 Philippine in Figures
15 CIA World Factbook
16 Ibid.
17 Ibid.
### Membership in International Organizations


### Human Rights Treaty Commitments

- The Philippines is party to eight core human rights treaties, namely:
  - Convention on the Elimination of all forms of Racial Discrimination (CERD) (Signed on 7 March 1966, ratified on 15 September 1967)
  - International Covenant on Civil and Political Rights (ICCPR) (Signed on 19 December 1966, ratified on 23 October 1986)

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19   CIA World Factbook
<table>
<thead>
<tr>
<th>Human Rights Treaty Commitments(^{20})</th>
<th>The Philippines is party to eight core human rights treaties, namely:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Convention on the Elimination of all forms of Racial Discrimination (CERD) (Signed on 7 March 1966, ratified on 15 September 1967)</td>
</tr>
<tr>
<td></td>
<td>International Covenant on Civil and Political Rights (ICCPR) (Signed on 19 December 1966, ratified on 23 October 1986)</td>
</tr>
<tr>
<td></td>
<td>International Covenant on Economic, Social and Cultural Rights (ICESCR) (Signed on 19 December 1966, ratified on 7 June 1974)</td>
</tr>
<tr>
<td></td>
<td>Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) including the Inquiry Procedure in the Convention (Accession on 18 June 1986)</td>
</tr>
<tr>
<td></td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) (Signed on 15 November 1993, ratified on 5 July 1995)</td>
</tr>
<tr>
<td></td>
<td>Optional Protocol to the Convention on Torture (Accession 17 April 2012)</td>
</tr>
<tr>
<td></td>
<td>Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Signed on 8 September 2000, ratified on 26 August 2003)</td>
</tr>
<tr>
<td></td>
<td>Optional Protocol to the International Covenant on Civil and Political Rights (date of acceptance 22 August 1989)</td>
</tr>
<tr>
<td></td>
<td>Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women including the Inquiry Procedure (date of acceptance 12 November 2003)</td>
</tr>
</tbody>
</table>
I. INTRODUCTION

Key Rule of Law Structures

The Philippines is a democratic and republican State wherein governmental functions are divided into the executive, legislative, and judicial departments. A system of checks and balances is set forth in the Philippine Constitution in which one department is under the oversight of another. This system is essentially unchanged since 1987.

Executive function is vested in the President who is elected to a single six-year term. He or she is both the chief of State and the head of government, and is tasked with the implementation of the country’s laws. Under the executive are quasi-judicial agencies, such as the Professional Regulation Commission, Housing and Land Use Regulatory Board, National Labor Relations Commission, and the Department of Agrarian Reform Adjudication Board, which are authorised to resolve cases within their respective jurisdictions. Decisions of the respective agencies may be reviewed by the heads of agencies and further appealed to the Court of Appeals.

The legislative function is vested in a bicameral Congress composed of a 24-member Senate and a House of Representatives whose membership depends upon proportional representation. In number, 286 were members of the House during the recent 16th Congress. Additionally, the legislature can serve as an impeachment court, which checks the actions of the executive and the judiciary.

The judicial function is vested in a Supreme Court, which is composed of one Chief Justice and 14 Associate Justices who are appointed by the President after being recommended by the Judicial and Bar Council. Each justice serves until he or she reaches the age of 70 or is incapacitated to discharge his or her functions. The Supreme Court sits en banc or in divisions of five. The Supreme Court is the highest court. It exercises appellate jurisdiction, as well as administrative supervision over the other subordinate courts, namely, the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts, and the Shari’a Courts.

The Philippines also has specific institutions mandated with human rights promotion and protection. The Constitution created an independent Commission on Human Rights. The independent Office of the Ombudsman is tasked to protect citizens from governmental corruption and abuse.

Foundation & Evolution of Rule of Law

The Philippine legal system is an amalgam of civil law, common law, Shari’a law, and customary law which can be traced back to when the Philippines was a colony of Spain and the civil law tradition of Spain was the one enforced in the country. Common law was introduced into the country with the entry of the Americans in 1898. Shari’a law is utilized in the Southern provinces and customary law is used by certain indigenous

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21 Article II Section 1 1987 Constitution (Philippines)
22 Article VII Section 1, 4, 16, 17 1987 Constitution (Philippines)
24 Art VIII Section 5, 6, 11 1987 Constitution (Philippines)
peoples.\textsuperscript{25} The highest source of law is the Constitution with statutes, treaties and judicial decisions also forming the law of the land.

The foundation of the Philippine legal system is based upon the principle of precedent or \textit{stare decisis} and judicial review. The principle of \textit{stare decisis} enjoins adherence by lower courts to doctrinal rules established by the Supreme Court in its final decisions. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument, subject only to judicial review once appealed before the Supreme Court. However, precedent is not set in stone and may be abandoned for strong and compelling reasons such as “workability, reliance, intervening developments in the law and changes in fact. In addition, courts put in the balance the following determinants: closeness of the voting, age of the prior decision and its merits.”\textsuperscript{26} Judicial review further extends to cases filed before the judiciary which covers acts of the executive and the legislature, subject only to the limitations against political questions or matters deemed political in nature. This includes review of laws and administrative issuance to ensure that such issuances are not inconsistent with the Constitution.\textsuperscript{27}

\section*{Human Rights Treaties}

The Philippines has signed and ratified or acceded to eight of the nine core human rights treaties. It has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance but has enacted legislation that criminalizes the same, namely, Republic Act No. 10353 or An Act Defining and Penalizing Enforced or Involuntary Disappearance.

The Philippines has also ratified the Optional Protocol to the Convention on Torture, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.\textsuperscript{28}

\section*{Interpretation and Use of the ‘Rule of Law’}

The Philippines defines Rule of Law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”\textsuperscript{29}

\begin{thebibliography}{99}
\bibitem{pacificoagabin} Pacifico Agabin, \textit{Mestizo The Story of the Philippine Legal System} (Quezon City: The UP Law Center, 2011)
\bibitem{benjaminvingelezting} Benjamin Ting v. Carmen Velez-Ting, G.R. No. 166562, March 31, 2009
\bibitem{vicentemendoza} Vicente Mendoza, \textit{Judicial Review of Constitutional Questions} (Quezon City: Rex Printing Company, 2004)
\bibitem{supranote20} Supra note 20
\bibitem{departmentofjustice} Department of Justice, \textit{Philippine Development Forum} \url{https://www.doj.gov.ph/philippine-development-forum.html} accessed May 18, 2016
\end{thebibliography}
It further states that a rule of law framework should include the following:

- Constitution or its equivalent, as the highest law of the land;
- A clear and consistent legal framework, and implementation thereof;
- Strong institutions of justice, governance, security and human rights that are well structured, financed, trained and equipped;
- Transitional justice processes and mechanisms; and
- A public and civil society that contributes to strengthening the rule of law and holding public officials and institutions accountable.30

It has been noted that there is a strong tradition of support for the Rule of Law in the Philippines but the quality of Rule of Law in the Philippines remains poor.31 The 2015 World Justice Project gives a score of 0.46, with 1 being the highest, for the parameter Civil Justice and a score of 0.38 for the parameter Criminal Justice. A closer scrutiny of the sub-parameters reveals that the primary hindrance remains with the delay in the access to effective adjudication.32

### TABLE 2
ADMINISTRATION OF JUSTICE GRID

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of judges in country33</td>
<td>2,022 Justices and Judges</td>
</tr>
<tr>
<td>No. of lawyers in country34</td>
<td>More than 64,000</td>
</tr>
<tr>
<td>Annual bar intake (including costs and fees)</td>
<td>2014: 5,984 examinees 1,126 passers 18.82%35</td>
</tr>
<tr>
<td></td>
<td>2013: 5,292 examinees 1,174 passers 22.18%36</td>
</tr>
<tr>
<td></td>
<td>2012: 5,343 examinees 949 passers 17.76%</td>
</tr>
</tbody>
</table>

2016 Membership Fees
Annual fee of PhP 1,000 (USD 21)
Lifetime fee of PhP 12,500 (USD 266)
(Conversion rate of 47.6 Philippine Peso to 1 U.S. Dollar)
(No change since 2011)

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30 Ibid.
34 Ibid.
35 “SC announces result of 2014 Bar exams; San Beda Graduate Tops the Bar, 1,126 (18.82%) Pass” Court News Flash March 26, 2015 <http://sc.judiciary.gov.ph/pio/news/2015/03/03-26-15.php> accessed February 18, 2016
<table>
<thead>
<tr>
<th>Standard length of time for training/qualification&lt;sup&gt;37&lt;/sup&gt;</th>
<th>Lawyers are required to complete a four-year bachelor of arts or science degree, followed by another four years of law school training.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Availability of post-qualification training</td>
<td>Lawyers are required to undergo Mandatory Continuing Legal Education every three years by virtue of Bar Matter No. 850. Prospective judges, justices, judges, court personnel, and aspirants to the judicial posts are required to take courses in the Philippine Judicial Academy (PHILJA) by virtue of Republic Act No. 8557.</td>
</tr>
<tr>
<td>Average length of time from arrest to trial (criminal cases)</td>
<td>Date of filing of information/Date accused appeared before the court to date of arraignment: Maximum of 30 days. For accused under preventive detention, case should be raffled and records transmitted to the judge within three days from filing of the information or complaint. The accused shall be arraigned within 10 days from date of the raffle. Trial should start within 30 days from arraignment&lt;sup&gt;38&lt;/sup&gt; (unchanged since 2011) However, there is no prescribed time limit for the conduct of preliminary investigations and it has been noted that some preliminary investigation cases have taken over a year before a case is filed in court&lt;sup&gt;39&lt;/sup&gt;</td>
</tr>
<tr>
<td>Average length of trials (from opening to judgment)</td>
<td>Trial should not exceed 180 days&lt;sup&gt;40&lt;/sup&gt; Resolution of cases: Supreme Court – within 24 months of filing the last pleading Lower Collegiate Courts – within 12 months All other courts – within three months&lt;sup&gt;41&lt;/sup&gt; No data was available for lower courts but it was noted that criminal and civil cases which were appealed to the Supreme Court were found to have remained in the court system for an average of five years before decision. The Supreme Court requires an average of 1.43 years to decide a case; the Court of Appeals, 1.32 years; the Sandiganbayan, 6.6 years&lt;sup&gt;42&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

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<sup>37</sup> Rule 138, Sections 5 and 6 Rules of Court (1997) (Philippines)  
<sup>39</sup> Supra note 31  
<sup>41</sup> Article VIII, Section 15 (1) and (2) 1987 Constitution (Philippines)  
<sup>42</sup> Supra note 31
### Accessibility of individual rulings to public

The Rules of Court require court proceedings and records to be made public, except when the court forbids publicity in the interest of morality or decency.\(^{43}\)

Supreme Court decisions and resolutions are published and are public records, which are available online through the Supreme Court website.

Decisions of the trial and appellate court are not published, but are public records and can be obtained from the clerk of court, except as otherwise provided by law, such as in certain family law cases.\(^{44}\)

Transcripts of proceedings are public records and copies are available for a fee, except as otherwise provided by law, such as in certain family law cases.\(^{45}\)

### Appeal structure\(^ {46}\)

![Appeal Structure Diagram]

43 Rule 55 Section 1 Rules of Court, (1997) (Philippines)


45 Ibid.

46 The following diagrams are based upon Rule 40-45, 47, 65, 122, Rules of Court (1997) (Philippines) and Presidential Decree 1606, as amended by Rep. Act. No. 8249
Cases before the National Human Rights Institution covering 2011-2014

| Number of Complaints Received: 6,433 |
| Cases Resolved: 1,078 |
| For Filing and Monitoring: 430 |
| For Closure/Termination: 619 |
| Legal Assistance: 5,024 |

Complaints filed against the police, the military, lawyers, judges/justices, prosecutors or other institutions (per year) covering 2011-2014

| Police: 1,265 |
| Military: 182 |
| Judges/members of the bar: 1,947 |
| Prosecutors: 2 |
| Other Institution: 651 |

Complaints filed against other public officers and employees (covering 2011-2014)

| President: 1 |
| Vice President: 1 |
| Chief Justice: 1 |
| Senators: 4 |
| Congressmen (Representatives): 7 |
| Local Government Officials: 2,697 |

II. COUNTRY PRACTICE IN APPLYING THE CENTRAL PRINCIPLES OF RULE OF LAW FOR HUMAN RIGHTS

A. On Central Principle 1
   (Government and its officials and agents are accountable under the law)

Definition and Limitation of the Powers of Government in the Fundamental Law

There have been no changes in the Philippine Constitution since its adoption in 1987. The Constitution outlines the composition, powers, and functions of the three main departments, namely the executive, legislative and the judiciary. The mandate, powers, and functions at the local level are set forth in the Local Government Code.

The Philippines follows the doctrine of separation of powers, and a system of checks and balances is set forth in the Constitution. The president signs legislative enactments prior to becoming law, and he or she is given veto powers by the Constitution. However, Congress can override his or her exercise of the veto power by a vote of 2/3 of the members of each house of Congress. Furthermore, he is given certain powers, such as the power to negotiate treaties and to declare martial law, but the said latter act needs the concurrence of the legislature. The Supreme Court has the power to review acts of the President or Congress, and to declare them unconstitutional.

The Constitution sets forth substantive limitations on the powers of government upon its citizens in the Bill of Rights.

51 Myrna S. Feliciano, Philippine Legal System (Quezon City: The UP Law Center, 2015)
52 Article VI Section 27 (1) Article VII Section 21 Article VII Section 1, 1987 Constitution (Philippines)
53 Article III Section 1-22, 1987 Constitution (Philippines)
There has been an improvement in the Philippine ranking under the World Justice Project (WJP) Rule of Law Index 2015 from 2010. In the category on Constraints on Government Powers, it has improved from 0.57 in 2010 to 0.61 in 2015 on a scale of zero to one, with one signifying strict adherence to the rule of law. In 2010, the Philippines was ranked sixth out of seven countries in the East Asia and Pacific Region and in 2015 the rank improved to eighth out of the 15 countries in the same Region, with improvement in global ranking from 17th out of 35 countries surveyed in 2010 to 39th out of 102 countries in the study. In 2010, it was ranked third out of 12 countries of lower middle-income rank and in 2015 was ranked sixth out of 25 lower middle-income countries.54 55

Amendment or Suspension of the Fundamental Law

There has been no change in the manner prescribed by the Constitution for proposing amendments and revisions since the adoption of the Constitution.

The Constitution provides the following modes of proposing amendments or revisions:

1. By the Congress acting as a constituent assembly;
2. By a constitutional convention; and
3. By the people through initiative.

The Congress, by three-fourths (3/4) vote of all members, may propose amendments or revisions or call for a constitutional convention by two thirds (2/3) vote of all members of Congress. By majority vote of all members, Congress may also submit to the electorate the question of calling a convention.56

Constitutional amendments, but not revisions, may be directly proposed by the people through an initiative. This requires a petition of at least twelve percent (12%) of the total registered voters, of which every legislative district must be represented by at least three percent (3%) of the registered voters therein. This is allowed only once every five years. Congress is to provide for the implementation of the exercise of this right. Any amendment or revision of the Constitution becomes valid when ratified by a majority vote cast in a plebiscite.57

In 2006, the Supreme Court clarified that people’s initiative was limited only to amendments and not for revisions of the Constitution. Further, according to the Supreme Court, in order to use people’s initiative as a means of amendment, the signature sheets should contain the full text of the proposed amendment prior to asking the people to sign the petition.58

As of this writing, no amendments or revisions has been made to the 1987 Constitution. However, numerous attempts have been made to do so since 1997.

55 Supra note 32
56 Article XVII Section 1 and 3, 1987 Constitution (Philippines)
57 Article XVII Section 2 and 4 1987 Constitution (Philippines)
58 Lambino and Aumentado v. COMELEC, G.R. No. 174153; Binay, et al. v. COMELEC, G.R. No. 174299 October 25, 2006
The latest was made in 2014 when the House of Representatives’ Constitutional Amendments Committee passed a resolution filed by Speaker Feliciano Belmonte to amend the economic provisions of the Constitution, specifically those that pertain to restrictions regarding land ownership and to allow foreigners to engage in business, such as public utilities, mass media, educational institutions and advertising.59 The Committee on Constitutional Amendments started public hearings in 2014.60

The resolution was able to pass through the Committee; however, the House of Representatives failed to approve the third and final reading of the resolution in 2015.61

Laws Holding Public Officers and Employees Accountable

The accountability of public officers is enshrined in the Constitution, which requires public officers to be accountable to the people.62

Public officers are divided into two in the Philippine jurisdiction. The first are impeachable officers, which include the President, Vice-President, members of Supreme Court, members of Constitutional Commissions, and the Ombudsman. The grounds for impeachment are culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, and betrayal of public trust.63 The second class is non-impeachable officers, which fall under the jurisdiction of the Ombudsman, the Civil Service Commission, heads of offices, Office of the President, and the regular courts.64

The House of Representatives has the exclusive power to initiate impeachment, and by a vote of at least one-third (1/3) of all members, decide if an impeachment complaint should be forwarded to the Senate for trial. A two-thirds (2/3) vote of all members of Senate is necessary to convict an official.65 Additionally, each House of Congress may punish members for disorderly behaviour, and suspend or expel a member.66 The Supreme Court has the power to discipline or dismiss judges of lower courts.67

The power of impeachment has been exercised multiple times in recent years. In 2011, the House of Representatives found sufficient cause to impeach then Ombudsman Merceditas Gutierrez for culpable violation of the Constitution and betrayal of public trust for failure to act on major graft and rights cases involving former President Gloria Macapagal-Arroyo and some of her officials.68 However, the former

62 Article XI Section 1, 1987 Constitution (Philippines)
63 Article XI Section 2, 1987 Constitution (Philippines)
65 Article XI Section 3, 1987 Constitution (Philippines)
66 Article VI Section 16 (3), 1987 Constitution (Philippines)
67 Article VIII Section 6,1987 Constitution (Philippines)
Ombudsman saw it fit to resign prior to the start of the Senate impeachment trial.\textsuperscript{69} In the same year, the House of Representatives impeached then Chief Justice Renato Corona, resulting in his removal from office after being convicted with a vote of 20-3 (for-against impeachment) for failure to state in his Statement of Assets, Liabilities and Net Worth (SALN) certain high valued properties that were owned by him or his family.\textsuperscript{70} In 2014, impeachment complaints against President Benigno Aquino were instituted for culpable violation of the Constitution and betrayal of public trust by allowing lawmakers to have lump sum funds, despite a Supreme Court ruling abolishing the so-called "pork barrel system."\textsuperscript{71} The said complaints were defeated before they could pass the House's Committee on Justice.\textsuperscript{72}

Special Courts and Prosecutors of Public Officers and Employees

The Office of the Ombudsman investigates any public employee or agency for acts or omissions that appear "illegal, unjust, improper, or inefficient." The Ombudsman Act of 1989 authorises the Ombudsman not only to investigate but also to prosecute. It mandates the Ombudsman to enforce administrative, civil and criminal liability.\textsuperscript{73}

The Ombudsman's power to investigate is not exclusive. The Department of Justice may also conduct preliminary investigations against public officers.\textsuperscript{74}

The Ombudsman has administrative disciplinary authority over all public officials, except those removable by impeachment, members of Congress, or members of the judiciary.\textsuperscript{75} However, administrative disciplinary authority is not exclusive to the Ombudsman but is shared with other agencies, such as the Civil Service Commission, heads of offices, Office of the President, legislative councils of local government units, and regular courts. The body which first takes cognizance of the case acquires jurisdiction to the exclusion of other tribunals.\textsuperscript{76}

The Sandiganbayan is a special anti-graft Court which has jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations.\textsuperscript{77}


\textsuperscript{70} Supra note 4

\textsuperscript{71} Supra note 5

\textsuperscript{72} Uel Balena, "Three impeachment complaints against PNoy found insufficient in substance" Ang Malaya Net September 2, 2014 <http://www.angmalaya.net/2014/09/02/3903-three-impeachment-complaints-against-pnoy-found-insufficient-in-substance1> accessed February 18, 2016

\textsuperscript{73} Section 15, The Ombudsman Act of 1989, Republic Act No. 6770 (1989) (Philippines)

\textsuperscript{74} Honasan v. The Panel of Investigating Prosecutors, G.R. No. 159747, April 13, 2004

\textsuperscript{75} Section 21, The Ombudsman Act of 1989, Republic Act No. 6770 (1989) (Philippines)


\textsuperscript{77} Section 4, 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, Republic Act No. 8249 (1997) (Philippines)
It has specific jurisdiction over the following officials:

(1) 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), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan and provincial treasurers, assessors, engineers and other provincial department heads;
(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors engineers and other city department heads;
(c) Officials of the diplomatic service occupying the position of consul and higher;
(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;
(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
(g) Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations;

(2) Members of Congress and officials thereof classified as Grade “27” and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade “27” and higher under the Compensation and Position Classification Act of 1989.\(^78\)

However, in cases where none of the accused is occupying a position in the above enumeration, jurisdiction thereof shall be vested in the courts of law with the Sandiganbayan having appellate jurisdiction.\(^79\)

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\(^78\) Ibid.

\(^79\) Ibid.
B. On Central Principle 2
(Laws and procedures for arrest, detention and punishment are publicly available, lawful, and not arbitrary)

Publication of and Access to Criminal Laws and Procedures

No substantial change has occurred since 2011.

Statutes are required to be published prior to their effectiveness, which begins 15 days after said publication, unless a different date of effectiveness is determined by the legislature. Publication should be made in the Official Gazette or in a newspaper of general circulation in the Philippines. Otherwise, the maxim that ignorance of the law excuses no one from compliance therewith would have no basis with which to stand upon.

Administrative rules enforcing or implementing laws also require publication, and a copy must be filed with the University of the Philippines' Office of the National Administrative Register (ONAR), which serves as a depository of all rules. ONAR shall be open for public inspection. ONAR publishes the “ONAR Bulletin” which enumerates all the administrative rules that are submitted to its office with the corresponding agency and date of submission alongside the entries. However, the publication is delayed for a period of two months after submission of the pertinent offices of their rules. In an effort to increase its reach, the office has also taken to social media to announce the availability of the bulletin, as well as a link to its contents.

The 16th Congress has passed 111 republic acts, and all have been published in English, which is one of the official languages of the Philippines. The said statutes were compliant with the publication requirement, but upon follow up on the implementation of the said laws, it was found that a recurring stumbling block was the delay in the release of funds by the Department of Budget and Management.

Accessibility, Intelligibility, Non-reactivity, Consistency, and Predictability of Criminal Laws

No substantial change since 2011.

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80 Article 2, Civil Code of the Philippines, (1949) (Philippines) and Executive Order 200 (1987) (Philippines)
81 Article 3, Civil Code of the Philippines, (1949) (Philippines)
82 La Bugal-B’Laan Tribal Association, Inc. et al. v. Ramos, et al., G.R. No. 127882, January 27, 2004
Copies of laws are available as publications of the Official Gazette. They are also available online at the websites of the Senate and the House of Representatives, as well as in private servers, such as Lawphil and Chan Robles. However, the 2015 World Justice Project gave the Philippines only a score of 0.49 out of a possible 1.0 for publicized laws and government data, which is lower than the 2014 score of 0.59. This indicates a decrease in the accessibility of laws from the previous years.

In terms of understandability, laws must be stated with reasonable precision as to what acts are prohibited. This is a requirement known as the void-for-vagueness doctrine which states that, “a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates due process of law.” The passage of retroactive legislation or ex post facto laws is prohibited by the Constitution. However, certain penal laws may be applied retroactively whenever it favours felons who are not habitual offenders.

Judicial decisions form part of the legal system and the Philippines follows the system of precedent wherein a conclusion in one case should be applied to those that follow if the facts are substantially the same, unless the ruling is modified for being an erroneous application of law or for other strong and compelling reason.

However, it has been observed that the court has a tendency to be inconsistent in their rulings. A clear case of judicial inconsistency is noted in the computation of interest from the finality of judgement. In the case of Philippine Rabbit Lines, Inc. v. Hon. Leonardo Cruz and Pedro Manabat, the court held that legal interest to be applied after the decision has become final should be 6% based on Article 2209 of the Civil Code and not the legal interest of 12% as set by the Monetary Board. In 1994, in the case of Eastern Shipping Lines v. Court of Appeals, the Supreme Court held that the applicable legal interest should be 12% after finality of judgement based upon its ruling in Nakpil and Sons vs. Court of Appeals, which was decided in 1986. In 2013, in the case of Dario Nacar v. Gallery Frames, the Supreme Court reversed its ruling and stated that the applicable interest after the ruling has attained finality is again 6% and this is based upon the interest rate set by the Monetary Board in BSP-MB Circular no. 799.

**Detention Without Charge Outside an Emergency**

No substantial change is noted since 2011.

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88 Senate of the Philippines <https://www.senate.gov.ph/>
89 Congress of the Philippines <http://www.congress.gov.ph/>
91 People of the Philippines v. Siton and Sagarano, G.R. No. 169364, September 18, 2009
92 1987 Constitution Article III Section 22
93 Revised Penal Code Article 22
94 Supra 51
95 G.R. No. 71017, July 28, 1986
96 G.R. No. 97412, July 12, 1994
98 G.R. No. 189871, August 13, 2013
The right to liberty is constitutionally protected and preventive detention without a warrant of arrest is allowed only under very specific conditions, such as:

1. When the person to be arrested has committed, is actually committing, or is attempting to commit an offence;
2. When an offence has just been committed and there is probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
3. When the person to be arrested is a prisoner who has escaped.99

However, persons validly arrested without warrants are to be delivered to judicial authorities within 12 hours for offences punishable by light penalties; 18 hours for offences punishable by correctional penalties; and 36 hours for offences punishable by afflictive or capital penalties.100 Unlawful arrests or arbitrary detentions are criminal offences under the Revised Penal Code.101

In case of invasion or rebellion and when public safety requires it, the President may suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under martial law for a maximum of 60 days. During this period where the privilege of the writ is suspended, a person arrested or detained shall be judicially charged within three days, otherwise he shall be released. The suspension applies only to persons charged for rebellion or offences inherent in or directly connected with invasion.102

During martial law, the privilege of the writ is not automatically suspended. Neither is the right to bail impaired. Congress may revoke such proclamation or suspension. This revocation shall not be set aside by the President. The Supreme Court may review the sufficiency of the factual basis of the proclamation, suspension, or its extension.103

In case of terrorism, the Human Security Act extends the period of detention to three days, with provision to extend beyond the three days in cases of actual and imminent attack, with the requirement that the detainee be presented to a municipal, city, provincial or regional officer of the Commission on Human Rights (CHR) or a judge of the municipal, regional trial court, Sandiganbayan or a Justice of the Court of Appeals nearest the place of arrest, either at his office or at his residence to get approval for the prolonged detention.104

The above provision is criticised for being violative of the due process clause of the Constitution by giving law enforcement the power to incarcerate a suspect, with the only safeguard that written notice to an official be made within a period of five days.105

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99 Rule 113 Section 5 Rules of Court (1997) (Philippines)
100 Article 125, Revised Penal Code (1932) (Philippines)
101 Article 124 and 269, Revised Penal Code (1932) (Philippines)
102 Article VII Section 18 and Article III Sections 13 and 15 1987 Constitution (Philippines)
103 Article VII Sections 18, 1987 Constitution (Philippines)
Rights of the Accused

Freedom from Arbitrary or Extra-legal Treatment or Punishment, and Extra-Judicial Killing

The Constitution prohibits secret detention places, solitary, incommunicado, or other similar forms of detention. Excessive fines and cruel, degrading or inhuman punishment are not to be imposed.\textsuperscript{106} The Revised Penal Code and the Anti-Torture Act of 2009 punish the maltreatment of prisoners.\textsuperscript{107}

Furthermore, the passage of the Anti-Enforced or Involuntary Disappearance Act of 2012 or Republic Act 10353 serves to further strengthen the protection of citizens against improper State intrusion and action. The writ of \textit{habeas corpus} is constitutionally protected, and is limited only in times of invasion or rebellion and when public safety requires it. Furthermore, the limitations only apply to persons charged for rebellion or offences inherent in or directly connected with invasion.\textsuperscript{108}

However, despite these constitutional and legal protections, impunity for extrajudicial killings, torture, unlawful disappearances, warrantless arrests, and detentions is still considered a major problem. According to human rights group \textit{Karapatan}, during President Aquino’s six-year term, there were 294 victims of extrajudicial execution; 318 victims of frustrated killing; 28 victims of enforced disappearance; 172 victims of torture; 3,237 victims of illegal arrest; and 551 victims of illegal search and seizure.\textsuperscript{109} Although these numbers are marked improvements from the term of the previous President where there were 1,206 victims of extrajudicial execution; 379 victims of frustrated killing; 206 victims of enforced disappearance; 1,099 victims of torture; 2,059 victims of illegal arrest; and 53,893 victims of illegal search and seizure, the fact still remains that the practice is still prevalent.\textsuperscript{110}

In monitoring the human rights situation in 2014, CHR documented 6,433 new complaints of different types of human rights violations involving 10,295 alleged victims and 7,096 respondents. The total number of extrajudicial killings, enforced disappearance and torture documented by the CHR decreased to 131 incidents and 166 victims from 138 incidents in 2013. However, in terms of victims, the number increased from 166 to 187.\textsuperscript{111}

It has been observed in a study conducted by Amnesty International that torture is still rife in the Philippines and practised largely by police forces. It was identified that the most at risk segment of society included children, repeat offenders, and criminal suspects whose acts have personally affected the officers or their families. Also found to be at risk were police auxiliaries, known as “assets,” who have fallen out of favour from their handlers.\textsuperscript{112}

\textsuperscript{106} Article III Section 12(2), 1987 Constitution (Philippines)

\textsuperscript{107} Article 235, Revised Penal Code (1932) (Philippines) and Section 6(i) Philippine Act on Crimes Against International Humanitarian Law, Genocide and other Crimes Against Humanity, Republic Act No. 9851 (2009)(Philippines)

\textsuperscript{108} Article VII Section 18 and Article III Sections 13 and 15, 1987 Constitution (Philippines)


\textsuperscript{110} Karapatan 2010 Year-End Report on the Human Rights Situation in the Philippines, 1 December 2010

\textsuperscript{111} Supra note 47

In 28 January 2014, about 10 officers of the Philippine National Police were sacked following revelations that they played a so-called “wheel of torture” game at a secret detention facility to extract information from criminal suspects and also to have fun.\textsuperscript{113}

A further observation is that although the Philippines is a party to OPCAT, it failed to comply with the commitment to set up a National Preventive Mechanism within one year after its ratification.\textsuperscript{114}

A National Monitoring Mechanism has been established and is supposed to develop an effective monitoring mechanism to ensure that justice is served to the victims of extrajudicial killings, enforced disappearance and torture and to strengthen institutional mandates, capabilities and engagements in effectively resolving cases of extrajudicial killings, enforced disappearance and torture. However, it has been overshadowed by the creation of the Inter-Agency Committee on Extra Judicial Killings (ELKs), Enforced Disappearances (EDs), Torture and other Grave Violation of the Right to Life, Liberty and Security of Persons under the Department of Justice. The National Monitoring Mechanism has become a mere mechanism and forum for discussion of human rights issues instead of a comprehensive monitoring mechanism of determining government compliance with international human rights treaties in the government’s functions, systems and processes with the end in view of harmonizing them with the standards and principles of human rights and recommending appropriate measures and actions.\textsuperscript{115}

\textit{Presumption of Innocence}

No Substantial change since 2011.

The presumption of innocence is a constitutionally protected right.\textsuperscript{116} Thus, the prosecution must prove guilt beyond reasonable doubt and conviction must rest on the “strength of the prosecution’s evidence,” not on the weakness of the defence.\textsuperscript{117}

\textit{Legal Counsel and Assistance}

No substantial change in 2011.

The right to counsel, as well as the right to be informed of the right to counsel, is a constitutionally protected right.\textsuperscript{118} Statutory protection of the right to counsel is further clarified under Republic Act No. 7438. It states

\begin{itemize}
\item \textsuperscript{114} Association for the Prevention of Torture, Philippines OPCAT Status <http://www.apt.ch/en/opcat_pages/opcat-situation_58/?pdf=info_country> accessed May 18, 2016
\item \textsuperscript{116} Art III Section 14 (2), 1987 Constitution (Philippines) and Rule 115 Section 1(a), Rules of Court, (1997) (Philippines)
\item \textsuperscript{117} Rule 133 Section 2, Rules of Court (1997) (Philippines) and People of the Philippines v. Zafra Maraorao, G.R. No. 174369, 20 June 2012
\item \textsuperscript{118} Article III, Section 14(2) 1987 Constitution (Philippines)
\end{itemize}
that a person arrested, detained or under custodial investigation shall at all times be assisted by counsel.\textsuperscript{119}

The court has the duty to inform the accused of his right to counsel before he is arraigned in criminal prosecutions,\textsuperscript{120} and if without counsel, has to assign a counsel \textit{de officio}, unless the accused is allowed to defend himself.\textsuperscript{121} The court, in appointing a counsel \textit{de officio}, shall choose from members of the bar in good standing who can competently defend the accused.\textsuperscript{122}

Furthermore, free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.\textsuperscript{123}

Indigent persons may seek free legal representation, assistance, and counselling from the Public Attorney’s Office.\textsuperscript{124} The Department of Justice Action Center, a function of the National Prosecution Service and the Public Attorney’s Office, provides lawyers and paralegals rendering free legal assistance and other services by the Department of Justice (DOJ).\textsuperscript{125}

\textbf{Knowing the Nature and Cause of the Accusation}

No substantial change from 2011.

The Constitution states that an accused has the right to be informed of the nature and cause of the accusation.\textsuperscript{126} Furthermore, the Rules of Court provide that an information or complaint charging an accused should contain the acts or omissions complained of, and that it must be written in a language sufficient to enable a person of common understanding to know what offence is being charged and the qualifying and aggravating circumstances present.\textsuperscript{127}

The Rules of Court allow motions to quash information that fail to state the acts constituting the offence, which shall be granted if the prosecution fails to correct the defect. A complaint or information may also be quashed when it charges more than one offence, unless the law prescribes a single punishment for various offences.\textsuperscript{128} However, no study on compliance has recently been conducted to confirm whether the rule is strictly followed.

\begin{footnotesize}
\begin{enumerate}
\item Section 2, An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations thereof, Republic Act No. 7438 (1992) (Philippines)
\item Rule 115, Section 1(c), Rules of Court (1997) (Philippines)
\item Rule 116, Section 6, Rules of Court (1997) (Philippines)
\item Rule 116, Section 7, Rules of Court (1997) (Philippines)
\item Article III Section 11 1987 Constitution (Philippines)
\item Article III Section 14 (2), 1987 Constitution (Philippines)
\item Rule 119, Section 6, Rules of Court (1997) (Philippines)
\item Rule 117, Section 3(f), Rules of Court (1997) (Philippines)
\end{enumerate}
\end{footnotesize}
When the accused has no private counsel, the court appoints a counsel de officio, and counsel should be given reasonable time to consult with the accused as to his plea before arraignment is conducted.\textsuperscript{129} After arraignment, the Rules of Court and the Speedy Trial Act require that the accused be given at least 15 days to prepare for trial.\textsuperscript{130}

\section*{Guarantees during Trial}

The right to a speedy trial is protected by both the Constitution and the Speedy Trial Act.\textsuperscript{131}

The Speedy Trial Act requires arraignment within 30 days from the filing of information or from the date an accused appeared before the court where the charge is pending, whichever date last occurs.\textsuperscript{132} If an accused is under preventive detention, the Rules of Court require his case to be raffled and records transmitted to the judge within three days from the filing of the information or complaint; the accused shall be arraigned within 10 days from the date of the raffle.\textsuperscript{133}

Trial shall start within 30 days from arraignment, with the accused having at least 15 days to prepare for trial; otherwise, the information shall be dismissed on motion of the accused.\textsuperscript{134} However, the Speedy Trial Act and the Rules of Court enumerate numerous delays that are to be excluded from the computation of the time limit within which trial should commence.\textsuperscript{135} Cases must be set for “continuous trial on a weekly or other short-term trial calendar” and trial period should not exceed 180 days.\textsuperscript{136} Cases submitted to the Supreme Court must be resolved within 24 months from the filing of the last pleading, within 12 months for those before lower collegiate courts, and within three months for all other lower courts.\textsuperscript{137}

In order to further streamline the process, the Supreme Court formulated the Judicial Affidavit Rule, which took effect on 1 January 2013 and requires that the testimony on direct examination of witnesses be reduced to judicial affidavits without need of further questions, thus in effect saving the time needed to do direct examination of the witness. However, this rule is not mandatory for an accused in a criminal case, who may decide not to avail of the Rule.\textsuperscript{138}

In 2013, the judiciary continued to develop court automation systems such as the E-Court project, which is a subcomponent of the Enterprise Information Systems Plan. It is an automation program of the courts where case information is recorded in a computer database to give ease of access to the judges and court employees to manage their time and activities with respect to the cases that they handle. It also lets the public see the

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\footnotesize
129 \textsuperscript{Rule 116, Section 8, Rules of Court (1997) (Philippines)}
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130 \textsuperscript{Rule 119, Section 1 Rules of Court (1997) (Philippines) and Section 7, Speedy Trial Act of 1998, Republic Act 8493 (1998) (Philippines)}
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131 \textsuperscript{Article III Section 14 (2) and 16, 1987 Constitution (Philippines) and Speedy Trial Act of 1998, Republic Act 8493 (1998) (Philippines)}
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132 \textsuperscript{Section 7, Speedy Trial Act of 1998, Republic Act 8493 (1998) (Philippines)}
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133 \textsuperscript{Rule 116, Section 1 (e), Rules of Court, (1997) (Philippines)}
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134 \textsuperscript{Section 7 and Section 13, Speedy Trial Act of 1998, Republic Act 8493 (1998) (Philippines)}
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135 \textsuperscript{Section 10, Speedy Trial Act of 1998 Republic Act 8493 (1998) (Philippines) and Rule 19, Section 3, Rules of Court (1997) (Philippines)}
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136 \textsuperscript{Section 6, Speedy Trial Act of 1998 Republic Act 8493 (1998) (Philippines)}
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137 \textsuperscript{Article VIII, Section 15 (1) and (2) 1987 Constitution (Philippines)}
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138 \textsuperscript{The Judicial Affidavit Rule Administrative Matter No. 12-8-8-SC (2012) (Philippines)}
\end{flushright}
progress of cases handled by a particular court. On 18 March 2014, in an effort to further streamline the process, the Supreme Court came out with the Guidelines for the Decongesting of Holding Jails by Enforcing the Rights of the Accused Persons to Bail and Speedy Trial. The guidelines reiterate the time limit of the Speedy Trial Act of 1998, but it took it a step further by stating that non-compliance would lead to dismissal of the case. It also introduced innovations such as the use of modern technology like short messaging system (SMS or texting), telephone calls, and email to notify parties of scheduled hearings.

Moreover, an accused has the constitutional right to be heard by himself and counsel, to meet witnesses face to face, and to have compulsory process to secure attendance of witnesses and production of evidence.

**Appeal**

No substantial change since 2011.

The Supreme Court has held that the right to appeal is not a natural right, but a statutory privilege; thus, is not part of due process. The party who wishes to appeal must comply with the requirements of the law or rules; otherwise, the right is lost.

Thus, a party filing an appeal must comply with the general reglementary period for filing an appeal from promulgation of judgment or notice of final order, and the appeal must be made to the higher court or body and in compliance with the manner specified by the law or rules. Any party to a case may appeal from a judgment or final order so long as the accused is not placed in double jeopardy.

**Freedom from Double Jeopardy**

No substantial change since 2011.

The protection is enshrined in the Bill of Rights of the Constitution, which states that a person may not be put twice in jeopardy of punishment for the same offence. Judgments of acquittal are final, not reviewable, and immediately executory. Furthermore, the Rules of Court state that previous conviction, acquittal, or termination of a case without the consent of the accused is a ground to quash the complaint or information.

**Remedy before a Court for Violations of Fundamental Rights**

A positive change is noted since 2011.

The Constitution created a CHR. Its mandate includes investigation of human rights violations involving civil and political rights. It also provides measures for protection of human rights and legal aid services, exercise of

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139 Supra note 33
140 Section 9, Administrative Matter No. 12-11-2-SC
141 Section 11, Administrative Matter No. 12-11-2-SC
142 Article III, Section 14 (2), 1987 Constitution (Philippines)
143 Spouses Bergonia and Castillo v. Court of Appeals and Amado Bravo, Jr., G.R. No. 189151, January 25, 2012
144 Rule 122, Section 6, Rules of Court, (1997) (Philippines)
145 Rule 122, Section 1 and Rule 115, Section 1 (i), Rules of Court, (1997) (Philippines)
146 Article III Section 21, 1987 Constitution,(Philippines) and Rule 117 Section 3(i) and 7, Rules of Court (1997) (Philippines)
visitorial powers over jails, prisons, or detention facilities, and monitoring of government’s compliance with international treaty obligations on human rights. On 1 July 2013, a bill was proposed by Representative Rene Relampagos that would expand the powers of the Commission beyond its current mandate. It would increase the jurisdiction of the Commission beyond civil and political rights, and include social, economic and cultural rights. Furthermore, the powers of the Commission would be expanded by giving it residual prosecutorial powers. As of this writing, the said bill is still pending with the Committee on Human Rights.

The Commission was also made one of the lead agencies in the implementation of Republic Act No. 10353 or the Anti-Enforced or Involuntary Disappearance Act of 2012, and now has a mandate to receive bi-monthly reports on all persons detained and confined by the Philippine National Police, Bureau of Corrections, Bureau of Jail Management and Penology, and other concerned agencies, as well as the right to conduct visitation or inspection of all places of confinement.

Republic Act No. 10368 or the Human Rights Victims Reparation and Recognition Act of 2013 created a new, independent, and quasi-judicial body to be known as the Human Rights Victims’ Claims Board (HRVCB). It is attached to the Commission and is empowered to receive, evaluate, process, and investigate applications for claims, issue subpoenas, conduct independent administrative proceedings, resolve disputes over claims, and promulgate related rules. See below as regards progress on this matter.

C. On Central Principle 3: (The process by which the laws are enacted and enforced is accessible, fair, efficient and equally applied)

Law Enactment

Openness and Timeliness of Release of Record of Legislative Proceedings

No substantial change since 2011.

The Constitution requires printed copies of bills to be distributed to members of Congress at least three days before its passage and for each to pass three readings on separate days, unless certified by the President as urgent. Each bill is referred to the appropriate committee during the first reading, and if necessary, the committee schedules public hearings, issues public notices, and invites resource persons. Both the House of Representatives and the Senate of the Philippines post notices of committee meetings on their websites. These are made available to the public in advance of the dates of hearing in each of their websites.

147 Article XIII, Section 18, 1987 Constitution (Philippines)
150 Section 8, 10, 11 and 13 the Anti-Enforced or Involuntary Disappearance Act of 2012 Republic Act 10363 (2012) (Philippines). Section 9, 11, 12 and 13, Implementing Rules and Regulations of RA 10353
152 Article VI, Section 26, 1987 Constitution (Philippines)
153 Supra notes 88 and 89
Generally, the deliberations, including budget deliberations, are open to the public, subject only to availability of seats as well as the conduct of observers in the gallery. However, when the matters under discussion involve national defence, security of the State or the dignity of the House or any of its Members, the House may hold executive sessions.154

**Timeliness of Release and Availability of Legislative Materials**

No substantial change since 2011.

Both houses of Congress are required to keep a journal of their proceedings and to publish said journal, except parts affecting national security. Each House should also keep a record of its proceedings.155

The website of the House of Representatives contains information on rules of proceedings, concerns discussed on session days, schedule of committee meetings, and voting and attendance records of House Members. There are information on bills referred to committees, including who the principal author is, its status, history, and full text. Upon inquiry with the Office of the Secretariat of the House of Representatives and the Senate of the Philippines, the Secretariat Staff stated that, the information as posted in the official websites of Congress is delayed by approximately 30 days from the time the session was completed, however, it is possible get a copy earlier than the official posting on the website by making an official request with the appropriate Committee Secretariat which was in charge of the proceedings.

**Equal Protection of the Law and Non-Discrimination**

No substantial change since 2011.

It is constitutionally protected that no one shall be denied equal protection of the laws.156 Albeit, the Supreme Court has said that the equal protection clause requires equality among equals as determined according to a valid classification, which has these requisites:

1. Classification rests on substantial distinctions;
2. It is germane to the purposes of the law;
3. It is not limited to existing conditions only; and
4. It applies equally to all members of the same class.157

**Reparation for Crimes and Human Rights Violations’ Victims/Survivors**

A positive development is noted since 2011.

In February 25, 2013, Republic Act No. 10368 or the Human Rights Victims Reparation and Recognition Act of 2013 was passed into law. This law recognizes the heroism and sacrifices of all Filipinos who were victims of summary execution, torture, enforced or involuntary disappearance and other gross human rights

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155 Article VI, Section 16(4), 1987 Constitution, (Philippines)
156 Article III, Section 1, 1987 Constitution, (Philippines)
157 Quinto and Tolentino Jr. v. COMELEC, G.R. No. 189698, February 22, 2010
violations committed during the regime of former President Ferdinand E. Marcos.\textsuperscript{158}

As mentioned, it created the HRVCB, attached to the Commission on Human Rights, whose principal source of funds is the P10-Billion transferred to the government of the Republic of the Philippines by virtue of the 10 December 1997 Order of the Swiss Federal Supreme Court, plus accrued interests, which form part of the funds.\textsuperscript{159} Non-monetary reparation may also be provided by the Department of Health, the Department of Social Welfare and Development, the Department of Education, the Commission on Higher Education, the Technical Education and Skills Development Authority, and others.\textsuperscript{160} The Board has now received more than 80,000 claims and is processing the claims for distribution. It has been given a two-year extension to complete its mandate.\textsuperscript{161}

Additionally, there is a Board of Claims under the DOJ for victims of unjust imprisonment, detention, or violent crimes. Compensation for unjust imprisonment or detention should not exceed P1,000 per month. In all other cases, the maximum amount is only P10,000.\textsuperscript{162} The Board of Claims undertakes its mandate under the Victims Compensation Program. From January to December 2013, a total of 2,328 applications were received and 2,241 were acted upon, with 87 still pending at the end of the period. A total of 1,815 victims were granted monetary compensation. For the years 2014-2016, the Board is projecting an approximate five percent (5\%) increase in the number of applications from the previous years.\textsuperscript{163}

Furthermore, anyone who is liable for a crime is also civilly liable.\textsuperscript{164} Said civil liability includes restitution, reparation of damage caused, and indemnification for consequential damages.\textsuperscript{165}

**Law Enforcement**

There has been a slight improvement since 2011.

It has been noted by both the Commission on Human Rights\textsuperscript{166} and human rights groups (\textit{e.g.}, Karapatan) that there was a decrease in the incidence of human rights abuses, such as extrajudicial killings, enforced disappearances, and torture.\textsuperscript{167} Furthermore, WJP has noted a small change from 2014 in regulatory enforcement from 0.46 to 0.5, which increased the Philippine ranking from 60 out of 99 countries globally
in 2014\textsuperscript{168} to 52 out of 102 countries in 2015.\textsuperscript{169}

However, since 2011, a number of high profile cases involving high government officials have surfaced and have been prosecuted. These include the arrest and detention of former President Gloria Macapagal-Arroyo on 18 November 2011 following the issuance of an arrest warrant against her by a Pasay City Court for electoral sabotage,\textsuperscript{170} and the impeachment and subsequent conviction of a sitting Chief Justice of the Supreme Court.\textsuperscript{171} On 7 November 2013, Janet Lim-Napoles faced the Senate regarding a P10-Billion Priority Development Assistance Fund (otherwise known as “pork barrel”) scam, which resulted in the filing of plunder complaints against three sitting senators of the Republic, namely, Senate Minority Leader Juan Ponce Enrile, Senator Jose “Jinggoy” Estrada, and Senator Ramon Revilla Jr., as well as former and incumbent congressmen and other government officials.\textsuperscript{172} On 12 August 2014, a composite team of the National Bureau of Investigation (NBI) and the Armed Forces Naval Intelligence Group arrested retired major general Jovito Palparan, Jr., one of the accused in the 2006 kidnapping and illegal detention case filed by families of University of the Philippines students Karen Empeno and Sherlyn Cadapan. Authorities arraigned Palparan on 18 August 2014, and detained him at the Bulacan Provincial Jail, then transferred him to the AFP Custodial Center in Fort Bonifacio in September 2014. Palparan is the highest-ranking former military official to be arrested and tried for involvement in a disappearance case, and was in hiding since 2011.\textsuperscript{173} On 18 August 2014, Vice President Jejomar Binay and his son, Mayor of Makati Erwin “Junjun” Binay, faced charges of plunder for the alleged overpricing in the construction of several buildings in Makati City.\textsuperscript{174} The investigation is continuing at the time of this writing.

D. On Central Principle 4:
(Justice is administered by competent, impartial, and independent judiciary and justice institutions)

Appointment and Other Personnel Actions in the Judiciary and among Prosecutors

There has been no substantial change since 2011.


\textsuperscript{169} Supra note 32


\textsuperscript{171} Supra note 4


Judiciary – Superior and Lower Courts

Appointment

The qualifications of a Supreme Court Justice are provided for in the Constitution, which states that a justice must be at least 40 years old and a judge of a lower court or engaged in law practice in the Philippines for at least 15 years.\textsuperscript{175} The nominee is recommended by the Judicial and Bar Council (JBC), which is composed of the Chief Justice, the Secretary of Justice, a representative of Congress, a representative of the Integrated Bar, a professor of law, a retired member of the Supreme Court, and a representative of the private sector.\textsuperscript{176}

Whenever there is a vacancy in the judiciary, the President appoints from a list of at least three nominees submitted by the JBC within 90 days from occurrence. These appointments need no confirmation.\textsuperscript{177} This lack of confirmation is widely criticised as a source of patronage politics and mars the independent image of the judiciary.

The Rules of the JBC require publication of the list of applicants or recommendees once in a newspaper of general circulation in the Philippines, and once in a newspaper circulating in the province or city where the vacancy is located. Copies of the list are posted in three places where the vacancy is located and furnished to the Integrated Bar of the Philippines (IBP), and whenever practicable, to major non-governmental organisations. A corresponding notice is posted on the website of the JBC.\textsuperscript{178}

Dismissal/suspension

Members of the Supreme Court and lower courts hold office until they reach 70 years old or become incapacitated to discharge their duties. The Supreme Court has the power to discipline judges of lower courts, while members of the Supreme Court are removable only by impeachment.\textsuperscript{179} In 2011, Chief Justice Renato Corona was impeached and subsequently convicted.\textsuperscript{180}

Other Personnel Actions

With regard to the discipline of judges or justices, a complaint may be initiated \textit{motu proprio} by the Supreme Court or upon a verified complaint with supporting affidavits of persons with personal knowledge, as well as with other pieces of documentary evidence. These complaints are referred to the Office of the Court Administrator and the offences cover the whole range of conduct starting from serious misconduct for direct bribery to light misconduct for undue delay in submission of monthly reports. If the offences are proven, sanctions range from dismissal for serious offences to admonition with warning for light offences.\textsuperscript{181}

\begin{flushleft}
\textsuperscript{175} Article VIII Section 7, 1987 Constitution (Philippines)
\textsuperscript{176} Article VIII Section 8, 1987 Constitution (Philippines)
\textsuperscript{177} Article VII Section 9, 1987 Constitution (Philippines)
\textsuperscript{178} Rule I Section 9, Rules of the Judicial and Bar Council JBC-009 (Philippines)
\textsuperscript{179} Articles VIII Section 2 and Article XI Section 2, 1987 Constitution (Philippines)
\textsuperscript{180} Supra note 4
\textsuperscript{181} Sections 1, 3, 8 to 11, Administrative Matter No. 01-8-10-SC (Philippines)
\end{flushleft}
Public Prosecutors

Appointment

All prosecutors shall be selected from amongst qualified and professionally trained members of the legal profession who are of proven integrity and competence. They shall be appointed by the President of the Philippines upon recommendation of the Secretary of Justice. However, it has been found that new prosecutors are recruited largely from fresh law school graduates and that many opt to leave for private practice or to apply for vacant judge positions.\(^{182}\)

They shall be subject to the same qualification for appointment, rank, category, prerogatives, salary grade, salaries, allowances, emoluments, and other privileges, and shall be subject to the same inhibitions and disqualifications, as well as enjoy the same retirement and other benefits, as those of members of the bench in the following scheme.\(^{183}\)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Equivalence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecutor V</td>
<td>Associate Justice of the Court of Appeals</td>
</tr>
<tr>
<td>Prosecutor IV</td>
<td>Judge of the Regional Trial Court</td>
</tr>
<tr>
<td>Prosecutor III</td>
<td>Judge of the Metropolitan Trial Court</td>
</tr>
<tr>
<td>Prosecutor II</td>
<td>Judge of the Municipal Trial Court in cities</td>
</tr>
<tr>
<td>Prosecutor I</td>
<td>Judge of the Metropolitan Trial Court in municipalities</td>
</tr>
</tbody>
</table>

Dismissal/suspension

Prosecutors shall serve until they reach the age of sixty five (65) years old. They are members of the Civil Service, thus are subject to Civil Service Rules and Regulations, including the Code of Conduct and Ethical Standards for Public Officials and Employees.\(^{184}\) Furthermore, prosecutors with salary grade of 27 or higher are subject to the jurisdiction of the Office of the Ombudsman.\(^{185}\) Violations of the above rules would warrant administrative sanctions including suspension or dismissal.

Other Personnel Actions

The National Prosecutorial Service is tasked to investigate administrative complaints against prosecutors through their respective Regional or City Prosecutors.\(^{186}\) Additionally, prosecutors are members of the Philippine Bar and thus are subject to administrative supervision of the Supreme Court of the Philippines.

\(^{182}\) Supra note 31

\(^{183}\) Section 16, Prosecution Service Act of 2010, Republic Act No. 10071 (2010) (Philippines)

\(^{184}\) Republic Act 6713 (1989) (Philippines)

\(^{185}\) Supra note 77

\(^{186}\) Section 5 Prosecution Service Act of 2010, Republic Act No. 10071 (2010) (Philippines)
Complaints against prosecutors are referred either to the Office of the Court Administrator or the National Prosecutorial Service and if the offences are proven, sanctions range from dismissal or disbarment for serious offences to admonition with warning for light offences.187

Training, Resources, and Compensation

No substantial change in 2011.

The primary concern of the National Prosecution Service (NPS) continues to be a severe manpower deficiency. In 2013, the National Prosecution Service had 1,858 prosecution officers out of 2,416 existing plantilla positions, which translate to a vacancy rate of 23%. Since 2010, the vacancy rate of the NPS has averaged 23%. Due to this deficiency, each prosecution officer conducted an average of 201 preliminary investigations. This translates to an increase of 12% in the average caseload since 2010. Around 725,000 criminal cases were prosecuted in the trial courts, with each prosecutor handling around 390 court cases in 2013.188

Continuing legal education is required of all members of the IBP by virtue of Bar Matter No. 850.189 The DOJ taps, amongst others, the UP Law Center Institute on Administration of Justice to provide for the mandatory continuing legal education of members of the National Prosecutorial Service.

PHILJA is the “training school for justices, judges, court personnel, lawyers and aspirants to judicial posts.” No appointee may commence his functions without completing its prescribed courses.190 The JBC, which recommends appointments and promotions, is directed by law to consider the participation of prospective judges in the programs of PHILJA. Pursuant to its mandate, the PHILJA in 2013 held a total of 130 training activities broken down as follows: 42 under its regular programs, 72 under its special focus programs, 11 conventions-seminars for associations of judges and court personnel (academic component), and five special lectures.191

In 2013, the PHILJA marked a milestone when it launched its Global Distance Learning Center (GDLC) in Tagaytay. The facility’s videoconferencing and other information communication technology equipment make possible greater access to educational resources, as well as global exchanges of judicial and legal information and best practices. It was formally launched on 13 June 2013 with the proceedings viewed simultaneously at the Session Hall of the Supreme Court of the Philippines.192 PHILJA also held special

188 Supra note 125
190 An Act Establishing the Philippine Judicial Academy, Defining its Powers and Functions, Appropriating Funds Therefor and or other Purposes, Republic Act No. 8557 (1998) (Philippines)
191 Supra note 33, p. 37-40
192 Ibid.
State’s Budget Allocation for the Judiciary and Other Principal Justice Institutions

There has been no substantial change since 2011.

The judiciary received 0.74% of the budget in 2012, 0.66% of the budget in 2013, 0.72% in 2014, 0.69% in 2015, and 0.86% in 2016. This trend was also observed in the earlier study, wherein it was noted that year on year, the judiciary received less than 1% of the annual budget. Around 72.0% of the annual national budget of the judiciary goes to salaries and allowances, 21.0% for maintenance and other operating expenses, and 7% for capital outlay. However, this amount is augmented by the Judiciary Development Fund, which is collected as court fees, and allows 80% of the fund to be used as cost of living allowance and the remaining 20% for purchase of office equipment.

Meanwhile, the DOJ received over 0.15% of the budget in 2012, 0.13% in 2013, 0.15% in 2014, 0.14% in 2015, and 0.15% in 2016. Thus, the trend observed in the earlier study continues to the present.

Impartiality and Independence of Judicial Proceedings

There are both positive and negative trends in relation to this parameter.

This parameter is primarily measured by corruption indices and public opinion surveys. In 2014, Transparency International’s Corruption Perceptions Index ranked the Philippines 85th out of 175 countries surveyed, which was an improvement from placing 94th in 2013. It scored 38 on a scale of 1 to 100 in the Corruption

193 Examples of such topics include:

1. The roll-out lecture of the third Academic Excellence Lecture Series by Dr. Antonio G. M. La Viña, 2008 Metrobank Foundation Professorial Chair Holder in International Law, on “Environmental Law and the Future: What’s Next?”, in partnership with De la Salle University;

2. The Launching of the PHILJA Training Center GDLC and Founding Chancellor Emeritus Justice Ameurfina A. Melencio Herrera Award for the Most Outstanding Professorial Lecturer, featuring the Lecture “Revisiting Legal and Judicial Ethics: Challenges and Perspectives”, by retired Court of Appeals Justice Hilarion L. Aquino;

3. The Ninth and Tenth Metrobank Foundation Professorial Chair Lectures, respectively delivered by Atty. Francis Ed. Lim, Professorial Chair Holder in Commercial Law for 2012 (“Towards a More Forward-Looking Insolvency System”) and University of the Philippines College of Law Professor Atty. Merlin M. Magallona, 2013 Professorial Chair Holder in International Law (“Internalization of Philippine Territory: The Question of Boundaries”); and


195 Section 1, Establishing a Judiciary Development Fund and for other Purposes, Presidential Decree No. 1949 (1984) (Philippines)

196 Ibid.
Perceptions Index (CPI). The Philippines jumped nine places in the recently published WJP 2015 index, making it one of the most improved countries in terms of global rankings. It ranked 51st out of 102 countries in the index, a significant jump from last year when the country ranked 60th out of 99 countries. This makes the Philippines the most improved amongst ASEAN member nations. Results showed that the country ranked high in terms of absence of corruption (47th).

This parameter was measured by the Ombudsman via a survey of families who actually transacted with the institutions, and it noted that there was a decrease in the incidence of solicitation of bribe money from 2010 (which showed 9.9% of respondents giving “grease” money or bribes) to 2.3% in 2013. However, the study also showed an increase in families giving bribe money when asked by the government official. The greatest increase was recorded when accessing justice.

Provision of Lawyers or Representatives by the Court to Witnesses and Victims/Survivors

There is a negative trend in relation to this parameter.

The Public Attorney’s Office (PAO) defends indigent accused persons. It extends free legal services to indigent persons or to their immediate families in civil, administrative, labour and criminal cases. In the previous study, the PAO manpower of 1,407 lawyers served 4,154,587 clients. PAO lawyer-client average ratio for clients was 1:2,953; PAO lawyer-client average ratio for cases handled was 1:420 in 2009.

As of December 2013, PAO had a staff of 1,525 lawyers who served 7,126,656 clients with a total caseload of 746,141 cases nationwide. This was higher by 6% than in 2012 with PAO lawyer-client ratio reaching 1:4,748 and PAO lawyer-client average ratio for cases handled as 1:497. In 2009, its 1,407 lawyers handled criminal and civil cases before 2,182 courts nationwide. As of December 2013, the 1,525 lawyers of PAO handled criminal and civil cases before 2,214 courts nationwide.

Thus, the concerns identified in the previous study remain largely unchanged. Some of these were identified as heavy workload of its lawyers and the non-fulfilment of the legal requirement that an organized sala should have one public attorney. Despite this “overwhelming caseload,” PAO was able to secure 154,086 acquittals, dismissals, and other favourable outcomes for clients in criminal cases. At the prosecutory level, PAO was able to terminate 21,943 out of 61,583 handled cases, as well as 27,391 out of 46,919 civil cases,

201 Supra note 125
202 Supra note 200
203 Supra note 125
6,381 out of 11,891 administrative cases, and 43,054 out of 81,054 labour cases.205

Safety and Security of the Judiciary, Prosecutors, Litigants, Witnesses, and Affected Public

Some 38 lawyers have been killed since the start of the term of President Aquino in 2010. About 24 judges and 116 lawyers have also been killed since 1999, with the latest judge being Judge Erwin Alba of Baler Regional Trial Court.206 The Supreme Court and the NBI created Task Force Judiciary Protection to provide protection from threats and investigate killings or attempted killings in 2008. Today, the task force continues to conduct personal security training for judges.207 The training covers threats assessment, prevention, firearms orientation, marksmanship, and technical proficiency.

Specific, Non-Discriminatory, and Unduly Restrictive Thresholds for Legal Standing

No substantial change since 2011.

In private suits, standing is covered by the “real parties in interest” rule in the Rules of Court. The real party in interest is “the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit.”208

As regards “public suits” assailing an illegal official action, taxpayers, voters, concerned citizens, and legislators may be accorded standing to sue when the following are met:

1. The case involves constitutional issues;
2. For taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
3. For voters, there must be a showing of obvious interest in the validity of the election law in question;
4. For concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled clearly; and
5. For legislators, there must be a claim that the official action complained of infringes upon their prerogatives as legislators.209

Despite the largely all-inclusive enumeration of people given standing to initiate suits of both private and public nature, it has been noted that the great deterrent for people to access formal judicial avenues is not

205 Supra note 125
208 Rule 3 Section 2, Rules of Court (1997) (Philippines)
Philippines

Publication of and Access to Judicial Hearings and Decisions

No substantial change since 2011.

As mentioned, court proceedings and records are a matter of public record, except when the court forbids publicity in the interest of morality or decency. Decisions of the trial and appellate courts are not published, but are public records and anyone can obtain copies of decisions from the clerk of court while copies of the Transcript of Stenographic Notes (TSN) are available upon payment of a fee, except for selected family law cases where confidentiality is required by law. Supreme Court decisions are published and are public records. Decisions and resolutions of the Supreme Court are available online on the website of the Supreme Court and through private online sources (supra).

Reasonable Fees and Non-arbitrary Administrative Obstacles to Judicial Institutions

A positive change has been noted since 2011.

Although the Constitution states that no one is to be denied free access to courts and quasi-judicial bodies and adequate legal assistance by reason of poverty, court fees remain high for a family living in minimum wage conditions. This is in spite of the exemption of indigents from paying docket and other fees, including transcripts of stenographic notes.

To increase access to justice, the judiciary continues to implement the Enhanced Justice on Wheels (EJOW) project. The EJOW uses especially designed buses that are deployed as mobile courts to different areas of the country. Aside from case docket and jail decongestion, the program now includes additional components, such as mobile court-annexed mediation; free medical, dental, and legal aid to inmates; information dissemination campaign for barangay officials; dialogue amongst Supreme Court officials and stakeholders in the Philippine judicial system; and a team-building seminar for court employees. In 2013, EJOW contributed to the release of 7,830 inmates; gave medical and dental services to 17,796 inmates; gave legal aid to 4,706 inmates; successfully mediated 13,478 cases; and lectured to 25,717 participants. On 18 June 2013, the court also started “Judgement Day” wherein simultaneous hearings and decision-making were done in five jail facilities with the highest inmate population, namely, the Manila City Jail, Quezon City Jail, Angeles City Jail, Cebu City Jail, and Davao City Jail. During the activity, a total of 553 criminal cases were heard, 245 cases were dismissed or disposed of, and 215 inmates were released. Three other


211 Rule 135, Section 2 Rules of Court (1997) (Philippines)

212 Supra note 44

213 Supreme Court of the Philippines <http://www.sc.judiciary.gov.ph>

214 Article III, Section 11, 1987 Constitution (Philippines)

215 Rule 3 Section 21 and Rule 141 Section 19 Rules of Court, (1997) (Philippines)

216 Supra note 33

217 Ibid.
“Judgement Days” were held in other areas during 2013 resulting to a total of 444 criminal cases heard, 376 cases dismissed/disposed of, and 322 inmates released.218

The Court also continued its program on Small Claims Courts wherein purely money claims of P100,000 and below are decided. Attorneys are not allowed, and forms are provided. Decisions are rendered on the first day of hearing and are final and unappealable, except by a special civil action of certiorari to the Supreme Court.219

A further program instituted in 2013 is Case Docket Decongestion: Hustisyeah!, which is the local version of Asia Foundation’s Judicial Strengthening to Improve Court Effectiveness project that seeks to improve court efficiency and predictability of adjudication of courts by reducing docket congestion and case delay; strengthening contractual enforcement; strengthening enforcement of intellectual property rights; and supporting integrity and confidence-building measures for the justice system. From a caseload of 34,014 in 31 December 2011, the program was able to decrease caseloads to 25,258 by May 2014 in the 33 courts enrolled in the program in Quezon City.220

**Assistance for Persons Seeking Access to Justice**

Measures that allow for adequate legal representation and assistance for citizens are constitutionally mandated and such measures on legal representation and assistance should not be denied to any person by reason of poverty.221 Thus, the State is mandated to provide competent and independent counsel to the indigent accused.

However, a study of the American Bar Association on access to justice in Mindanao noted that in the formal justice system, the cost of hiring a private lawyer—estimates range from P10,000 (USD 232.56) to P50,000 (USD 1,162.79) (at a conversion rate of 43 PhP to 1 USD)—is out of reach to most citizens who earn on average P1,403 (USD 32.63) per month.222

The IBP obligates lawyers to render service to indigent parties through its Legal Aid Program, which is implemented nationally by its chapters. However, the IBP has not been able to disseminate information about its legal aid programs to citizens who are qualified to avail of them. Majority of citizens are unaware of the legal aid programs provided by the IBP and continue to believe that lawyers cater only to those with money, tend to concentrate their practice in city centres, and rarely serve in the hinterlands, if at all.223

The State provides representation to poor clients through PAO, which has significantly provided legal services throughout the country. PAO’s mission reflects the need to serve marginalised groups in seeking justice and accessing courts. Citizens are largely familiar with the services of the PAO, and barangay and government leaders refer their constituencies to the PAO when they are in need of legal advice or representation. However, with the average case load per public attorney numbering in the hundreds per year, the quality of

218 Ibid.
219 The Rule of Procedure for Small Claims Cases Administrative Matter 08-8-7-SC, October 27, 2009
220 Supra note 33
221 Article II, Section 10 and Article III Section 11, 1987 Constitution (Philippines)
222 Supra note 210
service is likely to suffer. 224

Legal aid is also offered in some law schools. 225 Law students are allowed to undergo a law student practice under the supervision of a lawyer upon having the Legal Aid Clinic accredited by the Supreme Court. 226 Efforts by law schools to improve access to legal representation have not, however, yet achieved that purpose.

Alternative Law Group member-organisations also handle public interest cases. More significant, though, is their work in developing community-based paralegals who can readily assist communities with their legal issues and concerns. While the group’s programs on the formation of community-based paralegals are laudable, they are limited in scope. Paralegals might be perceived to have limited knowledge of the law and procedures, but are capacitated to engage in the legal system. At the level of the community, paralegals are the most accessible resource in terms of providing information on law and mediating conflicts. 227

Measures to Minimise Inconvenience to Litigants, Witnesses, and their Families, Protect their Privacy, and Ensure Safety from Intimidation/Retaliation

The Witness Protection, Security and Benefit Program is administered by the DOJ. In 2013, the program admitted 580 covered witnesses. In the same year, a conviction rate of 87.23% was noted, wherein out of the 47 cases decided, 41 won. 228 The program provides witnesses and their families with secure housing facility; financial assistance or assistance in obtaining a means of livelihood; protection from demotion from work on account of his/her testimony in court; travel and subsistence allowance; free medical treatment, hospitalization and medicines; and, in some instances, relocation and a change of identity. In return, witnesses are bound, amongst other requirements, to testify and provide information to all appropriate law enforcement officials, take measures to avoid detection, and comply with legal obligations and civil judgments against him or her. 229

However, a continuing review is being made of the financial assistance extended, and this is made in view of the current economic climate with the aim of reducing the financial dependence of the witnesses on the government. 230 Furthermore, while the law provides for extensive protection, the process of enrolling someone into the witness protection program does not meet the urgent requirements of many witnesses, including victims and their families, as the process involves several bureaucratic layers in the DOJ. For high profile cases, it is not uncommon for witnesses to seek sanctuary with religious groups and other non-governmental organisations, but this option is not feasible for a large number of complainants. 231

In cases where a victim or his or her family decides to file a complaint first with the CHR, they will have to wait for an endorsement from the CHR to the DOJ for provisional admission into the DOJ’s witness protection program. Interviews with torture victims and their families have shown that this process could take months,

224 Supra note 125
226 Bar Matter No. 730, June 13, 1997
227 Supra note 210
228 Supra note 125
229 Sections 5 and 8, Republic Act No. 6981
230 Supra note 125
231 Supra note 115
and sometimes more than a year, although CHR officials told Amnesty International they now have an agreement with the DOJ to expedite the process. Already fearing reprisal and having no immediate access to State-provided protection, many witnesses are reluctant to step forward and talk to investigators. From previous interviews with people enrolled in the DOJ witness protection program, Amnesty International researchers have found that some of them have practically put their lives on hold, remaining within witness protection for more than five years, as the case in which they are testifying moves slowly.

Available and Fair Legal Aid to All Entitled

Generally, legal aid is available for all entitled. This is thru the efforts of the Public Attorney’s Office although in the urban centres, the Integrated Bar of the Philippines also makes legal aid available to indigent persons. Some law schools such as the University of the Philippines College of Law and the Ateneo College of Law have accredited legal aid clinics with students in the 4th year of law school attending to indigent individuals under the supervision of a qualified lawyer. Alternative law groups such as the Free Legal Assistance Group (FLAG) also provide free legal aid. (See discussion above on Assistance for Persons Seeking Access to Justice.)

General Public Awareness of Pro Bono Initiatives and Legal Aid or Assistance

In general, public awareness on how to access legal information, be it pro bono initiatives such as that of the IBP and those of selected law schools or that being given by NGOs or alternative law groups are limited. However, the public is well informed of government provided legal aid thru the Public Attorney’s Office and this is disseminated even at the community level, such as the barangay, by community leaders.

III. INTEGRATING INTO A RULES-BASED ASEAN

Progress towards Achieving a Rules-Based ASEAN Community

On Mutual Support and Assistance on the Rule of Law

The Philippines is party to the Treaty on Mutual Legal Assistance in Criminal Matters among States in the ASEAN, but does not have a stand-alone Mutual Legal Assistance Law, which provides legal basis for assistance. The treaty covers mutual assistance to be rendered among member countries, which may include:

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232 Ibid.
233 Ibid.
234 Supra note 210
235 Supra notes 225 and 226
237 Supra note 210
a. taking of evidence or obtaining voluntary statements from persons;
b. making arrangements for persons to give evidence or to assist in criminal matters;
c. effecting service of judicial documents;
d. executing searches and seizures;
e. examining objects and sites;
f. providing original or certified copies of relevant documents, records and items of evidence;
g. identifying or tracing property derived from the commission of an offence and instrumentalities of crime;
h. the restraining of dealings in property or the freezing of property derived from the commission of an offence that may be recovered, forfeited or confiscated;
i. the recovery, forfeiture or confiscation of property derived from the commission of an offence;
j. locating and identifying witnesses and suspects; and
k. the provision of such other assistance as may be agreed and which is consistent with the objects of this Treaty and the laws of the Requested Party. 239

This treaty has been used multiple times by the Philippines in order to protect the interest of its citizens as well as to go after suspects and collect evidence with assistance from member States. 240

The Philippines also has 13 extradition treaties, but only two with ASEAN member States, namely Indonesia and Thailand. 241 Majority of the said treaties use the non-list dual criminality approach as a means of determining whether an individual can be extradited. In the said system, the conduct that is the basis for extradition must be an offense in both the signatory states. Exception to this approach are the treaties with Indonesia and Thailand that use the list dual criminality approach wherein extraditable offenses are listed and outside the listing, no extradition can be granted. However, the Philippines has never denied a request for legal assistance, especially on the grounds of dual criminality. 242

Three Philippine universities are also members of the ASEAN University Network, namely, Ateneo de Manila University, De La Salle University, and University of the Philippines Diliman. 243

On Legislative and Substantive Changes Promoting the Rule of Law

There have been legislative enactments that promote the rule of law.

239 Ibid. Article I
242 Ibid.
243 Website of ASEAN University Network <http://www.aunsec.org/aunmemberuniversities.php>
The Philippines enacted statutes that enhanced the rule of law in the Philippines, namely, Republic Act No. 10353 or An Act Defining and Penalizing Enforced or Involuntary Disappearance; Republic Act No. 10368 or an Act Providing for Reparation and Recognition of Victims of Human Rights Violations during the Marcos Regime, Documentation of said Violations, Appropriating Funds Therefor and For Other Purposes; Republic Act No. 10389 or An Act Institutionalizing Recognizance as a Mode of Granting the Release of an Indigent Person in Custody as an Accused in a Criminal Case and For Other Purposes; and Republic Act No. 10575 or an Act Strengthening the Bureau of Corrections and Providing Funds Therefor. Further, policies were enacted by the judiciary to further enhance both access to justice and the rule of law. These policies include the simplification of procedures in small claims cases, or those with amounts not exceeding ₱100,000; the enhanced Justice on Wheels Program; the zero-backlog project; and the introduction of modern case management systems. Another development is the greater focus on the use of Alternative Dispute Resolution. The Alternative Dispute Resolution Act of 2004 allows for the use of different forms of dispute resolution mechanism such as arbitration, mediation, early neutral evaluation and mini trial.

**On Enactment of Laws relating to the ASEAN Community Blueprints and Similar Plans**

There have been enactments that tend to support the ASEAN Economic Community Blueprint. These include modernization of the governing laws on the different professions, such as in the fields of chemistry, geology, interior design, psychology, among others, which makes the professions compliant with the blueprint's intention to allow reciprocity between professions.

Another recently passed legislation which has positive implications is the Philippine Competition Act, which promotes free and fair trade and prevents monopolies, in line with the ASEAN Economic Community blueprint's goal of a single market with free flow of goods and services.

**On Integration as Encouraging Steps toward Building the Rule of Law**

There is no available data that suggests that integration has led to the building of rule of law in the country. However, it has been noted that interaction between different counterpart ministers in regional assemblies have had a positive effect in the approach that is being utilised by the departments, especially in matters such as transnational crime, trafficking in persons, and illicit drugs.
On the Contribution of ASEAN Integration to the Building of Stronger State Institutions

There is no available data that suggests that integration has led to the building of stronger State institutions in the country. However, it has been noted by monitoring bodies such as the World Justice Project and Transparency International that Philippine institutions have become more transparent and has had a decrease in corruption, which has been endemic in the Philippines for quite some time.\footnote{U.S. Department of State, 2014 Investment Climate Statement <http://www.state.gov/documents/organization/227069.pdf> accessed May 18, 2016} This has resulted in the improvement in the rankings of the Philippines from 139\textsuperscript{th} in 2009 to 85\textsuperscript{th} in 2015 in Transparency International’s Corruption Perceptions Index.\footnote{Supra note 48} Furthermore, a corollary indicator of the increasing integrity of State institutions has also been mirrored in the increase of its ratings by international financial organisations, such as Moody’s, Fitch, and Standard and Poor, which rate the ability of the country to service its debts. Increasingly positive outlook indicates stability of State institutions to warrant international investors to invest in the Philippines.\footnote{Official Gazette, Philippine Credit Ratings <http://www.gov.ph/report/credit-ratings/> accessed February 28, 2016}

Prospects and Challenges

Challenges to a Strengthened Commitment to the Rule of Law

One of the challenges that is foreseen is the effect of the change of leadership in government as a result of the May 2016 elections. While the present leadership is committed to strengthening the rule of law in the Philippines, other prospective leaders have espoused a more chaotic approach to law with limitations on the importance of individual human rights.\footnote{Philip Alston, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions” (A/HRC/11/2/Add.8) 29 April 2009 <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.2.Add.8.pdf> accessed February 18, 2016} With the election of President-elect Rodrigo Duterte, there is a possibility that individual human rights may take on a secondary importance especially with his statements regarding the reinstatement of the death penalty and “shoot-to-kill” orders against suspects.\footnote{Joseph Tristan Roxas, “FLAG hits Duterte for Proposed Restoration of Death Penalty, Imposition of Shoot-to-Kill orders” GMA News May 22, 2016 <http://www.gmanetwork.com/news/story/567240/news/nation/flag-hits-duterte-for-proposed-restoration-of-death-penalty-imposition-of-shoot-to-kill-orders> accessed May 23, 2016}

Another challenge that is foreseen is continuing the gains made in government transparency and accountability. In the past several years, the country has been noted to have made great strides in the area of anti-corruption campaign. It is such that international bodies such as Transparency International have rated the country increasingly higher over the preceding six years. Sustaining such momentum should be made a priority so that rule of law can be institutionalized in State institutions.

Increasing access to justice is another challenge that should be taken up. Streamlining and simplification of judicial and administrative procedures should be continued and the confusing matrix of jurisdiction should be simplified. An example of the confusing bureaucracy is the multiple agencies existing that are tasked to monitor institutions such as the police forces. These include the National Police Commission, the People’s Law Enforcement Board, the Internal Affairs Service, the Ombudsman, the Civil Service Commission and the PNP Command itself. Each agency theoretically handles a specific aspect of administration but in reality a significant overlap of their jurisdiction exists. This results to confusion in the citizenry that leads to lack of
accountability just because persons do not know with which agency to lodge complaints.\textsuperscript{260} Access to judicial institutions should also be simplified and programs such as the Small Claims Courts should be expanded to facilitate easier access to justice.

**Commitments and Plans/Initiatives in relation to ASEAN-wide Commitments and Declarations on Human Rights**

Plans that have taken the forefront in implementation, which are ASEAN-driven, lie primarily in the education sector. Universities have begun synchronizing their calendars in preparation for the effects of ASEAN integration, and the education sector has implemented radical changes in curriculum, such as the K-12 program wherein the length of time that a student stays in secondary school is increased by two years and a senior high school level is created that intends to prepare the student along the particular path that he or she would want to proceed.\textsuperscript{261}

Another on-going effort is the possibility of having reciprocity between professionals in ASEAN. Efforts have been made in the legislature to modernize the governing laws on each profession to make the practice in tune with neighbours in ASEAN in line with the ASEAN Economic Community Blueprint.\textsuperscript{262}

The Philippines also has commitments in regional instruments, such as the ASEAN Charter, the ASEAN Declaration against Trafficking in Persons Particularly Women and Children and the ASEAN Declaration on Human Rights.

**IV. CONCLUSION**

**Nexus of the Changes to the Overall State of the Rule of Law for Human Rights**

As a whole, ASEAN integration has had a minimal impact on rule of law for human rights. The primary mover for human rights matters in the Philippines has been State compliance with treaty obligations that came with the ratification of or accession to eight of the nine principal human rights treaties. Findings of Special Rapporteurs as well as treaty compliance monitoring teams on government inaction on specific State obligations have pushed the government to action in some matters.\textsuperscript{263} However, there are some matters which the government has decided to ignore.\textsuperscript{264}

\textsuperscript{260} Supra note 115


\textsuperscript{262} Supra notes 253, 254, 255, 256


Several positive indicators have been noted in the rights of individuals, specifically with the express recognition of the claims of victims of human rights violations in the past Marcos regime, as well as with the efforts of the judiciary to increase access to justice by means of non-traditional modalities, such as small claims courts and the Justice on Wheels program.

Another positive note is the prosecution of high government officials such as Presidents, Senators, Congressmen, Generals, and Justices of the Supreme Court for crimes that have adversely affected the Filipino people. This has an effect of culling the culture of impunity that has been prevalent in Philippine society since the time of the Spanish colonisation. In the past, high government officials were able to walk away from the commission of felonies but, increasingly, high government officials are being made accountable for their actions. Although the treatment of such prisoners is still far from the average detainee, the fact that several have been incarcerated shows the increasing application of the rule of law in the Philippines.

Contributing Factors

*Increasing Awareness of the Filipino People*

The Filipino people are becoming increasingly aware of the situation that surrounds the country. With the widespread availability of the Internet and social media, the people are better informed than before as to the actions taken by their government, as well as being reminded of the past conduct of their leaders. Gone are the days when the citizenry could be fooled by lack of available information; now the people actively participate in debate in a myriad of topics such as their choice of leaders in the past elections. In the recently concluded elections, this discourse took on a whole new level, prompting even politicians to come out with a statement that each person should learn to respect another’s opinion.

*Calls for Transparency and Accountability*

In relation to increasing awareness, the citizens also call for transparency and accountability from its government and officials. The age-old practice of promising and forgetting the said promises no longer applies in the current political milieu of the country. Currently, officials are taken to task for failure to achieve goals or in doing acts that are violative of the law, such that even the Philippine poll body, the Commission on Elections, took to using a shame campaign against officials violating election law.

*Role of the ASEAN Declaration on Human Rights in Strengthening Rule of Law for Human Rights*

While there appears to be no direct causal connection between the ASEAN Declaration on Human Rights to changes in Philippine laws and judicial institutions, the Declaration serves as an indicator of the continuing commitment of the Republic to human rights.

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ISBN: 978-602-17986-3-8

HRRC is also supported by: