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Rule of Law for Human Rights in the Asean Region: A Base-line Study



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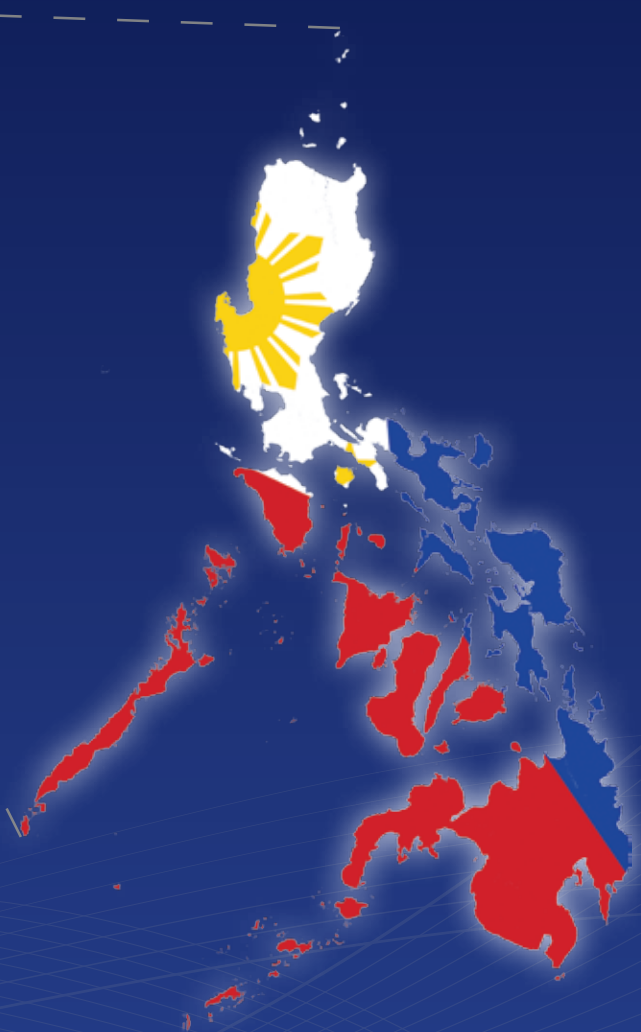
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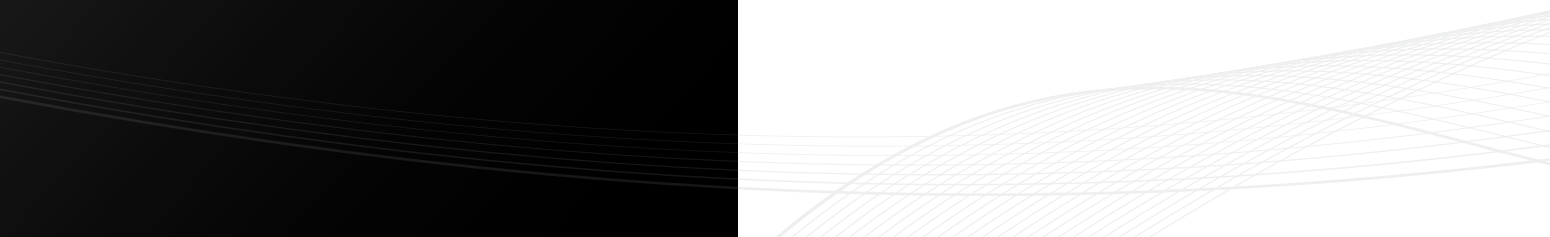


The Republic of The Philippines



Philippines

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Snapshot

Formal Name	Republic of the Philippines
Capital City	Manila
Independence	12 June 1898 (Independence from Spain) 4 July 1946 (Independence from the United States)
Historical Background	The Philippines became a Spanish colony during the 16th century and was ceded to the United States in 1898 following the Spanish-American War. It became a self-governing commonwealth in 1935. In 1942, during World War II, it fell under Japanese occupation. US forces and Filipinos fought together in 1944-45 to regain control. The Philippines attained its independence on 4 July 1946. In 1972, President Ferdinand E. Marcos declared martial law; his rule ended in 1986, when a "people power" movement ("EDSA 1") installed Corazon Aquino as president. There were coup attempts during her presidency that prevented full political stability and economic development. Fidel V. Ramos became president in 1992 and his administration saw increased stability and progress on economic reforms. Joseph Estrada was elected president in 1998. His Vice-president, Gloria Macapagal-Arroyo, assumed as President in January 2001 when Estrada's impeachment trial broke down and another "people power" movement ("EDSA 2") demanded his resignation. Gloria Macapagal-Arroyo was elected as President in May 2004. Impeachment charges were brought against Arroyo for allegedly tampering with the results of the 2004 elections, but were dismissed by Congress. In the 2010 elections, Benigno S. Aquino III won the presidency in the first automated national elections of the Philippines. ⁱⁱ
Size	Total: 300,000 sq km Country comparison to the world: 72 Land: 298,170 sq km Water: 1,830 sq km
Land Boundaries	Archipelago of 7,107 islands between the Philippine Sea and the South China Sea
Population ⁱⁱⁱ	88.57M (August 2007) 94.01M (Projected Population 2010)
Demography:	0-14 years: 35.2% (male 17,606,352/female 16,911,376) 15-64 years: 60.6% (male 29,679,327/female 29,737,919) 65 years and over: 4.1% (male 1,744,248/female 2,297,381) (2010 est.)
Ethnic Groups	Tagalog 28.1%, Cebuano 13.1%, Ilocano 9%, Bisaya/Binisaya 7.6%, Hiligaynon Ilonggo 7.5%, Bikol 6%, Waray 3.4%, other 25.3% (2000 census)
Languages	Filipino, English (Official) Tagalog, Cebuano, Ilocano, Hiligaynon/Ilonggo, Bicol, Waray, Pampango, Pangasinan (Major regional languages)
Religion	Roman Catholic 80.9%, Muslim 5%, Evangelical 2.8%, Iglesia ni Kristo 2.3%, Aglipayan 2%, other Christian 4.5%, other 1.8%, unspecified 0.6%, none 0.1% (2000 census)
Adult Literacy Rate ^{iv}	93.4 % (2007)
Gross Domestic Product	USD324.3 billion (2009 est.) Country comparison to the world: 36
Government Overview	Executive Branch: President and Vice President Legislative Branch: Senate and House of Representatives Judicial Branch: Supreme Court
Human Rights Issues	Internally displaced persons (fighting between government troops and insurgents and rebel groups), human trafficking, extrajudicial killings, enforced disappearances, illegal arrests, arbitrary detention, torture, and human rights abuses by militias, paramilitaries and private armies

Membership International Organisations	in	ADB, APEC, APT, ARF, ASEAN, BIS, CD, CP, EAS, FAO, G-24, G-77, IAEA, IBRD, ICAO, ICC, ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC, MIGA, MINUSTAH, NAM, OAS (observer), OPCW, PIF (partner), UN, UNCTAD, UNDOF, UNESCO, UNHCR, UNIDO, Union Latina, UNMIL, UNMIS, UNMIT, UNMOGIP, UNOCI, UNWTO, UPU, WCO, WFTU, WHO, WIPO, WMO, WTO
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Human Rights Treaties Ratified ^v	Treaties	International Convention on the Elimination of All Forms of Racial Discrimination International Covenant on Civil and Political Rights International Covenant on Economic, Social and Cultural Rights Convention on the Elimination of All Forms of Discrimination against Women Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Convention on the Rights of the Child International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Convention on the Rights of Persons with Disabilities
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Overview

The Philippines is a democratic and republican state. Executive power is vested in the President; legislative power in a bicameral Congress, except for the extent reserved to the people by initiative and referendum; and judicial power in an independent Supreme Court and lower courts established by law.

The President is the chief of state and the head of government and is elected for a single six-year term. The territorial and political subdivisions are provinces, cities, municipalities, and barangays. These units enjoy local autonomy but are under the general supervision of the President. The Constitution provides for the creation of autonomous regions in Muslim Mindanao and the Cordilleras. The Organic Act for the autonomous region of the Cordilleras did not obtain the required number of votes. Thus, presently, the only autonomous region is the Autonomous Region of Muslim Mindanao.^{vi}

The twenty-four members of the Senate are elected at-large to serve six-year terms, with one-half of them elected every three years. The House of Representatives provides proportional representation, thus the number of representatives varies. Representatives serve three-year terms and are elected by legislative districts or as party-list representatives. National elections were held in May 2010. Currently there are 283 members in the House of Representatives, with 57 of them being party-list representatives.^{vii}

The Supreme Court is composed of 1 Chief Justice and 14 Justices who are appointed by the President following the recommendations of the Judicial and Bar Council. The Supreme Court sits en banc or in divisions of 5. The judiciary consists of the Supreme Court; Court of Appeals; Sandiganbayan, an anti-graft court that tries public officers; Court of Tax Appeals; Regional Trial Courts; Metropolitan Trial Courts (MeTCs); Municipal Trial Courts in Cities (MTCCs); Municipal Trial Courts (MTCs); Municipal Circuit Trial Courts (MCTCs); and the Sharia Courts.^{viii}

The Supreme Court is the highest court. There is no separate constitutional court. The Supreme Court hears cases involving constitutionality en banc. Lower courts may decide matters involving constitutionality. However, a declaration of unconstitutionality by inferior courts binds only parties in the case and does not become precedent binding to all.^{ix} All courts are subject to the Supreme Court's administrative supervision and follow the rules on pleading, practice, and procedure set by the Supreme Court.^x

There are quasi-judicial agencies, such as the National Labour Relations Commission and the Department of Agrarian Reform Adjudication Board, which are authorised to resolve cases involving violation of rights. Their decisions are reviewable by the head of the department, whose decision may be appealed to the Court of Appeals. The 2007 General Appropriations Act identified 24 quasi-judicial agencies in the national government, most of which are under the administrative supervision of the President.^{xi} The Administrative Code of 1987 prescribes procedure for the performance of quasi-judicial functions, such as standards for notice and hearing, rules of evidence, powers of subpoena, protection of rights to due process of law, internal appeals within the agency, finality of administrative decisions, and judicial review.^{xii}

Separation of government powers, liberty, and due process are key values that are protected by the 1987 Philippine Constitution, mainly as a result the country's colonial history and experience with martial law.^{xiii}

According to its Preamble, the Constitution aims at building a just and humane society and establishing a Government that embodies the people's ideals and aspirations, promotes the common good, conserves and develops patrimony, and secures the "blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace".

The Constitution adopts generally accepted principles of international law as part of the laws of the land. The courts may use international law to settle domestic disputes.^{xiv} Of the nine core international human rights treaties, the Philippines have only not ratified the International Convention for the Protection of All Persons from Enforced Disappearance.^{xv}

The Philippines has institutions mandated with human rights promotion and protection. The Constitution created an independent Commission on Human Rights (CHR); and the independent Office of the Ombudsman, which is tasked to protect citizens from governmental corruption and abuse. In the executive branch, the Presidential Human Rights Committee monitors and coordinates human rights compliance. Both Houses of Congress have committees on human rights. The judiciary is observed to have consistently upheld human rights protection under the rule of law.^{xvi}

The Supreme Court's Action Program for Judicial Reform (APJR), initiated in 2001, and is founded on these fundamental principles: A judiciary that is fair, accessible and efficient, independent and self-governed, with a streamlined institutional structure, decentralised, information systems-based, giving competitive and equitable compensation, continuously improving its competence, transparent and accountable, encouraging consensus building and collaboration. The APJR has these major reform components: (1) Judicial Systems and Procedures, (2) Institutions Development, (3) Human Resource Development, (4) Integrity Infrastructure Development, (5) Access to Justice by the Poor, (6) Reform Support Systems.^{xvii} The APJR concluded in 2006; however reforms begun prior to 2006 continue to be implemented.^{xviii} The Program Management Office of the Supreme Court monitors and reviews the implementation and status of the reform program of the judiciary.

During the inaugural address of President Aquino in June 2010, among the priorities mentioned were: to lift the nation from poverty through honest and effective governance; to have leaders who are ethical, honest, and true public servants; review midnight appointments; strengthen the armed forces and the police; uphold the right to information on matters of public concern; and strengthen consultation and feedback process.^{xix}

The appointment of former Commission on Human Rights Chairperson Leila De Lima as Secretary of Justice is seen as indication of high-level attention to human rights and reform of the country's justice system.^{xx} The Department of Justice is mandated to "uphold the rule of law by serving as the principal law agency of the government". It serves as the government's prosecution arm and administers the government's criminal justice system by investigating crimes, prosecuting offenders and overseeing the correctional system. The Department of Justice also provides free legal services to indigents.^{xxi}

The President created a Truth Commission which was declared unconstitutional by the Supreme Court for violating the equal protection clause because it singles out corruption committed only during the previous administration.^{xxii} While some legislators said the ruling was a setback to efforts of bringing public officials to account, others said it signalled "triumph of the rule of law" and struck down incursions of the President into legislative authority.^{xxiii}

The President committed to a peaceful and just settlement of the conflict in Mindanao. An International Monitoring Team monitors the ceasefire, socio-economic and humanitarian agreements between the government and the Moro Islamic Liberation Front (MILF).^{xxiv} In August 2008, the government and MILF agreed in principle on a territorial agreement. The Supreme Court ruled that the draft agreement was unconstitutional. Thereafter, fighting flared up and continued sporadically in central Mindanao until a cease-fire was agreed upon on 29 July 2009.^{xxv} The Government intends to hold exploratory talks with MILF in 2011.^{xxvi} President Aquino also intends to pursue peace talks with the New People's Army and Moro National Liberation Front.^{xxvii}

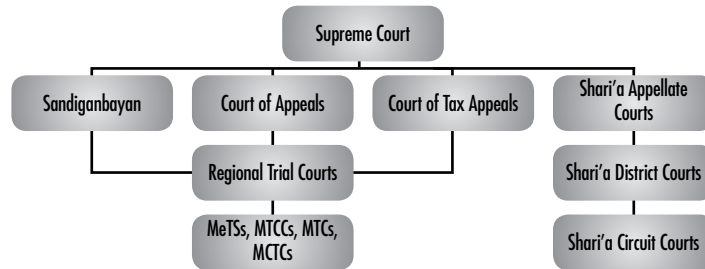
The Asian Development Bank has documented a strong tradition of support for the rule of law in the Philippines.^{xxviii} However, it also said that the quality of the rule of law in the Philippines is perceived to be poor. Reforms have helped improve the credibility of justice sector institutions, but human and financial resources and physical infrastructure are inadequate or poorly allocated and managed. Workloads are unrealistically high. Court dockets are congested and delays are perceived to be excessive. The jail population is growing because of prisoners awaiting trial. Conviction rates are low. The private sector is deemed frustrated by uncertainties about the law, its interpretation, and application. Delays, costs, uncertainties, and, in some cases, physical remoteness of courts impede access to justice.^{xxix}

According to the World Justice Project Rule of Law Index 2010, the Philippines ranked very low, even when compared to countries similarly situated, in the areas of stable laws, access to justice, and corruption.^{xxx}

Administration of Justice Grid

Indicator	Figure
Number of judges in country	1,790 justices and judges as of 31 December 2009 ^{xxxi} (Around 1 judge per 51,523 Filipinos ^{xxxii})
Number of lawyers in country	More than 40,000 ^{xxxiii} (Around 1 lawyer per 2,306 Filipinos ^{xxxiv})
Annual bar intake and fees	2009: 5,903 examinees, 1,451 (24.58%) examinees who passed ^{xxxv} 2008: 6,364 examinees; 1,310 (20.58%) examinees who passed ^{xxxvi} 2007: 5,626 examinees; 1,289 (22.91%) examinees who passed ^{xxxvii} 2011 Membership fee: <ul style="list-style-type: none"> • PHP1,000 (USD 23) annual payment or • PHP12,500 (USD 287) for lifetime membership
Standard length of time for qualification to take bar examination ^{xxxviii}	<ul style="list-style-type: none"> • Study of law for 4 years; and • Bachelor's degree in arts or sciences prior to study of law
Availability of post-qualification training	<ul style="list-style-type: none"> • Mandatory Continuing Legal Education (MCLE) Committee: Implements and administers Bar Matter No. 850 requiring members of the Integrated Bar of the Philippines to comply with the Mandatory Continuing Legal Education program • Philippine Judicial Academy: Mandated by Republic Act 8557 to provide training to justices, judges, court personnel, lawyers and aspirants to judicial posts
Length of time from arrest to trial (criminal)	<p>Date of filing of Information/Date accused appeared before the court to Arraignment: maximum of 30 days</p> <ul style="list-style-type: none"> • For accused under preventive detention: case should be raffled and records transmitted to the judge within 3 days from filing of the information or complaint; the accused shall be arraigned within 10 days from date of the raffle^{xxxix} <p>Trial should start within 30 days from arraignment^d</p> <p>The Speedy Trial Act and the Rules of Court, however, enumerate reasonable delays that are to be excluded from the computation of the time limit within which trial should commence^{xi}</p>
Length of trials (from opening to judgment)	<p>Trial should not exceed 180 days^{xii}</p> <p>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 3 months for all other lower courts.^{xiii}</p> <p>Criminal and civil cases appealed to the Supreme Court were found to have remained in the court system for an average of 5 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 Court of Tax Appeals, 2.6 years; the Sandiganbayan, 6.6 years.^{xiv}</p>
Accessibility of individual rulings to public ^{xv}	<ul style="list-style-type: none"> • Rules of Court require court proceedings and records to be public, except when the court forbids publicity in the interest of morality or decency • Supreme Court decisions are published and are public records • Decisions of the trial and appellate court are not published but are public records and can be obtained from the clerk of court • Transcripts of proceedings are public records and copies are available for a fee • Decisions and resolutions of the Supreme Court are available on the website of the Supreme Court and through private online sources

Structure of the Judiciary



Cases before the Commission on Human Rights in 2009^{xvi}

Number of Complaints Received: 499

Cases Resolved: 777

- For Filing and Monitoring: 180
- For Closure/Termination: 417
- For Archiving: 180

Legal Assistance: 1,229 clients nationwide

Financial Assistance: Total of more than P2 million in financial assistance to 190 human rights victims and their families

Administrative Complaints against Justices and Judges before the Supreme Court in 2009^{xvii}

	Cases Filed	Cases Decided/Penalty	Complaint Dismissed
SC Justices			
CA Justices	12	16	16
Sandiganbayan Justices	1	1	1
CTA Justices			
RTC Judges	276	6 Admonished 4 Dismissed from Service 50 Fined 1 Reprimanded 5 Suspended Total: 66	229
MeTC, MTCC, MTC, MCTC Judges	125	3 Admonished 1 Dismissed from Service 20 Fined 1 Reprimanded 2 Suspended Total: 27	117
Shari'a District Court Judges	1		
Shari'a Circuit Court Judges	1		1

Cases against Government Officers before the Office of the Ombudsman in 2009^{xviii}

12,736 complaints received

- around 3,700 criminal and 3,500 administrative cases undergoing preliminary investigation and/or administrative adjudication
- 4,000 referred for fact-finding investigation

Almost 8,000 cases disposed

2,300 fact-finding investigations completed

189 Informations filed before the Sandiganbayan

1,394 Informations filed before regular courts

500 public employees sanctions

- 175 (34%) dismissed from the service
- At least 80 placed under preventive suspension.

328 lifestyle check complaints received

217 lifestyle check investigation completed

A. Country's practice in applying central principles for rule of law for human rights

1. The government and its officials and agents are accountable under the law.

a. Constitutional Limitations on Government Powers

The Constitution gives the compositions, powers, and functions of the Legislative Department, Executive Department, and Judicial Department. The powers, responsibilities, resources, and officials of local government units are detailed in the Local Government Code, in accordance with the Constitution.

The Philippines adheres to the doctrine of separation of powers and system of checks and balances.^{xlix} The President gives final approval to legislative acts. However, he cannot act against laws passed by Congress and needs its concurrence to complete significant acts such as amnesties, treaties and international agreements. Money can be released from the treasury only by authority of Congress. The Supreme Court has the power to declare acts of the President or Congress unconstitutional.^l

The Constitution prescribes substantive limitations, mainly found in the Bill of Rights, and procedural limitations on the manner government exercises its functions.^{li} When government actions exceed constitutional limitations, the Constitution vests in the courts the power of judicial review.^{lii}

On 24 February 2006, President Arroyo issued Presidential Proclamation 1017, declaring a state of national emergency; and General Order No. 5, implementing the Proclamation. These were issued because of a suspected conspiracy among some military officers, leftist insurgents, and political oppositionists to unseat or assassinate President Arroyo. In May 2006, the Supreme Court declared the Proclamation unconstitutional as far as it gave the President authority to promulgate "decrees". Legislative power is vested in Congress and neither Martial Law nor a state of rebellion nor a state of emergency justifies a president's exercise of legislative power.^{liii} When a President declares a state of emergency or rebellion, she may use her powers as Commander-in-

Chief to call the Armed Forces to help the police maintain order.^{liv} However, the exercise of emergency powers, such as taking over privately owned public utility or business affected with public interest, requires delegation from Congress. A portion of the General Order calling the armed forces to suppress "acts of terrorism" was declared unconstitutional as the term was not yet defined and punishable by law at the time of the issuance.^{lv}

On 24 November 2009, following the killing of 57 people in Maguindanao, President Arroyo declared a state of emergency in the provinces of Maguindanao, Sultan Kudarat and the City of Cotabato. On 04 December 2009, the President, through Proclamation 1959, declared a state of martial law in the province of Maguindanao and suspended the privilege of the writ of habeas corpus.^{lvi} President Arroyo lifted martial law on December 12. Some members of Congress said the declaration of martial law had no basis because there was no actual rebellion as required by the Constitution.^{lvii} On 14 December 2009, the Senate passed a resolution declaring martial law in Maguindanao unconstitutional.^{lviii} The state of emergency remained in effect one year after its declaration, despite a change of administration. President Aquino said authorities were still trying to arrest persons wanted for the massacre and recover arms of private armies in the area.^{lix}

On a scale of 0 to 1, where 1 signified higher adherence to the rule of law, the Philippines scored 0.57 for Limited Government Powers in the World Justice Project Rule of Law Index 2010. While the Philippines ranked 6th out of the seven (7) countries in the East Asia and Pacific Region, it is 3rd out of 12 countries in the lower middle income level. The project focused on adherence to the rule of law in practice and Limited Government Powers measured the extent to which those who govern are subject to law.^{lx}

b. Constitutional Amendments and Revisions

The Constitution provides for the following modes of proposing amendments or revisions to the Constitution: 1) by the Congress acting as a constituent assembly, 2) by a constitutional convention, 3) by the people through initiative.^{lxi}

Amendments or revisions are proposed by Congress by three-fourths (3/4) vote of all members; or by constitutional convention. A constitutional convention is called 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.^{lxii}

Constitutional amendments, but not revisions, may be directly proposed by the people through initiative.^{lxiii} 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. Amendment through this process is authorised only once every five years. Congress is to provide for the implementation of the exercise of this right.^{lxiv}

Any amendment or revision of the Constitution becomes valid when ratified by a majority vote cast in a plebiscite.^{lxv}

No revision or amendment has yet been made to the 1987 Constitution.

In 1997, an attempt to amend the Constitution through people's initiative failed after the Supreme Court ruled that there was no enabling law for people's initiative. The Initiative and Referendum Act was found "incomplete, inadequate, or wanting in essential terms and conditions insofar as initiative on amendments to the Constitution is concerned".^{lxvi} Currently, there is no enabling law for the exercise of people's initiative. Proposed bills have, however, been filed in Congress.^{lxvii}

In 2000, President Estrada abandoned attempts to amend economic provisions of the Constitution after massive opposition.^{lxviii}

During the administration of President Arroyo, she expressed the need for charter change and created a Consultative Commission to propose revision of the Constitution.^{lxix} In 2006, the Supreme Court dismissed a petition to amend the Constitution through people's initiative as what was sought was a revision; violating the provision of the Constitution limiting initiatives to amendments. Further, the signature sheets only asked if the people approved of a shift from the Bicameral-Presidential

to Unicameral-Parliamentary system of government. In an initiative, the full text of the proposed amendment should be shown before people sign the petition.^{lxx}

c. Accountability of Government Officials

The Constitution requires public officers to be accountable to the people and several statutes provide for criminal, civil, and/or administrative liability.^{lxxi}

The President, Vice-President, members of Supreme Court, members of Constitutional Commissions, and Ombudsman may be impeached for culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. The House of Representatives has the exclusive power to initiate impeachment and, by a vote of at least one-third of all members, decides if an impeachment complaint should be forwarded to the Senate for trial. A two-thirds vote of all members of Senate is necessary to convict an official.⁷²

Each House of Congress may punish members for disorderly behaviour, and suspend or expel a Member.^{lxxii} The Supreme Court has the power to discipline or dismiss judges of lower courts.^{lxxiv}

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 to also prosecute. It mandates the Ombudsman to enforce administrative, civil and criminal liability. The Ombudsman's power to investigate, while primary^{lxxv}, is not exclusive. Prosecutors of the Department of Justice may also conduct preliminary investigations against public officers.^{lxxvi}

The Ombudsman has administrative disciplinary authority over all public officials, except those removable by impeachment, members of Congress, or members of the judiciary.^{lxxvii} 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.^{lxxviii} The body which first takes cognizance of the case acquires jurisdiction to the exclusion of other tribunals.^{lxxix} There is also a

Presidential Commission on Good Government (PCGG), which assists in the recovery of ill-gotten wealth of former President Ferdinand E. Marcos, his family, relatives, subordinates and associates.^{lxxx}

In 2000, an impeachment trial was held to oust President Estrada. The Senate declared the impeachment court *functus officio* after President Estrada was deemed to have relinquished the presidency and then Vice President Arroyo took her oath as President.^{lxxxi} The Ombudsman filed Information for plunder and perjury against President Estrada. In September 2007, the Sandiganbayan found him guilty of plunder but acquitted him for perjury.^{lxxxii} In October 2007, President Estrada received executive clemency after six years detention, mostly under house arrest.

In 2009, the Ombudsman received 12,736 complaints and completed around 2,300 factfinding investigations. It filed a total of 189 Informations before the Sandiganbayan and 1,394 Informations before regular courts. The Ombudsman sanctioned at least 500 public employees nationwide; of this, 175 (34%) were dismissed from service. At least 80 employees were placed under preventive suspension.^{lxxxiii} Despite these, the Office of the Ombudsman is not always seen as effective. A spokesperson of the President said that Ombudsman Mercedes Guitierrez is close to former President Arroyo and justice cannot be had from her.^{lxxxiv} Two impeachment complaints have been filed against Gutierrez for betrayal of public trust and culpable violation of the Constitution. She allegedly sat on the graft and corruption cases against President Arroyo and her husband.^{lxxxv}

On 16 December 2010, retired Maj. Gen. Carlos F. Garcia, who was facing non-bailable plunder charges for amassing at least PHP303 million as comptroller of the Armed Forces, was released after he pleaded guilty to the lesser crimes of indirect bribery and violation of the Anti-Money Laundering law. He posted bail at PHP60,000.^{lxxxvi} The plea bargaining agreement entered by the Office of the Ombudsman through the Office of the Special Prosecutor was met with criticisms as evidence for the prosecution was considered strong. President Aquino ordered his office to review the plea bargain agreement and to study options for intervention.^{lxxxvii} In an inquiry by the Senate into the plea bargain, a former

budget officer revealed a military tradition of paying top officials, including PHP5 million in monthly allowance and PHP50 million send-off money to former Armed Forces Chief of Staff Angelo Reyes.^{lxxxviii}

UN Rapporteur Philip Alston observed lack of “evidence of a good faith effort on behalf of the Government to address the myriad of extrajudicial killings by the military” and reforms to institutionalise reduction of killings and ensuring command responsibility have not been implemented.^{lxxxix}

The 2009 Trafficking in Persons Report says corruption among law enforcers is pervasive. Government officials are involved in or profit from trafficking. Law enforcers allegedly extract protection money in exchange for tolerating illegitimate operations.^{xc}

The Corruption Perceptions Index 2010, which measures the degree public sector corruption is perceived to exist, scores the Philippines a 2.4 on a scale of 10 (very clean) to 0 (highly corrupt). In a list ranking 178 countries from very clean to highly corrupt, Philippines is 134th. It is 25th out of the 34 countries in the Asia Pacific Region.^{xc1}

The Philippine National Police Chief admitted “serious breach in discipline” among policemen. From January 2010 to November 2010, 2,165 administrative cases were filed against police officers. Commission on Human Rights Chairperson Loretta Rosales has condemned the high incidents of police brutality.^{xcii}

There are 7 agencies or key officials internal to PNP with disciplinary authority over police officers and 11 agencies or officials external to PNP.^{xciii} For instance, complaints against police officers can be filed with the PNP Internal Affairs Service, PNP Human Rights Office, National Police Commission and Peoples Law Enforcement Board; the Asian Legal Resource Centre, however observed that these agencies lack independence.^{xciv}

2. Laws and procedure for arrest, detention and punishment are publicly available, lawful and not arbitrary; and preserve the fundamental rights to physical integrity, liberty and security of persons, and procedural fairness in law.

a. Publication of and Accessibility to Penal Laws

Statutes need to be published as a condition for effectivity, which begins fifteen (15) days after publication unless a different effectivity date is fixed by the legislature. Publication should be made in the Official Gazette or in a newspaper of general circulation in the Philippines.^{xcv}

The Supreme Court has ruled that there would be no basis to apply the maxim that ignorance of the law excuses no one without notice and publication.^{xcvi}

Covered by the rule on publication are presidential decrees and executive orders of the President whenever legislative powers are delegated by the legislature or directly conferred by the Constitution.^{xcvii}

Administrative rules enforcing or implementing laws also require publication. Interpretative regulations and issuances that regulate only personnel and not the public need not be published.^{xcviii} Copies of administrative rules are to be filed with the University of the Philippines Law Center and every agency is required to keep a register of all rules, which are to be open for public inspection.^{xcix}

The official languages of the Philippines are Filipino and English, with the regional languages as auxiliary official languages in the regions.^c The website of the House of Representatives shows that the 14th Congress passed 647 Republic Acts; two of these had translations to Tagalog, Bicol, Cebuano, Hiligaynon, Ilokano, Kapampangan and Maranao.^{ci}

Laws are available at the websites of the Senate and House of Representatives.

b. Understandability, Non-retroactivity, Predictability in Application and Consistency with other Laws of Penal Laws

The legislature must inform citizens with reasonable precision what acts are prohibited. This requirement, known as the void-for-vagueness doctrine, 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”.^{cii}

The Constitution prohibits ex post facto laws or bills of attainder and the Revised Penal Code states that felonies are not punishable by any penalty not prescribed by law before its commission.^{ciii} Laws generally have no retroactive effect.^{civ} However, penal laws may be applied retroactively when they favour felons who are not habitual criminals.^{cv}

Judicial decisions form part of the legal system of the Philippines.^{cv} For the sake of certainty, a conclusion in one case should be applied to those that follow if the facts are substantially the same.^{cvi} This doctrine may only be abandoned for strong and compelling reasons, such as when a previous decision is later found to be an erroneous application of law or requires rectification.^{cviii}

For instance, in 1998, the Supreme Court unanimously ruled that an outgoing President could no longer fill vacancies in the judiciary two months before elections. Section 15, Article VII (Executive Department) of the Constitution prohibits an outgoing President from making appointments starting two months from the elections. Section 4 (1), Article VIII (Judicial Department), however, directs the President to fill vacancies in the Supreme Court within 90 days from vacancy. On 17 March 2010, the Supreme Court overturned its 1998 ruling and declared that the ban did not extend to vacancies in the Supreme Court. The Court said that if the framers of the Constitution wanted to include the Supreme Court in the midnight-appointment ban, they should have explicitly stated so. Senior Associate Justice Antonio Carpio and Associate Justice Conchita Carpio-Morales, however, withdrew their nominations as they believed that President Arroyo could no longer appoint anyone to the judiciary under the Constitution.^{cix}

Laws are repealed only by subsequent ones. Courts can declare a law void when it is inconsistent with the Constitution. Administrative or executive acts, orders and regulations are valid only when they are not contrary to the laws or the Constitution.^{cx} Implied repeals are not favoured; all efforts should be made to harmonise and give effect to all laws on the same subject.^{cxii}

In a survey, while 43% of judges found decisions to be “predictable”, only twenty-three percent of lawyers said court decisions were “predictable”.^{cxii} In the World Justice Project Rule of Law Index 2010, the Philippines scored poorly on the factor Clear, Publicised, and Stable Laws. On a scale of 0 to 1, with 1 signifying higher adherence to the rule of law, the Philippines scored 0.43. It had a global ranking of 24/35; regional ranking of 6/7; and income group ranking of 8/12 for this factor.^{cxiii}

c. Laws Relative to Detention without Charge or Trial

The Constitution prohibits deprivation of liberty without due process of law and guarantees the right of the people to security in their persons, papers, houses and effects. Search warrants or warrants of arrest should only be issued after personal determination of probable cause by a judge.^{cxiv}

The rule that persons may not be arrested except with a warrant is subject to these exceptions: (1) when the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (2) when an offense 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.^{cxv}

Unlawful arrests or arbitrary detentions are criminal offenses.^{cxvi} Persons validly arrested without warrants are to be delivered to judicial authorities within 12 hours for offenses punishable by light penalties; 18 hours for offenses punishable by correctional penalties; and 36 hours for offenses punishable by afflictive or capital penalties. Otherwise, the officers detaining them beyond the time allowed by law may be criminally charged.^{cxvii} Recourse may be made to courts for issuance of a writ of habeas corpus in cases of illegal confinement.^{cxviii}

The President, in case of invasion or rebellion and when public safety requires it, 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. The suspension of the privilege of the writ applies only to persons charged for rebellion or offenses inherent in or directly connected with invasion. While the privilege of the writ is suspended, a person arrested or detained shall be judicially charged within 3 days, otherwise he shall be released. A proclamation of a state of martial law does not automatically suspend the privilege of the writ of habeas corpus. The right to bail is not impaired even when the privilege of the writ of habeas corpus is suspended.^{cxix} 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.^{cox}

In August 2010, the Department of Justice filed the first case under the Human Security Act of 2007 against the Abu Sayyaf Group to have them proscribed as a terrorist organisation.^{coxi}

The Human Security Act has been criticised for having no clear test as to when it is applicable and for being violative of due process because it gives the courts power to classify terrorist groups without giving a clear definition of terrorism. It is said to violate equal protection because there is no clear distinction due to the difficulty in defining terrorism. The difficulty in defining terrorism is also “odious to free association”. The broad access provided by the law to intercept communications because, or in furtherance of, terrorism may also violate the freedom of speech. Special Rapporteur Martin Scheinin said that, although there is a need to take effective measures to prevent and counter terrorism, he is concerned that many provisions of the Human Security Act are not in accordance with international human rights standards.^{coxii}

Law enforcement officers were reportedly reluctant to use the powers under the Human Security Act due to strict punishments for rights violations. The Human Security Act authorises detention for 72-hours of suspects without charge and allows surveillance, wiretapping and seizure

of assets. On the other hand, officers who perform unauthorised wiretapping or violate the rights of a detainee could face up to 12 years in prison.^{cxviii}

d. Laws Relative to Extra-Legal Treatment or Punishment

The Constitution prohibits secret detention places, solitary, incommunicado, or other similar forms of detention.^{cxv} Physical, psychological, or degrading punishment against any prisoner or detainee or the use of penal facilities under subhuman conditions are prohibited. Excessive fines, cruel, degrading or inhuman punishment are not to be imposed.^{cxv}

The 1987 Constitution disallowed the imposition of death penalty, unless Congress allows it for compelling reasons involving heinous crimes.^{cxvi} Republic Act 7659 restored death penalty in 1993. It was abolished in June 2006 with the approval of Republic Act 9346.

The Penal Code punishes maltreatment of prisoners.^{cxvii} Congress recently passed the Anti-Torture Act of 2009. Also, Republic Act 9851 classifies enforced or involuntary disappearance as “Other Crimes Against Humanity” when committed as part of a widespread or systematic attack.^{cxviii}

Impunity for extrajudicial killings, torture, unlawful disappearances, and warrantless arrests and detentions are considered major problems.^{cxix} In 2007, the Supreme Court held a national consultative summit because of the number of unsolved political killings and disappearances and the seeming impunity with which these crimes were committed.^{cxix} During the summit, Court of Appeals Justice Lucas Bersamin pointed out the limitation of the writ of habeas corpus as it cannot be used to obtain evidence of the whereabouts of a person or the person who abducted him.^{cxix}

The Supreme Court issued the Rule on the Writ of Amparo in September 2007 and the Writ of Habeas Data in January 2008. The writ of amparo may be used to direct a person to show that he did not violate or threaten the right to life, liberty and security of a person; the actions he took to determine an aggrieved person’s fate; and the person/s responsible for the violation. The writ of habeas data is available to persons whose right to privacy is

violated or threatened by a person or entity engaged in gathering, collecting or storing of information. The court may enjoin the act complained of, or order the deletion or rectification of erroneous information.

According to human rights group Karapatan, during Arroyo’s 9-year administration, 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.^{cxvii}

Violations continued in the Aquino administration. During President Aquino’s first four months in office, Karapatan listed 20 victims of extrajudicial killings; 2 victims of enforced disappearance; 16 victims of torture; 4 victims of frustrated extralegal killings; 23 victims of illegal arrest and detention, and 29 victims of illegal search.^{cxviii}

Former President Arroyo formed Task Force Usig and the Melo Commission to investigate extrajudicial killings. President Aquino announced that a new task force will be formed to review cases of extrajudicial killings and enforced disappearances.^{cxviii}

The Philippines has not yet signed the International Convention for the Protection of All Persons from Enforced Disappearances. There is presently no law that sufficiently punishes extralegal killings or enforced disappearances. Instead cases are usually filed under kidnapping, murder, or serious illegal detention. Separate bills have been filed in the House of Representatives and Senate to criminalise the same.^{cxv}

e. Laws Relative to Presumption of Innocence

The Constitution states that an accused is presumed innocent until proven otherwise.^{cxv} A person’s innocence of a crime is a disputable presumption.^{cxvii} The prosecution must prove guilt beyond reasonable doubt and its evidence “must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense”.^{cxviii}

An accused may move for demurrer to evidence after the prosecution has rested its case and seek for a decision without presenting evidence if he believes his guilt has not

been established beyond reasonable doubt. The court, on its own, may also dismiss the action on the ground of insufficiency of evidence.^{cxvix} The grant of a demurrer to evidence is tantamount to acquittal.^{cxl}

f. Laws Relative to Access to Legal Counsel

Under Republic Act 7438, a person arrested, detained or under custodial investigation^{cxli} shall at all times be assisted by counsel. Officers should inform the person arrested, detained or being investigated of his right to counsel, preferably of his own choice. This should be done in a language known and understood by the person arrested, detained or under investigation. If such person cannot afford the services of counsel, the investigating officer is mandated to provide one. Counsel shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. In the absence of any lawyer, the law prohibits the conduct of custodial investigation. Penal sanctions are imposed for violation of this law. These duties are also obligatory upon police officers under PNP Operational Procedures.^{cxlii}

The Constitution provides for the right of the accused in criminal prosecutions to be heard by himself and counsel.^{cxliii} Under the Rules of Court, an accused has the right to be present and defend himself in person and by counsel from arraignment to promulgation.^{cxliv} The court has the duty to inform the accused of his right to counsel before he is arraigned and to assign a counsel de officio, unless the accused is allowed to defend himself or has employed his own counsel.^{cxlv} The court, in appointing a counsel de officio, shall choose from members of the bar in good standing who can competently defend the accused. In localities where lawyers are not available, the court may appoint a resident of good repute for probity and ability.^{cxlvi}

Indigent persons may seek free legal representation, assistance, and counselling from the Public Attorney's Office.^{cxlvii}

g. Laws Relative to the Right to be Informed of Charges, to Prepare Defense, and Communicate with Counsel

The Rules of Court and PNP Operational Procedures require persons conducting arrests to inform the person arrested of the cause of arrest. If a warrant has been issued, he should be informed of such fact.^{cxlviii}

The Constitution states that an accused has the right to be informed of the nature and cause of accusation.^{cxlix} Under the Rules of Court, an Information or Complaint charging an accused should contain the acts or omissions complained of.^{cl} The Information must be written in terms sufficient to enable a person of common understanding to know what offense is being charged and the qualifying and aggravating circumstances present.^{cli} Before arraignment, an accused may move for a bill of particulars so he can properly plea and prepare for trial. The motion should contain the defects of the complaint or information and the details desired.^{clii}

The Rules of Court allow motions to quash Informations that fail to state the acts constituting the offense, which shall be granted if the prosecution fails to correct the defect.^{cliii} A complaint or information may also be quashed when it charges more than one offense, unless a single punishment for various offenses is prescribed by law.^{cliv} Duplication of charges is prohibited to avoid confusing the accused in preparing his defense.^{clv}

When the court appoints a counsel de officio for the accused, counsel should be given reasonable time to consult with the accused as to his plea before arraignment is conducted.^{clvi} During arraignment, the judge or clerk should give the accused a copy of the complaint or information and read it to him in the language or dialect he knows.^{clvii} 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.^{clviii}

h. Laws Relative to the Right to be Tried without Undue Delay, to Defend in Person and Examine Witnesses and Evidence

The Constitution provides for the right of the accused to speedy trial and speedy disposition of cases before judicial, quasi-judicial, or administrative bodies.^{ckx}

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. If an accused is under preventive detention, the Rules of Court require his case to be raffled and records transmitted to the judge within 3 days from the filing of the information or complaint; the accused shall be arraigned within 10 days from the date of the raffle.^{ckx}

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.^{ckxi} The Speedy Trial Act and the Rules of Court enumerate reasonable delays that are to be excluded from the computation of the time limit within which trial should commence.^{ckxii} Cases must be set for “continuous trial on a weekly or other short-term trial calendar” and trial period should not exceed 180 days.^{ckxiii}

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 3 months for all other lower courts.^{ckxiv}

In 2006, the American Bar Association’s Asia Law Initiative said the Speedy Trial Act of 1998 and related Rules of Court were ineffective in curing judicial delays because they contain numerous exclusions and exceptions for granting continuances, only provide for speed during actual trial, and were not uniformly enforced.^{ckv}

The Supreme Court held that, in spite of the prescribed time limits, “speedy trial” is a relative term and flexible concept. To determine if the accused has been deprived of his right to speedy disposition of the case and speedy trial, the following are considered: (a) length of delay; (b) reason for the delay; (c) defendant’s assertion of his right; and (d) prejudice to the defendant.^{ckvi}

The judiciary is developing court automation systems (Court Administration Management and Information System, Case Flow Management, and Case Management Information System) to address delay and perceived inefficiency of the courts.^{ckvii}

The Asian Development Bank said that, as of 2003, criminal and civil cases appealed to the Supreme Court remained in the court system on an average of 5 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 Court of Tax Appeals, 2.6 years. Cases filed in the Sandiganbayan required an average of 6.6 years for decision.^{ckviii}

Heavy workloads and case backlogs make it difficult for judges to meet prescribed periods and judges have been observed to have adjourned a trial for more than 1 month at a time in violation of the Rules of Court.^{ckix} According to the National Statistical Coordination Board, court-case disposition rate has improved from 0.59 in 1999 to 0.85 in 2007.^{ckx} In 2008, the courts, excluding the Supreme Court, disposed 107.12% of the number of cases filed within the year, but cleared only 36.64% of their total caseload. Although they disposed more cases than were filed for the year, clearance rate did not improve because of backlogs already pending at the beginning of the year.^{ckxi}

The Speedy Trial Act and Rules of Court do not cover delays during police investigation, preliminary investigation, and enforcement of judgments.^{ckxii} As an example, the complaint of “Abadilla 5”, who alleged they were tortured by policemen into confessing responsibility for murder, reached the Office of the Ombudsman in 2004.^{ckxiii} The Ombudsman recommended the filing of criminal charges only on 10 January 2011.^{ckxiv}

Under the Constitution, an accused has the 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. After arraignment, trial may proceed in the absence of the accused if he has been notified and his failure to appear is unjustifiable.^{ckxv}

Examination of witnesses is to be done in open court and the adverse party may cross-examine them on matters covered during direct examination.^{cbxxvi} An accused may move for the court to order the prosecution to produce and allow inspection and copying or photographing of evidences in the possession or control of the prosecution or law investigating agencies.^{cbxxvii} The right to examine, copy or photograph evidences is available to respondents in preliminary investigation.^{cbxxviii}

i. Laws Relative to Appeal

Any party to a case may appeal from a judgment or final order so long as the accused is not placed in double jeopardy.^{cbxxix}

In cases where the death penalty^{cbxxx} is imposed, the same is to be automatically reviewed by the Court of Appeals and, thereafter, the Supreme Court.^{cbxxxi} When the Court of Appeals finds that the penalty to be imposed is death, reclusion perpetua, or life imprisonment, it shall render judgment but refrain from entering the same. Instead, the Court of Appeals is to certify the same and elevate the record to the Supreme Court for review.^{cbxxxii}

The Supreme Court held that the right to appeal is not a natural right and is not part of due process. Appeal is a statutory privilege, and may be exercised only in accordance with law. The party who wants to appeal must comply with the requirements of the Rules the Court, otherwise, the right to appeal is lost.^{cbxxxiii} Thus, an appeal must be made within 15 days from promulgation of judgment or notice of final order and it must be made to the higher court and in the manner specified in the Rules of Court.^{cbxxxiv}

j. Laws Relative to Coerced Confessions and the Right to Remain Silent

The Constitution states that no person shall be compelled to be a witness against himself.^{cbxxxv} A person being investigated for an offense has the right to be informed of his right to remain silent. If he wishes to waive his right to remain silent or to counsel, his waiver must be made in writing and in the presence of a counsel.^{cbxxxvi} The Constitution states that torture, force, violence, threat, intimidation, or other means that violate free will shall not

be used.^{cbxxxvii} Confessions or admissions violating any of the foregoing are inadmissible as evidence.^{cbxxxviii}

Arresting, detaining, or investigating officers should inform of the right to remain silent and counsel in a language understood by the person arrested, detained, or being investigated. For an extrajudicial confession to be admissible, it should be written and signed in the presence of counsel. If the person has waived his right to counsel, the confession or admission should be signed in the presence of any of the parents, elder brothers and sisters, spouse, mayor, judge, district school supervisor, or priest or minister of the gospel chosen by him.^{cbxxxix}

The PNP Operational Procedures mandate police officers to inform persons arrested of the right to remain silent and that any statement made could be used against them. The arresting officer should inform of the right to communicate with a lawyer or immediate family.^{cbxc}

On 08 December 2010, President Aquino ordered the Department of Justice to withdraw the information against 43 health workers thought to be trainees of the New People's Army because of questions on legality of their arrests. The detainees were charged with illegal possession of firearms and explosives. The detainees said, at the time of arrest, they were not informed of the cause of arrest nor of their rights to remain silent or to legal counsel. Some detainees filed complaints with the Commission on Human Rights for torture and ill-treatment.^{cbxci}

k. Laws Relative to Being Tried or Punished Twice for an Offense

The Constitution prohibits putting a person twice in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either bars another prosecution for the same act.^{cbxcii}

Under the Rules of Court, previous conviction, acquittal, or termination of a case without consent of the accused is a ground to quash a complaint or information. It bars another prosecution for the offense charged, its attempt or frustration, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.^{cbxciii}

To constitute double jeopardy, the following must be present: (1) there is a complaint or information sufficient in form and substance to sustain a conviction; (2) the same is filed before a court of competent jurisdiction; (3) there is valid arraignment or plea to the charges; and (4) the accused is convicted or acquitted or the case is terminated without his express consent.^{cxci}

Judgments of acquittal are final, not reviewable and immediately executory. The Supreme Court said, after an accused has established his innocence at a first trial, it would be unfair to give the government another opportunity to prove guilt of the accused and to strengthen weaknesses it had at the first trial. The State may challenge an acquittal on the ground that a judgment is void on jurisdictional grounds. However, no review of facts and law on the merits or of the decision's error or correctness is to be made.^{cxv}

I. Laws Relative to the Right to Seek Timely and Effective Remedy before Courts

The Local Government Code provides for a Katarungang Pambarangay System (Barangay or Village Justice System) with authority to call parties to a dispute residing in the same city or municipality for amicable settlement. Some cases are required to be submitted for mediation before they can be considered by the courts.^{cxvi} This system settled more than 4 million cases from 1980 to 2005, around 160,000 cases per year. This number has grown to about double this average in recent years. The Barangay Justice System provides access to justice for people whose needs the formal court system is less able to meet.^{cxvii}

The two major law enforcement agencies are the Philippine National Police (PNP) and the National Bureau of Investigation (NBI). Evidence collected by investigators is turned over to agencies exercising prosecution functions for them to determine "probable cause" to believe that a crime has been committed. The National Prosecution Service is primarily responsible for prosecution. Violations of anti-corruption laws filed at the Sandiganbayan are prosecuted by the Office of the Special Prosecutor of the Office of the Ombudsman.^{cxviii}

The Department of Justice Action Center (DOJAC), a function of the National Prosecution Service and the Public Attorney's Office, provides lawyers and paralegals rendering free legal assistance and other services of the Department of Justice.^{cxix}

The mandate of the Commission on Human Rights includes: investigate human rights violations involving civil and political rights; provide measures for protection of human rights and legal aid services; exercise visitorial powers over jails, prisons, or detention facilities; and monitor government's compliance with international treaty obligations on human rights.^{cc} The Commission is observed to have safeguarded its independence and mandate. However more resources are needed for effective investigations.^{cci}

The Commission has only investigative and advocacy powers. A bill is pending in Senate proposing to grant it prosecutorial powers.^{ccii} UN Rapporteur Philip Alston said that, while it is tempting to give the Commission prosecutorial powers because cases submitted to a prosecutor or ombudsman seldom prosper, the risks outweigh the benefits. There are already agencies prosecuting cases and granting the Commission prosecutory powers would be redundant and would compromise its responsibility to monitor other agencies for human rights compliance. Prosecutory powers would also increase the security risks of the Commission's investigators and witnesses.^{cciii}

3. The process by which the laws are enacted and enforced is accessible, fair, efficient, and equally applied.

a. Publicity of Legislative Proceedings

The Constitution requires bills to embrace only one subject, for each to pass three readings on separate days, and for printed copies to be distributed to Members of Congress at least three days before its passage.^{cciv} These rules intend to apprise people of subjects of legislation so they may have opportunity to be heard.^{ccv} The President may certify to the necessity of the immediate enactment of a bill to

meet a public calamity or emergency; in which event, requisites for readings on separate days and for the bill to be printed in final form and distributed three days before the third reading is dispensed with.^{ccvi}

A bill is referred to the appropriate committee during the first reading. If necessary, the committee schedules public hearings, issues public notices and invites resource persons. If the Committee finds a public hearing unnecessary, it schedules the bill for Committee discussions.^{ccvii} Both the House of Representatives and the Senate of the Philippines post notices of committee meetings on their websites.

b. Availability of Drafts of Laws and Transcripts

The right to information and, subject to limitations set by law, access to documents pertaining to official acts is recognised in the Constitution.^{ccviii} Houses of Congress are required to keep a journal of their proceedings. Except parts affecting national security, the journal is to be published. Each House should also keep a record of its proceedings.^{ccix} The records and books of accounts of Congress are to be open to the public.^{ccx} Journals are usually abbreviated accounts while records are word-for-word transcripts.^{ccxi}

The website of the House of Representatives has information on rules of proceedings, concerns discussed on session days, schedule of committee meetings, and voting and attendance records of House Members.^{ccxii} There are information on bills referred to committees, including who the principal author is, its status, history and full text. Congressional records of the House of Representatives are accessible online. *Bills, Resolutions, Journals, Committee Reports* and *Republic Acts* are available on the websites of both Houses of Congress.

c. Thresholds for Legal Standing

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.”^{ccxiii}

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 cases involve 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 early; and (5) for legislators, there must be a claim that the official action complained of infringes upon their prerogatives as legislators.^{ccxiv}

In a decision involving seven (7) consolidated cases questioning the validity of a Presidential Proclamation and a General Order of the President, the Supreme Court applied the “transcendental importance” doctrine and held that all petitioners had locus standi.^{ccv}

While the Supreme Court has taken the liberal stance in cases of transcendental importance, courts of justice settle only “actual controversies involving rights which are legally demandable and enforceable.”^{ccxvi} Thus, it refused to exercise judicial review in two petitions to nullify a House Resolution calling Congress to convene to consider proposals to amend or revise the Constitution as there was yet no usurpation of power or gross abuse of discretion to warrant an intervention.^{ccxvii}

d. Publicity of Decisions and Hearings

The Constitution requires decisions to express the facts and law upon which they are based.^{ccxviii} Conclusions of the Supreme Court are reached in consultation before the Court’s opinion is written. Members who took no part, dissented, or abstained must state their reasons. These requirements are also mandatory on lower collegiate courts.^{ccxix}

The Rules of Court require court proceedings and records to be public, except when the court forbids publicity in the interest of morality or decency.^{ccxx} The American Bar Association found proceedings to be open by law and in practice. Supreme Court decisions are published and are public record. Decisions of the trial and appellate court are not published but are public records and anyone

can obtain copies of decisions from the clerk of court. Transcripts of proceedings are public records and copies are available for a fee.^{ccxxi}

Decisions and resolutions of the Supreme Court are posted on the website of the Supreme Court. Many decisions and laws are available through private online sources, such as Chan Robles Virtual Law Library and LawPhil Project.

The President, Department of Justice, Senate, media and families of victims called for the Supreme Court to allow live coverage of the trial of the accused in the Maguindanao Massacre.^{ccxxii} The Court Administrator said the Supreme Court would consider “conflicting values” and cited a decision disallowing live media coverage of the trial against former President Estrada.^{ccxxiii} In said decision, the Court said that media can influence witnesses and judges directly and through the shaping of public opinion. While courts recognise freedom of the press and right to public information, the overriding consideration within the courthouse is still the right of the accused to due process. The Supreme Court explained the right to public trial as follows:

An accused has a right to a public trial but it is a right that belongs to him, more than anyone else, where his life or liberty can be held critically in balance. A public trial aims to ensure that he is fairly dealt with and would not be unjustly condemned and that his rights are not compromised in secrete conclaves of long ago. A public trial is not synonymous with publicised trial; it only implies that the court doors must be open to those who wish to come, sit in the available seats, conduct themselves with decorum and observe the trial process. In the constitutional sense, a courtroom should have enough facilities for a reasonable number of the public to observe the proceedings, not too small as to render the openness negligible and not too large as to distract the trial participants from their proper functions, who shall then be totally free to report what they have observed during the proceedings.^{ccxxiv}

The Court, however, allowed audio-visual recording of the proceedings for documentary purposes only, to be available for public showing after promulgation of the decision.^{ccxxv}

e. Laws Relative to Equal Protection of the Law

The Constitution states that no one shall be denied equal protection of the laws.^{ccxxvi} 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.^{ccxxvii}

Penal laws are obligatory on everyone within the Philippines, subject to public international law principles and treaty stipulations.^{ccxxviii} Laws on family rights and duties, or status, condition and legal capacity bind all citizens, even though living abroad.^{ccxxix}

The Code of Muslim Personal Laws was passed in 1977. It covers personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations between and among Muslims.^{ccxxx} Shari’a Circuit Courts and Shari’a District Courts are established in Islamic regions or provinces to interpret and apply the Code of Muslim Personal Laws. Their decisions are appealable to the Shari’a Appellate Court.^{ccxxxi} The Shari’a Appellate Court has, however, not yet been organised; thus, decisions of Shari’a District Courts may be brought to the Supreme Court.^{ccxxxii} Muslims who live in places in the Philippines where no Shari’a courts have been organised may file their cases in the Shari’a courts nearest them.^{ccxxxiii}

The Indigenous Peoples Rights Act of 1997 says the state recognises customary laws on property rights or relations in determining ownership of ancestral domain.^{ccxxxiv} The act recognises the right to use indigenous peoples’ commonly accepted justice systems, conflict resolution institutions, peace building processes, and other customary laws and practices.^{ccxxxv} This law created the National Commission on Indigenous Peoples, which resolves on appeal disputes involving rights of indigenous peoples and cases relating to the implementation and interpretation of the Indigenous Peoples’ Rights Act. The commission hears a case only after remedies under customary laws have been exhausted, as certified by a council of elders or other leaders. Decision of the Commission, like the decisions of other quasi-judicial agencies, may be appealed to the Court of Appeals.^{ccxxxvi}

In September 2009, Republic Act 9710 or the Magna Carta of Women became effective. Its Implementing Rules and Regulations became effective in July 2010. This law says that the “State realises that equality of men and women entails the abolition of the unequal structures and practices that perpetuate discrimination and inequality” and that it will “endeavour to develop plans, policies, programs, measures, and mechanisms to address discrimination and inequality in the economic, political, social, and cultural life of women and men.”^{ccxxxvii} According to the law, the State shall take steps to review, amend and/or repeal existing laws that are discriminatory to women within three (3) years from its effectivity.^{ccxxxviii} The IRR states that amendment or repeal of particular discriminatory provisions in the following laws shall be given priority: Family Code of the Philippines; Revised Penal Code; Labor Code; Rules of Court; Code of Muslim Personal Laws; and Republic Act 8353, on removal of criminal liability of rapist when victim marries him.^{ccxxxix}

f. Access to Judicial Institutions

The Constitution states that no one is to be denied free access to courts and quasi-judicial bodies and adequate legal assistance because of poverty.^{ccxl} The Rules of Court exempt indigents from paying docket and other fees, including transcripts of stenographic notes.^{ccxli} Indigent litigants are those (1) whose gross income and that of their immediate family do not exceed double the monthly minimum wage and (2) who do not own real property with a fair market value above PHP300,000.00 pesos. If a person does not meet both requirements, the court should use discretion to determine the prayer for exemption.^{ccxlii}

The Public Attorney’s Office and some private organisations offer free legal services. The Integrated Bar of the Philippines and law school-based legal aid clinics are prominent legal aid providers. However, the Asian Development Bank observed, even if the counsel for the accused provides free services, a poor family is likely to be unable to pay legal fees. The Free Legal Assistance Group (FLAG) estimated that a criminal case handled pro bono can be as high as PHP70,300, which is three times the average annual savings of a Filipino family. The poor would have difficulty in posting bail, providing travel costs for witnesses, or complying with documentary requirements. For paid representation, private legal

practitioners charge acceptance fees of usually more than PHP10,000 and appearance fees per hearing of around PHP1,000.^{ccxlili}

The Supreme Court has advocated alternative dispute resolution to improve access to speedy and less expensive dispute settlement. It established the Philippine Mediation Center (PMC) in 2001 and set up 125 PMC units in 12 provinces. From 2002 to 2006, 38,913 cases were referred for mediation, of which 27,094 cases or 70 percent were settled.^{ccxliv} The Supreme Court also held a multisector summit to enable the Supreme Court to consider reforms that would increase access to the courts for the poor.^{ccxlv}

Congress also passed the Alternative Dispute Resolution Act of 2004 and its Implementing Rules and Regulations (IRR) became effective on 31 December 2009. The IRR of the law is expected to promote party autonomy in out-of-court resolution of disputes, expedite speedy and impartial justice, and unclog court dockets.^{ccxlv}

To increase access to justice, the judiciary implemented the Justice on Wheels (JOW) project. The JOW is a bus with two courtrooms and is deployed to different areas of the country. In 2008, the Enhanced JOW Program released 731 inmates; gave medical and dental services to 5,386 inmates; gave legal aid to 595 inmates; successfully mediated 3,409 cases; and lectured to 6,700 participants.^{ccxlvii}

In 2008, responding to a finding that 70% of caseloads of metropolitan trial courts involve small claims, the Court issued the Rule of Procedure on Small Claims Cases involving purely money claims of PHP100,000 and below. 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.^{ccxlviii}

Depending on the imposable penalty, criminal actions are initiated by filing a complaint with prosecution agencies for preliminary investigation, or directly with Municipal Trial Courts or Municipal Circuit Trial Courts. If the accused was arrested without warrant, an inquest proceeding

is conducted instead.^{ccxix} Resolutions of investigating prosecutors are approved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy. Resolutions are reviewable, upon petition, by the Secretary of Justice.^{ccd}

On 16 April 2009, then Justice Secretary Alberto Agra, acting on a petition for review, dropped charges against two suspects in the Maguindanao massacre. Prosecutors denounced the Secretary's order and staged a walkout.^{cccli} The Chief State Prosecutor, reading a statement on behalf of the National Prosecution Service, said: "We are deeply concerned that the resolution will all the more convince a long skeptical public that our criminal justice system is impotent when the accused are politically influential."^{ccclii} On 05 May 2010, Secretary Agra reversed his own resolution after new testimony convinced him of probable cause.^{cccliii}

g. Effective, Fair and Equal Enforcement of Laws

UN Rapporteur Philip Alston stated that there was failure to arrest, convict and imprison persons responsible for extrajudicial executions. Law enforcement officials focused on prosecuting civil society leaders rather than killers. The police hesitate to investigate crimes allegedly committed by the military. Prosecutors do not guide police officers in gathering evidence as they determine existence of probable cause and should appear impartial. Limited access to forensic laboratories and experts has resulted to over reliance on testimonies of witnesses. He found the Ombudsman lacking in independence and that it chooses not to conduct investigations unless there is already strong evidence leading to the involvement of a public official. He also observed that trials are delayed and changes of venue on the basis that witnesses have relocated are seldom granted.^{cccliv}

On 23 November 2009, 57 people were killed in Maguindanao. Then Mayor Andal Ampatuan Jr., together with about 100 members of their militia and dozens of policemen, allegedly flagged and gunned down a convoy on its way to file a certificate of candidacy for governor.^{ccclv} Human Rights Watch observed that government has failed to "seriously investigate atrocities by powerful ruling families, ban abusive militia forces, or curtail access of officials to military weaponry."^{ccclvi} No one

had been convicted a year after the massacre. Of the 82 suspects in custody, only 15 were undergoing trial. As of November 2010, 20 police tracker teams were hunting 112 suspects still at large.^{ccclvii}

The Speaker of the House of Representatives said, beyond the massacre, the issue of private armies should be addressed.^{ccclviii} Human Rights Watch called attention to the support national government gave ruling families and the impunity their militias enjoy. The military and police were found to provide them with manpower, weapons, and protection from prosecution. Militias have existed since late 1940s; they were organized to defend against communist insurgents and separatist groups. In Maguindanao, paramilitary forces were under the command of the Ampatuan family and were converted into their private army. The militia in Maguindanao is just one of more than an estimated 100 private armies throughout the Philippines.^{ccclix}

Legislation is necessary to curb abuse of powers granted to local chief executives under the law. The report of the Independent Commission Against Private Armies says:

(L)ocal executives direct, superintend, oversee, and inspect police units and forces, they also possess administrative and disciplinary power; authority to choose the chief of police; recommend the transfer, reassignment or detail of PNP members outside their respective areas and recommend the appointment of new members of the PNP. Given the extensive areas of authority granted to the local officials, the abuse of such power is not uncommon.^{ccclx}

h. Laws Relative to Reparation to Victims

There is a Board of Claims under the Department of Justice for victims of unjust imprisonment, detention, or violent crimes. Compensation for unjust imprisonment or detention should not exceed PHP1,000 per month. In all other cases, the maximum amount is only PHP10,000.^{ccclxi} The Anti-Torture Act of 2009 requires certain agencies to formulate a rehabilitation program for victims of torture and their families. The program should provide for physical, mental, social, psychological healing and development.

Everyone who is liable for a crime is also civilly liable.^{cclxii} Civil liability includes restitution, reparation of damage caused and indemnification for consequential damages.^{cclxiii} Under the Civil Code, persons who suffer loss because (1) a public employee neglected, without just cause, to perform his official duty, or because (2) a public officer or any individual violated or impaired certain rights and liberties may file for damages.^{cclxiv}

In January 2011, a US District Judge in Hawaii approved the distribution of USD1,000 to each of the 7,526 members of a class-action lawsuit for torture, execution and kidnapping under the regime of President Ferdinand Marcos. The distribution provides victims their first opportunity to collect something since they sued in 1986. A USD2-billion judgment against the Marcos estate was rendered in 1995. Disputes over Marcos' property delayed payments to victims; however, 12 victims received compensation checks on 28 February 2011. They are the first group, among thousands of victims, who will receive payments; it has been estimated that payments of about \$1,000 will go to 7,526 claimants.^{cclxv} Robert Swift, the lead attorney, said the case is groundbreaking because it was the first class-action lawsuit filed anywhere in the world for human rights violations. The case was filed in Hawaii because Marcos fled to Honolulu to live in exile after he was deposed in 1986.^{cclxvi} Swift and his Filipino co-counsel, with the assistance of the Commission on Human Rights, will distribute checks to claimants or their heirs.^{cclxvii}

Survivors of the "comfort women system" during World War II have asked the Supreme Court to compel the Executive Branch to exercise its constitutional duties and international obligations to ensure their rights to redress. Their petition was denied in April 2010 by the Supreme Court and motions for the reconsideration of the decision have been filed.^{cclxviii} Among the prayers in the supplemental motion for reconsideration is for the Supreme Court to order the "Secretary of Foreign Affairs and the Executive Secretary to espouse the claims of Filipina 'comfort women', specifically demanding an official apology from the State of Japan and legal compensation for the rapes Filipina 'comfort women' endured from the hands of the Japanese military in World War II."^{cclxix}

i. Practices Relative to Protection of Victims and Witnesses

The Witness Protection, Security and Benefit Program is administered by the National Prosecution Service of the Department of Justice. In 2009, the program admitted 148 witnesses. It was instrumental in obtaining 254 convictions out of 266 cases with primary witnesses supported by the program.^{cclxx}

Failure to reform the witness protection program is considered a significant cause of impunity for extralegal killings in the Philippines. The absence of witnesses is said to cause the failure of 8 out of 10 cases involving extrajudicial killings to move from initial investigation to prosecution.^{cclxxi}

Housing, health and education benefits under the program are insufficient.^{cclxxii} The ALRC observed that no interim protection is available for persons being screened as witnesses and there is no time limitation for resolution of applications for protection. The law lacks provisions for breaches of confidentiality by persons who are not part of the government and who put witnesses at risk by exposing their identities.^{cclxxiii} At-risk family members are not admitted into the program. When a case fails to prosper, the witness is expelled from the program although he may still be at risk. Further, prosecutors are expected to be impartial in the early phases of a case, thus making them reluctant to propose witness protection.^{cclxxiv}

Policemen and military cannot be admitted into the program; thus, it would be difficult for them to testify against their superiors.^{cclxxv}

On 14 June 2010, Suwaib Upham, a witness to the 2009 Maguindanao massacre whose application for inclusion in the protection program was rejected in April 2010, was murdered. His killing is attributed to failure to protect his identity and lack of accountability in preserving confidential information.^{cclxxvi}

4. Justice is administered by competent, impartial and independent judiciary and justice institutions.

a. Independence and Accountability of Prosecutors, Judges and Judicial Officers

A Supreme Court justice must be at least forty years old and a judge of a lower court or engaged in law practice in the Philippines for at least fifteen years. All members of the judiciary are required to be of “proven competence, integrity, probity, and independence”.^{cclxxvii}

The Judicial and Bar Council (JBC), which recommends appointees to the judiciary, is composed of the Chief Justice, the Secretary of Justice, and a representative of Congress. It also has the following members, who are all appointed by the President with the consent of the Commission on Appointments: a representative of the Integrated Bar, a professor of law, a retired member of the Supreme Court, and a representative of the private sector.^{cclxxviii} Whenever there is a vacancy in the judiciary, the President appoints from a list of at least 3 nominees submitted by the JBC. These appointments need no confirmation.^{cclxxix} Vacancies in the Supreme Court are to be filled within 90 days from occurrence. Vacancies in lower courts are to be appointed within ninety days from submission of JBC’s list.^{cclxxx}

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, and when practicable, to major non-governmental organisations.^{cclxxxi} The website of the JBC publishes vacancies in the judiciary, the list of applicants, interview schedules, and announcements of appointments.

A 2005 Social Weather Stations survey showed that 53% of judges and 63% of lawyers were dissatisfied with the selection process of appointees to the judiciary.^{cclxxxii}

In December 2010, the Supreme Court declared a “Truth Commission” unconstitutional which was created by President Aquino for violating the equal protection clause.^{cclxxxiii} The Secretary of Justice said that former President Arroyo’s “wise investments” in the high court was paying off.^{cclxxxiv} An official from the public information office of the Supreme Court, however, said that, of the fifteen Justices, only one was not appointed by former President Arroyo. She said four of the five Justices who dissented were appointees of the former President; this means that the case was resolved based on what the Justices felt was right and based on the law.^{cclxxxv}

Anent the current Justices of the Supreme Court being mostly appointees of former President Arroyo, the Supreme Court said as follows:

Neither the outgoing President nor the present Members of the Court had arranged the current situation to happen and to evolve as it has. None of the Members of the Court could have prevented the Members composing the Court when she assumed the Presidency about a decade ago from retiring during her prolonged term and tenure, for their retirements were mandatory.^{cclxxxvi}

Members of the Supreme Court and lower courts hold office until they reach 70 years or become incapacitated to discharge their duties. The Supreme Court has the power to discipline judges of lower courts.^{cclxxxvii} Members of the Supreme Court are removable only by impeachment.^{cclxxxviii} Salaries of justices and judges are fixed by law and may not be decreased during their continuance in office.^{cclxxxix} Justices and judges may not be designated to any agency performing quasi-judicial or administrative functions.^{ccxc}

The Supreme Court has the power to issue rules concerning pleading, practice, and procedure in all courts and admission to the practice of law, appoint all officials and employees of the judiciary, and exercise administrative supervision over all courts and personnel.^{ccxci}

In 2004, the Supreme Court adopted a New Code of Judicial Conduct for the Philippine Judiciary. The New Code adopts the Bangalore Code of Judicial Conduct and contains 6 canons: (1) independence; (2) integrity; (3) impartiality; (4) propriety; (5) equality, and (6) competence and diligence. Court personnel should abide by the Code of Conduct for Court Personnel. All lawyers should observe the Code of Professional Responsibility and notaries public the 2004 Rules on Notarial Practice.

In 2008, Court of Appeals Justice Vicente Q. Roxas was dismissed and four other CA Justices subjected to disciplinary action.^{ccxcii} In 2009, the Supreme Court disciplined 66 Regional Trial Court judges; 27 Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, and Municipal Circuit Trial Court judges; and 181 first- and second-level court personnel. It administratively disciplined 19 Supreme Court employees and dropped three others from the roll for being absent without leave. The Supreme Court also imposed a PhP500,000 fine on a retired Supreme Court justice for grave misconduct for leaking a confidential internal document. One hundred twenty nine members of the Bar were disciplined for various administrative offenses.^{ccxciii}

On 28 April 2010, the Supreme Court denied the petition of survivors of the “comfort women system” during World War II who were seeking redress. It was discovered that portions of the Supreme Court’s decision lifted from works of International Law authors without acknowledging them. It was also alleged that the decision twisted what the authors said in their works. Thus, a motion was filed showing that the misrepresentation “erroneously laid the foundation for the Court’s decision to deny the petition”.^{ccxciv}

On 15 October 2010, the Supreme Court dismissed charges of plagiarism, twisting of cited materials, and gross neglect against Justice Mariano C. del Castillo. The Court held that Justice del Castillo’s researcher accidentally deleted the attributions.^{ccxcv} In her dissenting opinion, Justice Maria Lourdes Sereno, said as follows:

Unless reconsidered, this Court would unfortunately be remembered as the Court that made “malicious intent” an indispensable element of plagiarism and that made computer-keying errors an exculpatory fact in charges of plagiarism, without clarifying whether its ruling applies only to situations of judicial decision-making or to other written intellectual activity. It will also weaken this Court’s disciplinary authority — the essence of which proceeds from its moral authority — over the bench and bar.^{ccxcvi}

The law faculty of the University of the Philippines issued a statement asking the ponente of the decision, Justice Mariano del Castillo, to resign from the Court. The statement said that, instead of acting with urgency, the Court delayed its resolution for almost seven years and dismissed the petition “based on polluted sources”.^{ccxcvii}

On 19 October 2010, the Supreme Court issued a Resolution directing members of the law faculty of the University of the Philippines to show why they should not be disciplined as lawyers. The Court found their statement “unnecessary, uncalled for and a rash act of misplaced vigilance”. A motion for reconsideration of the decision allegedly containing plagiarised materials was still pending and the Court had previously held that any publication pending a suit tending to influence a decision is contempt of court. According to the Supreme Court, it should be permitted to dispose of its business “in an orderly manner, free from outside interference obstructive of its functions and tending to embarrass the administration of justice.”^{ccxcviii}

Although Justice del Castillo was cleared by the Supreme Court, some members of the House of Representatives have initiated an impeachment complaint against him.^{ccxcix}

b. Training and Resources for Prosecutors, Judges and Judicial Officers

Continuing legal education is required of all members of the Integrated Bar of the Philippines.^{ccc} Prosecutors receive continuing legal education for free. In 2009, the National Prosecution Service distributed electronic copies of “Laws and Jurisprudence for Philippine Prosecutors” nationwide and conducted basic orientation seminars, which were attended by at least 300 new prosecutors.^{ccci}

The primary concern of the National Prosecution Service is severe manpower deficiency. In 2009, the National Prosecution Service had 1,908 prosecution officers out of 2,406 existing plantilla positions (21% vacancy). It had 1,643 administrative support staff out of 1,945 plantilla positions (16% vacancy). Local government units and other sources augmented around 1,000 support staff of the National Prosecution Service.^{ccci}

Each prosecution officer conducted an average of 183 preliminary investigations. Around 900,000 to 950,000 criminal cases were prosecuted in the trial courts; thus, each prosecutor handled around 472 to 498 court cases for 2009.^{ccci}

The Philippine Judicial Academy (PHIJA) 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. The Judicial and Bar Council, which recommends appointments and promotions, is directed by law to consider the participation of prospective judges in the programs of PHIJA.^{ccci}

The Supreme Court distributes books and manuals and disseminates updates of jurisprudence to judges. Judges with internet access can use the Court’s online e-library; others receive periodic CDs with recent decisions.^{ccci}

The Constitution grants the judiciary fiscal autonomy. Appropriations may not be reduced by the legislature below the amount appropriated the previous year and should be automatically and regularly released.^{ccci}

In 2007, the Judiciary received 0.76% of the national budget; 0.88% in 2008; 0.94% in 2009; and 0.87% in 2010.^{ccvii} The Court Administrator said that judges have not been receiving full wages and allowances since 2007. Retired judges and justices continue to wait for their benefits and pensions. Courtrooms are dilapidated. Most local courts have only two computers when the ideal number is at least six units. Budget constraints prevent the judiciary from hiring enough personnel and judges to improve case disposition rates. Each judge services around 50,000 inhabitants; the ideal ratio is 1 judge for every 10,000 constituents. The Family Courts Act of 1997, which appropriated funds for creation of child and family courts remain unimplemented and unfunded.^{ccviii}

From December 2004, when vacancy rate exceeded 30%, vacancies declined to about 19.7% by the end of 2007. The decline seems to be due to legislation that authorised a 100% increase in compensation for judges and the recruiting effort of the JBC.^{ccvix} However, by the end of 2009, vacancy rate increased to 22.74% (522 vacancies out of 2,295 available judicial positions), with distribution as follows:^{cccx}

Supreme Court	1
Court of Appeals	6
Sandiganbayan	2
Court of Tax Appeals	0
Regional Trial Courts	191
Metropolitan Trial Courts	23
Municipal Trial Courts in Cities	32
Municipal Trial Courts	96
Municipal Circuit Trial Courts	147
Shari’a District Courts	5
Shari’a Circuit Courts	19
TOTAL	522

Around 85.0% of the annual national budget for the judiciary goes to salaries and allowances, 13.0% for maintenance and other operating expenses, and 1.5% for capital outlays. The judiciary retains and spends fees it collects and deposits these revenues in the Judicial

Development Fund (JDF). Eighty percent of the JDF is allocated to personnel costs and 20% to capital outlays. The JDF augmented the funds of judiciary by around PHP1 billion (USD20 million) annually in recent years.^{cccxi}

The President reduced the judiciary's proposed 2011 budget of around PHP26 billion to around PHP14 billion of the total PHP1.645-trillion national budget. The administration said that all agencies did not get the amounts they wanted because of the country's fiscal situation.^{cccxi}

Prosecutors of National Prosecution Service of the Department of Justice, however, received over PHP25 million for their salary increase. The increase in compensation is in accordance with Republic Act 10071 (Prosecution Service Act of 2010).^{cccxi} In 2007, Republic Act 9406 granted officials and lawyers of the Public Attorney's Office special allowances of not more than 100% of their basic salary. Special allowances amounting to a 100% increase in compensation, which increase was phased over a 4-year period, were allowed to justices, judges and court officials with the equivalent rank of Court of Appeals justices or Regional Trial Court judges in 2003 by Republic Act 9227.

The budgets of principal quasi-judicial agencies are also insubstantial. As was found by Asian Development Bank to be the pattern in the justice sector, personal services consume the greatest part of the budget of quasi-judicial bodies, with very small amounts dedicated to capital investment.^{cccxi}

c. Impartial Judicial Proceedings

Graft and corruption in the judiciary is measured primarily through public opinion surveys. Within the judiciary, graft and corruption is mainly indicated by information on administrative cases filed against its members. It is accepted, however, that the judiciary's operations are vulnerable to corrupt practices. Thus, since January 2007, the Office of the Chief Justice has been requiring reports on the issuances of Temporary Restraining Orders (TROs) by appellate courts to address allegations of corruption in its issuance. The Supreme Court is also planning to

establish a system of lifestyle-checks on clerks of court and court sheriffs. An Integrity Unit will also be established to ensure the proper management of funds at the regional level.^{cccxi}

The Supreme Court launched the Strengthening the Integrity of the Judiciary (SIJ) Project in 2008. The SIJ Project is the result of the Integrity Development Review for the Judiciary, which aims to eliminate opportunities for corruption by examining integrity measures and identifying institutional weaknesses.^{cccxi}

Survey results released in 2005 showed the following: 6% of lawyers surveyed said that "very many" judges are corrupt, 18% said "many" are corrupt, and 37% answered that "some" are corrupt. Among judges surveyed, only 1% said "very many" judges are corrupt, 6% said "many", and 31% said "some". Forty-nine percent of lawyers said they were aware of a case where a judge took a bribe; however, only 8% of such lawyers said they reported the bribery, mainly because they could not prove it.^{cccxi}

Survey also showed that 69% of lawyers asked were satisfied with the general performance of trial judges in the Philippines. Seventy-five percent of judges asserted that the poor can get justice under the judicial system; however, only 53% of lawyers agree that the poor can get justice. Eighty-two percent of judges are satisfied with judicial procedure in the Philippines; while only 49% of lawyers are satisfied with judicial procedure.^{cccxi}

In a Political and Economic Risk Consultancy (PERC) survey, the judicial system of the Philippines scored 6.10, where zero represented the best performance and 10 the worst. The Philippines ranked 6th among Asian judicial systems. PERC said that although Philippines is a democracy, expatriates did not look favourably on their judicial system because of corruption. Executives working in Asia were asked to rate the judicial systems in the countries they reside according to protection of intellectual property rights, corruption, transparency, enforcement of laws, freedom from political interference, and experience and educational standards of lawyers and judges.^{cccxi}

d. Competence and Sufficiency of Lawyers for Accused Persons

The Public Attorney's Office defends indigent accused persons. It extends free legal services to indigent persons or to their immediate families in civil, administrative, labor and criminal cases.^{ccccx}

In 2009, the Public Attorney's Office manpower of 1,407 lawyers served 4,154,587 clients. PAO lawyer-client average ratio for clients is 1:2,953; PAO lawyer-client average ratio for cases handled is 1:420. Through PAO's Jail Visitation and Decongestion Program, 5,342 inmates were released in 2009.^{ccccxi}

The Public Attorney's Office faces the following concerns: fast turnover and heavy workload of its lawyers; scarcity of office equipment; and lack of attractive retirement benefits.^{ccccxii} The law requires the ratio of one public attorney to an organised sala.^{ccccxiii} However, as of December 2009, its 1,407 lawyers handled criminal and civil cases before 2,182 courts nationwide.^{ccccxiv}

The Supreme Court passed a Rule requiring lawyers to render a minimum of sixty (60) hours of free legal aid services per year.^{ccccv} This Rule should have taken effect in July 2009, but its effectivity was deferred.^{ccccvi} Chapters of the Integrated Bar of the Philippines have opposed the program.^{ccccvii} There is a law allowing a lawyer or professional partnerships to deduct from the gross income the amount that could have been collected for actual free legal services.^{ccccviii}

Negligence and mistakes of counsel are generally binding on the client. The Supreme Court, however, has allowed the following exceptions: (1) where the reckless or gross negligence of counsel deprives client of due process; (2) when application of the rule will result in outright deprivation of the client's liberty or property; or (3) where interests of justice so require. The Supreme Court has said that a clear abandonment of the client's cause by counsel must be shown. Simple negligence will not justify the annulment of proceedings that already took place.^{ccccix}

e. Safety and Security for Accused, Prosecutors, and Judicial Officers

According to the National Union of People's Lawyers, at least 15 lawyers and judges were killed in 2009 in attacks believed to be linked to their work.^{ccccx}

From 1999 to 2008, 16 judges were killed. The Supreme Court has taken measures to curb work-related killings of judges. In 2004, the heinous crimes courts were abolished because of low caseloads and they made heinous crimes court judges easily identifiable. In 2005, the Supreme Court allowed judges who receive direct threats to apply for protective security. The Court signed an agreement with the PNP in 2005 for them to coordinate in the processing of permits to carry firearms of members of the judiciary. In August 2007, the Supreme Court designated the Deputy Court Administrator and an officer of the National Bureau of Investigation (NBI) as contact persons in case of threats. In January 2008, the Supreme Court and the NBI created Task Force Judiciary Protection to provide protection from threats and investigate killings or attempted killings.^{ccccxi}

Atty. Allan Contado, former NBI Liaison Officer to the Supreme Court Task Force for Judiciary Protection, said they conducted security assessments of some courts and did a pilot project in Cebu City for other courts to pattern security measures after. Metal detectors were recommended but a low budget prevents the courts from purchasing them.^{ccccxii}

Judges have received security trainings on threats assessment, prevention, firearms orientation, marksmanship and technical proficiency. In 2008, PHP10 million was set aside by the Supreme Court for judges who wished to avail of a hand gun loan.^{ccccxiii} Further, PHP1 million was set aside by the Supreme Court as reward money for information that can lead to the arrest and conviction of the perpetrators of killings and attempts on the life of members of the judiciary.^{ccccxiv}

Endnote

- i. "The World Factbook". Central Intelligence Agency, <<https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html>> (23 December 2010), unless otherwise indicated.
- ii. *Ibid*; and Department of State, USA, "Background Note: Philippines". <<http://www.state.gov/r/pa/ei/bgn/2794.htm>>, 29 October 2010, (23 December 2010).
- iii. National Statistics Office, <<http://www.census.gov.ph/>>, (23 December 2010).
- iv. Asian Development Bank, "Asian Development Bank & Philippines Fact Sheet". <http://www.adb.org/Documents/Fact_Sheets/PHI.pdf>, (07 January 2011).
- v. Human Rights Council, Working Group on the Universal Periodic Review, "Compilation Prepared by the Office of the High Commissioner for Human Rights" (A/HRC/WG.6/1/PHL/2). 31 March 2008; and "Convention on the Rights of Persons with Disabilities", *United Nations Treaty Collections*, <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=IV-15&chapter=4&lang=en>, (07 January 2011).
- vi. "Cordillera Autonomy: Looking Around and Farther Back", *Regional Development Council Cordillera*, <http://www.cordillera.gov.ph/index.php?option=com_content&view=article&id=349&Itemid=78&limitstart=2>, (09 January 2011).
- vii. Paolo Romero and Jess Diaz, "YEARENDER: House bounces back from failures", *The Philippine Star*, 29 December 2010, <<http://www.philstar.com/Article.aspx?articleId=643482&publicationSubCategoryId=63>>, (02 January 2011).
- viii. Supreme Court of the Philippines, <<http://sc.judiciary.gov.ph/PhilJud.swf>>, (02 January 2011).
- ix. Joaquin G. Bernas, S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary*. (Quezon City: Rex Printing Company, Inc., 2009), 995-996.
- x. The 1987 Constitution of the Republic of the Philippines, Article VIII, Section 5.
- xi. Asian Development Bank, "Background Note on the Justice Sector of the Philippines". (Mandaluyong City, Philippines: Asian Development Bank, 2009), 7-8.
- xii. *Ibid*, 40.
- xiii. *Supra* note xi, 23.
- xiv. Bernas, *1987 Constitution*, 60-61.
- xv. Amnesty International, "Philippines: Human Rights Report Card for Aquino's First 100 Days". 6 October 2010, <<http://www.amnesty.org.ph/news.php?item=news&id=163>>, (07 January 2011).
- xvi. "Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: The Philippines" (A/HRC/8/28). 23 May 2008, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/136/75/PDF/G0813675.pdf?OpenElement>>, (26 December 2010).
- xvii. Action Reform Program for the Judiciary, <http://apjr.judiciary.gov.ph/apjr_about.html>, (09 January 2011); and American Bar Association, "Judicial Reform Index for the Philippines". (Washington: American Bar Association, March 2006). 1.
- xviii. *Supra* note xi, 27.
- xix. "Inaugural Address of President Benigno S. Aquino III (English translation)", *Official Gazette*, <<http://www.gov.ph/2010/06/30/inaugural-address-of-president-benigno-s-aquino-iii-english-translation/>>, (27 December 2010).
- xx. Amnesty International, "Philippines: Human Rights Report Card for Aquino's First 100 Days", 6 October 2010, <<http://www.amnesty.org.ph/news.php?item=news&id=163>>, (07 January 2011); and SOPHIA M. DEDACE, "DOJ chief De Lima vows swift resolution of high-profile cases", *GMANews.TV*, 02 July 2010, <<http://www.gmanews.tv/story/195024/doj-chief-de-lima-vows-swift-resolution-of-high-profile-cases>>, (02 January 2011).
- xxi. Department of Justice, "Mandate and Mission", <<http://www.doj.gov.ph/index.php?id1=2&id2=1&id3=0>>, (19 February 2011).
- xxii. *Biraogo vs. The Philippine Truth Commission of 2010 / Lagman, et al. vs. Ochoa, Jr., et al.*, G.R. No. 192935 & G.R. No. 193036, 07 December 2010.
- xxiii. Lira Dalangin-Fernandez, "'Truth' executive order ruling draws mixed reactions from solons", *Inquirer.net*, 07 December 2010, <<http://newsinfo.inquirer.net/breakingnews/nation/view/20101207-307561/Truth-executive-order-ruling-draws-mixed-reactions-from-solons>>, (07 January 2011).

- xxiv. "Government asks International Monitoring Team countries to extend stay in Mindanao", *Official Gazette*, 02 December 2010, <<http://www.gov.ph/2010/12/02/governmentasks-international-monitoring-team-countries-to-extend-stay-in-mindanao/>>, (27 December 2010).
- xxv. U.S. Department of State, "Background Note: Philippines", <<http://www.state.gov/r/pa/ei/bgn/2794.htm>>, 29 October 2010, (23 December 2010).
- xxvi. "Government hopes to start informal talks with MILF in January", *Official Gazette*, 22 December 2010, <<http://www.gov.ph/2010/12/22/government-hopes-to-start-informal-talks-with-milf-in-january/>>, (26 December 2010).
- xxvii. Jose Rodel Clapano, "YEARENDER: Government encountering glitches in pursuing peace talks", *The Philippine Star*, January 03, 2011, <<http://www.philstar.com/Article.aspx?articleid=644783>>, (01 February 2011).
- xxviii. *Supra* note xi, 61.
- xxix. *Supra* note xi, 32.
- xxx. Mark David Agrast, Juan Carlos Botero and Alejandro Ponce. 2010. *WJP Rule of Law Index*. Washington, D.C.: The World Justice Project, 19.
- xxxi. Supreme Court of the Philippines, *2009 Supreme Court Annual Report*, 83.
- xxxii. Computation based on 2009 NSO Projected Population (Medium Assumption) of 92,226,600.
- xxxiii. *Supra* note xi, 15.
- xxxiv. Computation based on 2009 NSO Projected Population (Medium Assumption) of 92,226,600.
- xxxv. "San Beda tops bar exams; Passing rate higher at 24.58%", *Inquirer Global Nation*, 27 March 2010, <<http://globalnation.inquirer.net/cebudailynews/news/view/20100327-261078/San-Beda-tops-bar-exams-Passing-rate-higher-at-2458>>, (21 February 2011).
- xxxvi. *Ibid*.
- xxxvii. Tetch Torres, "1,289 or 22.91% of examinees pass bar exams", *INQUIRER.net*, 29 March 2008 <<http://newsinfo.inquirer.net/breakingnews/nation/view/20080329-127183/1289-pass-bar-exams>>, (21 February 2011).
- xxxviii. Rules of Court, Rule 138, Sections 5 and 6.
- xxxix. Rules of Court, Rule 116, Section 1(e).
- xl. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 7 and Section 13.
- xli. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 10, and Rules of Court, Rule 119, Section 3.
- xlii. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 6.
- xliii. 1987 Constitution, Article VIII, Section 15(1) and (2).
- xliv. *Supra* note xi, 38.
- xlv. ABA Judicial Reform Index, 38-41.
- xlvi. Commission on Human Rights, CHR Annual Report 2009.
- xlvii. Supreme Court of the Philippines, *2009 Supreme Court Annual Report*, 89.
- xlviii. Office of the Ombudsman, "Gaining Ground, The 2009 Annual Report of the Office of the Ombudsman". <<http://www.ombudsman.gov.ph/docs/statistics/ANNUAL%20REPORT%202009.pdf>>, (11 October 2010).
- xlix. Francisco, Jr. vs. The House of Representatives, G.R. No. 160261, 10 November 2003.
- l. Bernas, *1987 Constitution*, 678; 1987 Constitution, Article VII, Sections 19 and 21.
- li. 1987 Constitution, Article III, Sections 1-22; Article VI, Sections 24-31; Article VII, Sections 16, 18-22; Article VIII, Section 4.
- lii. 1987 Constitution, Article VIII, Section 1, paragraph 2: *Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.*
- liii. *David, et al. v. Macapagal-Arroyo, et al.*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, 03 May 2006.
- liv. Bernas, *1987 Constitution*, 921-923

- lv. *David, et al. v. Macapagal-Arroyo, et al.*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, 03 May 2006.
- lvi. "Full text: Arroyo's declaration of martial law in Maguindanao", *GMANEWS.TV*, 05 December 2009, <<http://www.gmanews.tv/story/178582/full-text-arroyos-declaration-of-martial-law-in-maguindanao>>, (03 January 2011).
- lvii. Lira Dalangin-Fernandez, *Inquirer.net*, "JOINT SESSION ADJOURNS, Solons still urge Arroyo to explain martial law". 14 December 2009, <<http://newsinfo.inquirer.net/breakingnews/nation/view/20091214-242024/Solons-still-urge-Arroyo-to-explain-martial-law>>, (03 January 2011).
- lviii. Aurea Calica, *Philstar.com*, "Senate declares martial law proclamation unconstitutional". 15 December 2009, <http://www.philstar.com/microsite/noynoy_aquino_inauguration_2010/article.aspx?articleId=532725&publicationSubCategoryId=63>, (03 January 2011).
- lix. Christine Avendaño, *Philippine Daily Inquirer*, "Aquino: State of emergency in Maguindanao stays". 23 November 2010, <<http://newsinfo.inquirer.net/breakingnews/nation/view/20101123-304847/Aquino-State-of-emergency-in-Maguindanao-stays>>, (03 January 2011).
- lx. Agrast, Botero and Ponce. 2010. *WJP Rule of Law Index*, 10, 74, 108.
- lxi. *Vicente v. Mendoza*, "On Amending the Constitution", *IBP JOURNAL*, July-September 2006, Vol. 32, No. 3, p8.
- lxii. 1987 Constitution, Article XVII, Sections 1 and 3.
- lxiii. *Vicente v. Mendoza*, "On Amending the Constitution", *IBP JOURNAL*, July-September 2006, Vol. 32, No. 3, p15; and *Bernas, 1987 Constitution*, 1351.
- lxiv. 1987 Constitution, Article XVII, Section 2.
- lxv. 1987 Constitution, Article XVII, Sections 4.
- lxvi. *Santiago v. Comelec*, G.R. No. 127325, 19 March 1997.
- lxvii. Senate Bill No. 1733, 14th Congress, Republic of the Philippines (originally filed during the 13th Congress).
- lxviii. Jonathan Sprague and Antonio Lopez, *Asiaweek*, "Act II for Estrada, The president strives to turn the page on his struggling administration". 21 January 2000, <<http://www.cgi.cnn.com/ASIANOW/asiaweek/magazine/2000/0121/nat.phil.estrada.html>>, (08 November 2010); and Marichu Villanueva, *The Philippine Star*, "Estrada defers Concord", 09 January 2000, <<http://www.philstar.com/Article.aspx?articleId=95719&publicationSubCategoryId=63>>, (08 November 2010).
- lxix. *Official Gazette*, "Gloria Macapagal-Arroyo, Fifth State of the Nation Address, July 25, 2005", <<http://www.gov.ph/2005/07/25/gloria-macapagal-arroyo-fifth-state-of-the-nation-address-july-25-2005/>>, (08 November 2010); and Executive Order No. 453, 19 August 2005.
- lxx. *Lambino and Aumentado v. Comelec*, GR No. 174153 and *Binay, et al. v. Comelec, et al.*, GR No. 174299, 25 October 2006.
- lxxi. See 1987 Constitution, Article XI; Republic Act 6770; Republic Act 3019; Republic Act 1379; Act No. 3815, Title II and Title VII; Presidential Decree 46; Presidential Decree 749; Republic Act 7080, as amended by Republic Act 7659; A.M. No. 03-05-01-SC; Republic Act 386, Articles 27 and 32.
- lxxii. 1987 Constitution, Article XI, Section 3.
- lxxiii. 1987 Constitution, Article VI, Section 16(3).
- lxxiv. 1987 Constitution, Article VIII, Section 5(5).
- lxxv. Primary jurisdiction of the Ombudsman: "The Ombudsman may take over at any stage of such investigation in the exercise of his primary jurisdiction", (*Honasan v. The Panel of Investigating Prosecutors of the Department of Justice*, G.R. No. 159747, 13 April 2004.)
- lxxvi. *Honasan v. The Panel of Investigating Prosecutors of the Department of Justice*, G.R. No. 159747, 13 April 2004.
- lxxvii. Republic Act. 6770 (The Ombudsman Act of 1989), Section 21.
- lxxviii. Presidential Decree No. 807, Section 37; Executive Order No. 292 (Administrative Code of 1987), Book IV, Chapter VI, Section 30; Republic Act 7160 (Local Government Code), Sections 60 and 61.
- lxxix. Office of the Ombudsman v. Rolson Rodriguez, G.R. No. 172700, 23 July 2010.

- lxxx. Department of Justice, "2009 Department of Justice Annual Report". <<http://www.doj.gov.ph/files/2009Annual.pdf>>, (04 January 2011). 30-31.
- lxxxi. *Estrada v. Desierto*, G.R. Nos. 146710-15, 03 April 2001.
- lxxxii. Chan Robles Virtual Law Library, "People vs. Estrada, Criminal Case No. 26558 (Plunder)". <<http://www.chanrobles.com/cralawsandiganbayanddecisionconvictionofestradaforplunder2007.html>>, (09 October 2010); and Chan Robles Virtual Law Library, "People vs. Estrada, Criminal Case No. 26905 (Perjury)". <<http://www.chanrobles.com/cralawsandiganbayanddecisiononestradaaperjurycase2007.html>>, (09 October 2010).
- lxxxiii. Office of the Ombudsman, "Gaining Ground, The 2009 Annual Report of the Office of the Ombudsman". <<http://www.ombudsman.gov.ph/docs/statistics/ANNUAL%20REPORT%202009.pdf>>, (11 October 2010).
- lxxxiv. Democracy Web, "Accountability and Transparency: Country Studies – Philippines". <<http://www.democracyweb.org/accountability/philippines.php>>, (11 October 2010); and Christian V. Esguerra, Gil C. Cabacungan Jr., *Philippine Daily Inquirer*, "Gutierrez asked to prove judicial independence". 11 July 2010, <<http://newsinfo.inquirer.net/breakingnews/nation/view/20100711-280482/Gutierrez-asked-to-prove-judicial-independence>>, (22 December 2010).
- lxxxv. TJ Burgonio, "Arroyo inhibits self from impeach case vs Ombudsman", *Philippine Daily Inquirer*, <<http://newsinfo.inquirer.net/breakingnews/regions/view/20100929-295010/Arroyo-inhibits-self-from-impeach-case-vs-Ombudsman>>, 29 September 2010, (01 February 2011).
- lxxxvi. Gerry Baldo, *The Daily Tribune*, "Ex-AFP exec Garcia freed on P60,000 bail". 08 December 2010, <<http://www.tribuneonline.org/headlines/20101218hed2.html>>, (02 January 2011).
- lxxxvii. Official Gazette, "Briefer: The Maj. Gen. Carlos Garcia plunder case", 05 January 2011, <<http://www.gov.ph/2011/01/05/briefer-the-maj-gen-carlos-garcia-plunder-case/>>, (06 January 2011); and Leila B. Salaverria, Philip C. Tubeza and TJ Burgonio, *Philippine Daily Inquirer*, "Rage rises vs Garcia deal", 22 December 2010, front page, A8.
- lxxxviii. TJ Burgonio, "Rabusa to spill beans on 3 ex-AFP bosses", *Philippine Daily Inquirer*, 31 January 2011, front page and A17; and Michael Punongbayan, "Reyes sues Jinggoy, Rabusa for graft", *The Philippine Star*, 01 February 2011, front page and 10.
- lxxxix. 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>>, (11 October 2010).
- xc. Department of State, United States of America, "Trafficking in Persons Report (June 2009)". <<http://www.state.gov/documents/organization/123357.pdf>>, (09 October 2011) p 241.
- xc. "Corruption Perception Index 2010", *Transparency International*, <http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results>, (28 October 2010).
- xcii. Alcuin Papa and Leila B. Salaverria, *Philippine Daily Inquirer*, "PNP admits breach in discipline, Spate of crimes involving cops alarms top officials", 06 January 2011, A17.
- xciii. *Supra* note xi, Offices in the Philippine National Police with Disciplinary Authority (Table 8). 45-46.
- xciv. "Alternative report to the United Nations Committee Against Torture: The situation of torture in the Philippines", *Asian Legal Resource Centre*, 2009, <<http://www.alrc.net/PDF/ALRC-TBR-001-2009-Philippines.pdf>>, (09 January 2011).
- xcv. Civil Code of the Philippines, Article 2; and Executive Order 200 (1987).
- xcvi. La Bugal-B'laan Tribal Association, Inc., et al. vs. Ramos, et al, G.R. No. 127882, 27 January 2004.
- xcvii. De Jesus vs. Commission on Audit, G.R. No. 109023, 12 August 1998.
- xcviii. Republic of the Philippines, represented by the Department of Energy vs. Pilipinas Shell Petroleum Corporation, G.R. No. 173918, 08 April 2008; and National Electrification Administration v. Gonzaga, G.R. No. 158761, 4 December 2007.
- xcix. Administrative Code of 1987, Book VII, Chapter 2, Section 3.
- c. 1987 Constitution, Article XIV, Section 7.

- ci. RA 9499, Filipino World War II Veterans Pensions and Benefits Act of 2008; and RA 9504, An Act Amending Sections 22, 24, 34, 35, 51, and 79 of Republic Act No. 8424, as amended, Otherwise Known as the National Internal Revenue Code of 1997.
- cii. *People of the Philippines v. Siton and Sagarano*, G.R. No. 169364, September 18, 2009.
- ciii. 1987 Constitution, Article III, Section 22; and Revised Penal Code, Article 21.
- civ. Civil Code, Article 4.
- cv. Revised Penal Code, Article 22.
- cvi. Civil Code, Article 8.
- cvii. *Department of Transportation and Communication v. Cruz*, G.R. No. 178256, July 23, 2008 in *People of the Philippines vs. Estrada*, G.R. Nos. 164368-69, 02 April 2009.
- cviii. *Lazatin v. Desierto*, G.R. No. 147097, 05 June 2009; *Philippine Guardians Brotherhood, Inc. v. Commission on Elections*, G.R. No. 190529, 29 April 2010; and *De Castro v. Judicial and Bar Council and Macapagal-Arroyo*, G.R. No. 191002, 20 April 2010.
- cix. Dona Pazzibugan, "JBC paves way for Arroyo to name new Chief Justice", *Philippine Daily Inquirer*, 04 May 2010, <<http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100504-267937/JBC-paves-way-for-Arroyo-to-name-new-Chief-Justice>>, 04 February 2011.
- cx. Civil Code, Article 7.
- cx. *Garcia v. Sandiganbayan and Republic of the Philippines*, G.R. No. 170122 & G.R. No. 171381, 12 October 2009.
- cxii. Linda Luz Guerrero, Mahar Mangahas and Marlon Manuel, *Social Weather Stations*, "New SWS Study of the Judiciary and the Legal Profession Sees Some Improvements, But Also Recurring Problems", 25 January 2005, <<http://www.sws.org.ph/pr050125.htm>>, (04 December 2010).
- cxiii. Agrast, Botero and Ponce. 2010. *WJP Rule of Law Index*, 74.
- cxiv. 1987 Constitution, Article III, Section 2. See also Rules of Court, Rule 12, Section 6; and *People of the Philippines vs. Gabo*, G.R. No. 161083, 03 August 2010.
- cxv. Rules of Court, Rule 113, Section 5.
- cxvi. Revised Penal Code, Article 269 and Article 124.
- cxvii. Revised Penal Code, Article 125.
- cxviii. Rules of Court, Rule 102.
- cxix. 1987 Constitution, Article VII, Section 18 and Article III, Sections 13 and 15.
- cxx. 1987 Constitution, Article VII, Section 18.
- cxxi. "First Human Security Act rap vs Abu Sayyaf filed", *abs-cbnNEWS.com*, 27 August 2010, <<http://www.abs-cbnnews.com/nation/regions/08/26/10/first-human-security-act-rap-vs-abu-sayyaf-filed>>, (08 February 2011).
- cxxii. "The Philippines Human Security Act violates international law", *JURIST Legal News and Research*, 29 October 2007, <<http://jurist.org/hotline/2007/10/philippines-human-security-act-violates.php>>, (09 February 2011).
- cxxiii. Josh Camson, "Philippines police reluctant to enforce new anti-terror law: security adviser", *JURIST Legal News and Research*, 14 October 2007, <<http://jurist.law.pitt.edu/paperchase/2007/10/philippines-police-reluctant-to-enforce.php>>, (09 February 2011).
- cxxiv. 1987 Constitution, Article III, Section 12 (2).
- cxxv. 1987 Constitution, Article III, Section 19.
- cxxvi. 1987 Constitution, Article III, Section 19.
- cxxvii. Revised Penal Code, Article 235.
- cxxviii. Republic Act No. 9851 (An Act Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity), Section 6 (i).

- cxix. "2009 Human Rights Report: Philippines, Bureau of Democracy, Human Rights and Labor", *U.S. Department of State*, <<http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136006.htm>>, (10 November 2010). See also Commission on Human Rights of the Philippines, "On Arbitrary Arrest/Detention and other Inhumane Treatment of Prisoners/Detainees", *Annual Report 2008*. p24, and "PHILIPPINES: "Rebels and troops violated rights", *IRIN Humanitarian News and Analysis*, 26 August 2009, <<http://www.irinnews.org/Report.aspx?ReportID=85867>>, (28 October 2010).
- xxx. "Summit Overview", *A Conspiracy of Hope: Report on the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances*. Manila: Supreme Court Public Information Office, 1-3.
- xxxii. "Available Judicial Remedies in Cases of Extrajudicial Killings and Enforced Disappearances by Court of Appeals Justice Lucas P. Bersamin", *A Conspiracy of Hope*, 103.
- xxxiii. Karapatan, 2010 Year-End Report on the Human Rights Situation in the Philippines, 1 December 2010, 25.
- xxxiiii. *Ibid*, 1.
- xxxv. Jam L. Sisante and Sophia Dedace, *GMA News.TV*, "Govt to form new task force on extrajudicial killings", 10 December 2010, <<http://www.gmanews.tv/story/208037/govt-to-form-new-task-force-on-extrajudicial-killings>>, (20 December 2010).
- xxxvi. *Senate of the Philippines, 15th Congress*, "Miriam Files Bill Criminalizing Enforced Disappearance", September 3, 2010, <http://www.senate.gov.ph/press_release/2010/0903_santiago1.asp>, (10 January 2011); and HB98, HB223, HB2926, HB2966, HB3046, HB3594, *House of Representatives Legislative Information System*, <<http://www.congress.gov.ph/legis/index.php>> (accessed 10 January 2011).
- xxxvii. 1987 Constitution, Article III, Section 14 (2). See also Section 1 (a), Rule 115, Rules of Court.
- xxxviii. Rules of Court, Rule 131, Section 3(a).
- xxxix. Rules of Court, Rule 133, Section 2; and *People of the Philippines vs. De Guzman*, G.R. No. 186498, March 26, 2010.
- xl. Rules of Court, Rule 119, Section 23.
- xli. *People of the Philippines vs. Tan*, G.R. No. 167526, 26 July 2010.
- xlii. RA 7438, Section 2: *As used in this Act, "custodial investigation" shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed xxx*
- xliii. PNP-DO-DS-3-1 (PNP Manual, PNP Operational Procedures) Rule 15, Section 1.
- xliiii. 1987 Constitution, Article III, Section 14(2).
- xliv. Rules of Court, Rule 115, Section 1(c).
- xlv. Rules of Court, Rule 116, Section 6.
- xlvi. Rules of Court, Rule 116, Section 7.
- xlvii. Republic Act No. 9406, An Act Reorganizing and Strengthening the Public Attorney's Office, Amending for the Purpose Pertinent Provisions of Executive Order No. 292, Otherwise Known as the "Administrative Code of 1987", as amended, Granting Special Allowance to PAO Officials and Lawyers and Providing Funds Therefor.
- xlviii. Rules of Court, Rule 113, Sections 7 and 8; and PNP Manual, Rule 14, Section 6 (b) and (c).
- cxlix. 1987 Constitution, Article III, Section 14(2).
- cli. Rules of Court, Rule 110, Section 6.
- cli. *Go vs. Bangko Sentral ng Pilipinas*, G.R. No. 178429, 23 October 2009.
- clii. Rules of Court, Rule 116, Section 9.
- cliii. Rules of Court, Rule 117, Sections 3(a) and 4.
- cliv. Rules of Court, Rule 117, Section 3(f).
- clv. *People v. Ferrer*, 101 Phil. 234 (1957) in *Loney, et. al. vs. People of the Philippines*, G.R. No. 152644, 10 February 2006.
- clvi. Rules of Court, Rule 116, Section 8.
- clvii. Rules of Court, Rule 116, Section 1.
- clviii. Rules of Court, Rule 119, Section 1; and Republic Act No. 8493 (Speedy Trial Act of 1998), Section 7.
- clix. 1987 Constitution, Article III, Sections 14 (2) and 16.

- clx. Rules of Court, Rule 116, Section 1(e).
- clxi. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 7 and Section 13.
- clxii. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 10, and Rules of Court, Rule 119, Section 3.
- clxiii. Republic Act No. 8493 (Speedy Trial Act of 1998), Section 6.
- clxiv. 1987 Constitution, Article VIII, Section 15(1) and (2).
- clxv. ABA Judicial Reform Index, 2.
- clxvi. *Olbes v. Buemio*, G.R. No. 173319, 04 December 2009.
- clxvii. *Supreme Court Annual Report 2008*, 4-6.
- clxviii. Puno, R. 2007, *Toward an Independent, Fair and Fast Justice System in ADB Background Note*, 38.
- clxix. *Supra* note xi, 38.
- clxx. National Statistical Coordination Board, "Public Order, Safety and Justice", <http://www.nscb.gov.ph/secstat/d_safety.asp>, (04 January 2011). "Court-case disposition rate is the ratio of total cases in a year over total cases filed. A ratio of less than 1 indicates an increasing backlog; greater than 1, decreasing backlog; and equal to 1 means that the backlog is being maintained."
- clxxi. *Supra* note xi, 38-39.
- clxxii. ABA Judicial Reform Index, 2; and *Supra* note xi, 58.
- clxxiii. Leila Salaverria, "Ombudsman vows to act on 'Abadilla 5' torture complaint vs cops", *Philippine Daily Inquirer*, 03 January 2011, <<http://newsinfo.inquirer.net/breakingnews/nation/view/20110103-312295/Ombudsman-vows-to-act-on-Abadilla-5-torture-complaint-vs-cops>>, (13 January 2011).
- clxxiv. Leila B. Salaverria, "Ombudsman finally acts on torture case filed by Abadilla 5", *Philippine Daily Inquirer*, 11 January 2011, front page and A6.
- clxxv. 1987 Constitution, Article III, Section 14(2).
- clxxvi. Rules of Court, Rule 132, Sections 1 and 6.
- clxxvii. Rules of Court, Rule 116, Section 10.
- clxxviii. Rules of Court, Rule 112, Section 3(b).
- clxxix. Rules of Court, Rule 122, Section 1 and Rule 115, Section 1 (i).
- clxxx. Imposition of death penalty is now prohibited under Republic Act No. 9346.
- clxxxi. Rules of Court, Rule 122, Sections 2, 3 and 6.
- clxxxii. Rules of Court, Rule 124, Section 13.
- clxxxiii. *Dimarucot v. People of the Philippines*, G.R. No. 183975, 20 September 2010.
- clxxxiv. Rules of Court, Rule 122, Section 6.
- clxxxv. 1987 Constitution, Article III, Section 17.
- clxxxvi. 1987 Constitution, Article III, Section 12(1).
- clxxxvii. 1987 Constitution, Article III, Section 12(2).
- clxxxviii. 1987 Constitution, Article III, Section 12(3).
- clxxxix. Republic Act 7438, Section 2 (b) and (d).
- cx. PNP Manual, Rule 14, Sections 5(h) and 6(d).
- cxci. Sophia Dedace, *GMA News TV*, "Aquino orders DOJ to withdraw case vs Morong 43", 10 December 2010, <<http://www.gmanews.tv/story/207994/aquino-orders-doj-to-withdraw-case-vs-morong-43>>, (02 January 2011); and Human Rights Watch, "Philippines: Aquino's Order to Free 'Morong 43' a Positive Step, Government Should Investigate Allegations of Mistreatment", December 14, 2010, <<http://www.hrw.org/en/news/2010/12/13/philippines-aquino-s-order-free-morong-43-positive-step>>, (02 January 2011).
- cxcii. 1987 Constitution, Article III, Section 21.
- cxciii. Rules of Court, Rule 117, Sections 3(i) and 7.
- cxciv. *Cabo v. Sandiganbayan*, G.R. No. 169509, 16 June 2006.
- cxcv. *People of the Philippines v. Nazareno, et al., and Sandiganbayan*, G.R. No. 168982, 05 August 2009.

- cxvii. Republic Act 7160 (*Local Government Code of 1991*), Book III, Title 1, Chapter 7 and *Supra* note xi, 41.
- cxviii. *Supra* note xi, 42.
- cxviiii. *Supra* note xi, 43-51.
- cxvix. Department of Justice, Republic of the Philippines, *2009 Department of Justice Annual Report*, <<http://www.doj.gov.ph/files/2009Annual.pdf>>, (accessed 04 January 2011). 8.
- cc. 1987 Constitution, Article XIII, Section 18.
- cc. Philip Alston, "Report of the Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Philip Alston," (A/HRC/8/3/Add.2), 16 April 2008, Paragraph 62.
- ccii. Francis G. Escudero, *Senate of the Philippines*, Explanatory Note to Senate Bill No. 106, <<http://www.senate.gov.ph/lisdata/963982141.pdf>>, (28 November 2010).
- cciii. Alston, "Report of the Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Philip Alston," Paragraph 65.
- cciv. 1987 Constitution, Article VI, Section 26.
- ccv. Cooley, Constitutional Limitations, 172, in Isagani A. Cruz. *Philippine Political Law*. (Quezon City: Phoenix Press, Inc., 2001.) 156.
- ccvi. 1987 Constitution, Article VI, Section 26; and Bernas, *1987 Constitution*, 786.
- ccvii. "How a Bill Becomes Law", *House of Representatives, 15th Congress of the Philippines*, <<http://www.congress.gov.ph/legisinfo/index.php?l=process>>, (28 November 2010).
- ccviii. 1987 Constitution, Article III, Section 7.
- ccix. 1987 Constitution, Article VI, Section 16(4).
- ccx. 1987 Constitution, Article VI, Section 20.
- ccxi. Bernas, *1987 Constitution*, 747.
- ccxii. House of Representative, 14th Congress of the Republic of the Philippines, "*Pushing the Frontiers of Legislative Reforms: Accomplishment Report*". (Quezon City: House of Representatives, July 2008) 6.
- ccxiii. Rules of Court, Rule 3, Section 2, in *David, et al. vs. Macapagal-Arroyo, et al.*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, 03 May 2006.
- ccxiv. *David, et al. v. Macapagal-Arroyo, et al.*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, 03 May 2006.
- ccxv. *Ibid.*
- ccxvi. See *Espina, et al. v. Zamora, Jr., et al.*, G.R. No. 143855, 21 September 21, 2010; and *Province of North Cotabato, et al., vs The Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, G.R. NO. 183591, 14 October 2008.
- ccxvii. *Lozano v. Nograles*, G.R. No. 187883, 16 June 2009, and *Biraogo v. Nograles*, G.R. No. 187910, 16 June 2009.
- ccxviii. 1987 Constitution, Article VIII, Section 14.
- ccxix. 1987 Constitution, Article VIII, Section 13.
- ccxx. Rules of Court, Rule 135, Section 2.
- ccxxi. ABA Judicial Reform Index, 38-41.
- ccxxii. Christine O. Avendaño, Marlon Ramos, Gil C. Cabacungan Jr. and Philip C. Tubeza, "Noy: Massacre Trial Should be Aired Live, DOJ Bats for Transparency, People's Right to Know", *Philippine Daily Inquirer*, 18 November 2010, front page and A9; and "Supreme Court to consult Ampatuans on live coverage of trial", *The Philippine Star*, 29 November 2010, <<http://www.philstar.com/Article.aspx?articleId=634462&publicationSubCategoryId=63>>, (02 January 2011).
- ccxxiii. *Ibid.*
- ccxxiv. A.M. No. 01-4-03-SC, RE: Request Radio-TV Coverage of the trial in the Sandiganbayan of plunder case against the former President Joseph E. Estrada, Hernando Perez, et. al. vs. Joseph E. Estrada, 29 June 2001.
- ccxxv. *Ibid.*
- ccxxvi. 1987 Constitution, Article III, Section 1.

- ccxxvii. *Quinto and Tolentino, Jr. v. Commission on Elections*, G.R. No. 189698, 22 February 2010.
- ccxxviii. Civil Code, Article 14.
- ccxxix. Civil Code, Article 15.
- ccxxx. Presidential Decree No. 1083 (Code of Muslim Personal Laws of the Philippines), Articles 7 (i) and 137; "A Primer on the Code of Muslim Personal Laws of the Philippines", *Asian Institute of Journalism and Communication*, <http://www.muslimmindanao.ph/shari'a/pesonal_laws.pdf>, (08 January 2011); and "Courts for Muslims: A Primer on the Philippine Shari'a Courts", *Asian Institute of Journalism and Communication*, <http://www.muslimmindanao.ph/shari'a/code_muslim.pdf>, (08 January 2011).
- ccxxxi. Supreme Court of the Philippines, <<http://sc.judiciary.gov.ph/PhilJud.swf>>, (02 January 2011).
- ccxxxii. Supreme Court of the Philippines, *2009 Supreme Court Annual Report*, 94.
- ccxxxiii. "Courts for Muslims: A Primer on the Philippine Shari'a Courts", *Asian Institute of Journalism and Communication*, <http://www.muslimmindanao.ph/shari'a/code_muslim.pdf>, (08 January 2011), 8.
- ccxxxiv. Republic Act No. 8371 (The Indigenous Peoples Rights Act of 1997), Section 2(b).
- ccxxxv. *Ibid*, Section 15.
- ccxxxvi. *Ibid*, Section 66 and 67.
- ccxxxvii. Republic Act 9710 (The Magna Carta of Women), Section 2.
- ccxxxviii. *Ibid*, Section 12.
- ccxxxix. Implementing Rules and Regulations of Republic Act 9710, Section 15 (B).
- ccxl. 1987 Constitution, Article III, Section 11.
- ccxli. Rules of Court, Rule 3, Section 21, and Rule 141, Section 19; and A.M. No. 08-11-7-SC (IRR), Rule on the Exemption from the Payment of Legal Fees of the Client of the National Legal Aid Committee and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines, September 10, 2009.
- ccxlii. *Algura v. The Local Government Unit of the City of Naga*, G.R. No. 150135, October 30, 2006.
- ccxliii. *Supra* note xi, 53.
- ccxliv. "Updated Medium-Term Philippine Development Plan, 2004-2010", *National Economic Development Authority (NEDA)*, <http://www.neda.gov.ph/plans_and_reports/MTPDP/Updated_MTPDP%202004%20to%202010.pdf>, (23 November 2010). 224.
- ccxlv. *Supra* note xi, 53
- ccxlv. "DOJ Launches IRR on ADR Law", *Department of Justice*, 27 January 2010, <<http://www.doj.gov.ph/index.php?rt=&tsq1=51>>, (24 February 2011).
- ccxlvii. *Supreme Court Annual Report 2008*, 4-6
- ccxlviii. Jose Midas P. Marquez, "Bringing Our Courts Closer to Our People (A Yearend Report)", *Supreme Court of the Philippines*, <<http://sc.judiciary.gov.ph/Bringing.pdf>>, (09 January 2011); and *Supreme Court Annual Report 2008*, 4-6
- ccxlix. Rules of Court, Rule 110, Section 1; Rule 12, Sections 1 and 7.
- ccl. Rules of Court, Rule 112, Section 4.
- ccli. Joyce Pangco Pañares, "Arroyo orders Agra: Meet with mutinous prosecutors", *Manila Standard Today*, 22 April 2010, <<http://www.manilastandardtoday.com/insideNews.htm?f=2010/april/22/news1.isx&d=2010/april/22>>, (01 January 2011).
- cclii. Dona Pazzibugan, "Prosecutors mutiny in DoJ, Agra's absolution of 2 Ampatuans triggers protest", *Philippine Daily Inquirer*, 20 April 2010, <<http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100420-265288/Prosecutors-mutiny-in-DoJ>>, (01 January 2011).
- ccliii. *Edu Punay*, "Agra reverses own resolution on Ampatuan case", *The Philippine Star*, 06 May 2010, <<http://www.philstar.com/Article.aspx?articleid=572739>>, (02 January 2011); and Benjamin B. Pulta, "CA urged to rule on exclusion plea", *The Daily Tribune*, 23 November 2010, <<http://www.tribuneonline.org/nation/20101123nat1.html>>, (02 January 2011).
- ccliv. Alston, "Report of the Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Philip Alston", 45-59.

- cclv. John Unson, "Ampatuan and Mangugagatu clans were allies once", *The Philippine Star*, 23 November 2010, pages 6-7; and "Profile: Andal Ampatuan Jr", *Aljazeera*, 27 November 2009, <<http://english.aljazeera.net/news/asia-pacific/2009/11/200911261411748918.html>>, (01 January 2011).
- cclvi. Cynthia Balana, "Arroyo 'aided' Ampatuans—HRW, NY rights body says clan linked to 50 other abuses", *Philippine Daily Inquirer*, 17 November 2010, <<http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20101117-303651/Arroyo-aided-AmpatuansHRW>>, (17 November 2010); and "Local Ruling Family's Abuses Implicate Government", *Human Rights Watch*, 16 November 2010, <<http://www.hrw.org/en/news/2010/11/15/philippines-local-ruling-family-s-abuses-implicate-government>>, (30 December 2010).
- cclvii. Aie Balagtas, "A Year After Massacre, Delays in Trial Persist" *The Philippine Star*, 23 November 2010. Front page and 15; and Alexis Romero, "20 Teams formed to track massacre suspects", *The Philippine Star*, 23 November 2010. 8.
- cclviii. *Ibid*.
- cclix. Human Rights Watch, "They Own the People", November 2010, <<http://www.hrw.org/en/reports/2010/11/16/they-own-people-0>>, (31 December 2010). 3-4.
- cclx. *Ibid*; and Republic Act No. 6975 (as amended by Republic Act No. 8551), Section 51.
- cclxi. Republic Act No. 7309, Section 4.
- cclxii. Revised Penal Code, Article 100.
- cclxiii. Revised Penal Code, Article 104.
- cclxiv. Civil Code, Articles 27 and 32.
- cclxv. Seth Mydans, "First Payments Are Made to Victims of Marcos Rule" *The New York Times*, 1 March 2011, <<http://www.nytimes.com/2011/03/02/world/asia/02philippines.html>>, (8 April 2011).
- cclxvi. AP and Rainier Allan Ronda, "Martial law victims to get \$1,000 each", *The Philippine Star*, 15 January 2011, <<http://www.philstar.com/Article.aspx?articleId=648275&publicationSubCategoryId=63>>, (20 February 2011).
- cclxvii. Teresa Cerojano (Associated Press), "Marcos victims in Philippines to get compensation", *Boston.com*, 24 February 2011, <http://www.boston.com/news/world/asia/articles/2011/02/24/philippines_marcos_victims_to_get_compensation/>, (25 February 2011).
- cclxviii. Diane A. Desierto, "Philippines: Ongoing institutional persecution of a law school faculty" (An article by Professor Diane Desierto of the University of the Philippines published by the Asian Human Rights Commission), 22 October 2010, <<http://www.ahrchk.net/statements/mainfile.php/2010statements/2888>>, (03 February 2011).
- cclxix. "Supplemental Motion Alleging Plagiarism in the Supreme Court", *Harry Roque's Blog*, 18 July 2010, <<http://harryroque.com/2010/07/18/supplemental-motion-alleging-plagiarism-in-the-supreme-court/>>, (25 February 2011).
- cclxx. 2009 Department of Justice Annual Report, 8-9.
- cclxxi. Philip Alston, "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum, Follow-up to country recommendations – Philippines", paragraphs 52-54.
- cclxxii. *Ibid*, 52-54.
- cclxxiii. ALRC, "Philippines: Reforms required".
- cclxxiv. Alston, "Follow-up to country recommendations – Philippines", paragraphs 52-54.
- cclxxv. ALRC, "Philippines: Reforms required".
- cclxxvi. *Ibid*.
- cclxxvii. 1987 Constitution, Article VIII, Section 7.
- cclxxviii. 1987 Constitution, Article VIII, Section 8.
- cclxxix. 1987 Constitution, Article VIII, Section 9.
- cclxxx. 1987 Constitution, Article VII, Section 4(1) and Article VIII, Section 9.
- cclxxxi. JBC - 009 (Rules of the Judicial and Bar Council), Rule I, Section 9.
- cclxxxii. Guerrero, et al. *Social Weather Stations*, "New SWS Study of the Judiciary and the Legal Profession."

- cclxxxiii. *Biraogo v. The Philippine Truth Commission of 2010 / Lagman, et al. v. Ochoa, Jr., et al. G.R. No. 192935 & G.R. No. 193036, 07 December 2010.*
- cclxxxiv. Sophia M Dedace, *GMA News TV*, "Ex-DOJ chief's group slams De Lima's statements vs. SC", 13 December 2010, <<http://www.gmanews.tv/story/208223/ex-doj-chiefs-group-slams-de-limas-statements-vs-sc>>, (08 January 2011).
- cclxxxv. Edu Punay, "SC: Truth Body Unconstitutional", *The Philippine Star*, 08 December 2010, front page and 12.
- cclxxxvi. *De Castro v. Judicial and Bar Council and Macapagal-Arroyo, G.R. No. 191002, 20 April 2010.*
- cclxxxvii. 1987 Constitution, Article VIII, Section 11.
- cclxxxviii. 1987 Constitution, Article XI, Section 2.
- cclxxxix. 1987 Constitution, Article VIII, Section 10.
- ccxc. 1987 Constitution, Article VIII, Section 12.
- ccxci. 1987 Constitution, Article VIII, Sections 5(5), 5(6) and 6.
- ccxcii. AM No. 08-8-11-CA, Re: Letter of Presiding Justice Conrado M. Vasquez, Jr. on CA-GR SP No. 103692, September 9, 2008, as cited in Supreme Court Annual Report 2008, p6.
- ccxciii. Supreme Court of the Philippines, *2009 Supreme Court Annual Report*, 11.
- ccxciv. Diane A. Desierto, "Philippines: Ongoing institutional persecution of a law school faculty" (An article by Professor Diane Desierto of the University of the Philippines published by the Asian Human Rights Commission), 22 October 2010, <<http://www.ahrchk.net/statements/mainfile.php/2010statements/2888>>, (03 February 2011).
- ccxcv. A.M. No. 10-7-17-SC - In the Matter of the Charges of Plagiarism, etc, Against Associate Justice Mariano C. Del Castillo, 12 October 2010, <<http://sc.judiciary.gov.ph/jurisprudence/2010/october2010/10-7-17-SC.htm>>, (03 February 2011).
- ccxcvi. A.M. No. 10-7-17-SC – In the Matter of the Charges of Plagiarism, etc, Against Associate Justice Mariano C. Del Castillo, 15 October 2010, <http://sc.judiciary.gov.ph/jurisprudence/2010/october2010/10-7-17-SC_sereno.htm>, (03 February 2011). See also the Supreme Court's 08 February 2011 Resolution denying the motion of reconsideration of this decision: <<http://sc.judiciary.gov.ph/jurisprudence/2011/february2011/10-7-17-SC.htm>>.
- ccxcvii. "Restoring Integrity" (A Statement by the Faculty of the University of the Philippines College of Law on the Allegations of Plagiarism and Misrepresentation in the Supreme Court), University of the Philippines College of Law, 27 July 2010, <http://law.upd.edu.ph/index.php?option=com_content&view=article&id=166:restoring-integrity-a-statement-by-the-faculty-of-the-up-college-of-law&catid=52:faculty-news&Itemid=369>, (03 February 2011).
- ccxcviii. A.M. No. 10-10-4-SC - Re: Letter of the UP Law Faculty entitled "Restoring Integrity: A Statement by the Faculty of the University of the Philippines College of Law on the Allegations of Plagiarism and Misrepresentation in the Supreme Court.", 19 October 2010, <<http://sc.judiciary.gov.ph/jurisprudence/2010/october2010/10-10-4-SC.htm>>, (03 February 2011).
- ccxcix. Michael Lim Ubac, "Cleared by SC, justice faces impeachment case", *Philippine Daily Inquirer*, 15 December 2010, <<http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20101215-309035/Cleared-by-SC-justice-faces-impeachment-case>>, (04 February 2011).
- ccc. Bar Matter No. 850, Adopting the Revised Rules on the Continuing Legal Education for Members of the Integrated Bar of the Philippines, 22 August, 2000, amended on 02 October 2001.
- ccci. *2009 Department of Justice Annual Report*, 4.
- cccii. *2009 Department of Justice Annual Report*, 2-3.
- ccciii. *2009 Department of Justice Annual Report*, 23.
- ccciv. "About Us", *Philippine Judicial Academy*, <http://philja.judiciary.gov.ph/about_us_academy.htm>, (07 December 2010); and Republic Act No. 8557, An Act Establishing the Philippine Judicial Academy, Defining its Powers and Functions, Appropriating Funds Therefore, and for Other Purposes.
- cccv. *Supra* note xi, 36.
- cccvi. 1987 Constitution, Article VIII, Section 3.
- cccvii. Edu Punay, "Judiciary budget cut: Supreme Court warns of revolt", *The Philippine Star*, 13 September 2010, <<http://www.philstar.com/Article.aspx?articleid=611539>>, (06 January 2011).

- cccviii. *Ibid*; and Lira Dalangin-Fernandez, "Judiciary's budget woes continue, 2011 budget offers no solution", *Inquirer.net*, 06 September 2010, <<http://newsinfo.inquirer.net/topstories/topstories/view/20100906-290798/Judiciarys-budget-woes-continue-2011-budget-offers-no-solution>>, (06 January 2011).
- cccix. *Supra* note xi, 35.
- cccx. Supreme Court of the Philippines, *2009 Supreme Court Annual Report*, 57.
- cccxi. *Supra* note xi, 33-34.
- cccxii. "Funding the Judiciary: briefer on the Judicial budget for FY 2011", *Official Gazette*, 08 December 2010, <<http://www.gov.ph/2010/12/08/funding-the-judiciary-briefer-on-the-judicial-budget-for-fy-2011/>>, (06 January 2011).
- cccxiii. Jess Diaz, "Supreme Court, judiciary fail to get additional funds from Palace, Congress" *The Philippine Star*, 31 December 2010, <<http://www.philstar.com/Article.aspx?articleid=644029>>, (accessed 06 January 2011).
- cccxiv. *Supra* note xi, 40.
- ccc xv. NEDA, *Updated Medium-Term Philippine Development Plan, 2004-2010*, 228.
- cccxvi. Supreme Court Annual Report 2008, 6.
- cccxvii. Guerrero, et al. *Social Weather Stations*, "New SWS Study of the Judiciary and the Legal Profession".
- cccxviii. *Ibid*.
- cccix. "Hong Kong has best judicial system in Asia: business survey", *The Economic Times*, 14 September 2008, <<http://economictimes.indiatimes.com/PDAET/articleshow/3482080.cms>>, (04 February 2011). Hong Kong (1.45), Singapore (1.92), Japan (3.50), South Korea (4.62), Taiwan (4.93), Philippines (6.10), Malaysia (6.47), India (6.50), Thailand (7.00), China (7.25), Vietnam's (8.10), Indonesia (8.26).
- cccxx. *2009 Department of Justice Annual Report*, 23.
- cccxxi. *2009 Department of Justice Annual Report*, 24.
- cccxxii. *Ibid*, 24-25.
- cccxxiii. Republic Act No. 9406, An Act Organizing and Strengthening the Public Attorney's Office.
- cccxxiv. Public Attorney's Office, "Accomplishment Report 2009: Narrative Report" <http://www.pao.gov.ph/78/Accomplishment-Report-2009:-Narrative-Report>, (19 February 2011).
- cccxxv. B.M. No. 2012 (Proposed Rule on Mandatory Legal Aid Service for Practicing Lawyers), February 10, 2009.
- cccxxvi. Jay B. Rempillo, "SC Defers Mandatory Legal Aid Service Till 2010", *Supreme Court of the Philippines*, 23 June 2009, <<http://sc.judiciary.gov.ph/news/courtnews%20flash/2009/06/06230901.php>>, (06 January 2011).
- cccxxvii. "Lawyers protest", *Sun Star Cebu*, 21 June 2010, <<http://www.sunstar.com.ph/cebu/lawyers-protest>>, (06 January 2011).
- cccxxviii. Republic Act No. 9999, An Act Providing a Mechanism for Free Legal Assistance and for other Purposes.
- cccxxix. G.R. No. 183975, September 20, 2010, GREGORIO DIMARUCOT y GARCIA vs. PEOPLE OF THE PHILIPPINES.
- cccxxx. "Philippine justice chief wants guns for lawyers, judges," *Agence France-Presse*, 05 December 2010, <<http://news.ph.msn.com/regional/article.aspx?cp-documentid=4502496>> (07 December 2010); and Edu Punay, "De Lima wants guns for judges", *The Philippine Star*, 06 December 2010, <<http://www.philstar.com/Article.aspx?articleid=636654&publicationSubCategoryId=63>>, (20 December 2010).
- cccxxxi. Jay B. Rempillo, "Chief Justice Puno Condemns San Juan Judge's Killing, Calls for Early Resolution of Case", 09 December 2008, *Supreme Court of the Philippines*, <<http://sc.judiciary.gov.ph/news/courtnews%20flash/2008/12/12090801.php>>, (17 December 2010); and Memorandum Circular No. 10 – 2007, Providing an Interim Security Procedure to Improve the Security for Justices and Judges, issued 23 August, 2007.
- cccxxxii. Atty. Allan C. Contado, interview, 05 October 2010, Manila.
- cccxxxiii. Tetch Torres, "SC allows judges to carry firearms", *INQUIRER.net*, 04 April 2008, <http://newsinfo.inquirer.net/topstories/topstories/view/20080404-128398/SC_allows_judges_to_carry_firearms>, (05 January 2011).
- cccxxxiv. Jay B. Rempillo, "PhP1Million Reward for Informants, Witnesses in Judge's Killings; Security Training for Judges Continues", *Supreme Court of the Philippines*, 11 December 2008, <<http://sc.judiciary.gov.ph/news/courtnews%20flash/2008/12/12110801.php>>, (17 December 2010); and "Personal Security Training for Judges", *Supreme Court of the Philippines*, 7 October 2010, <<http://sc.judiciary.gov.ph/news/courtnews%20flash/2010/10/10071002.php>>

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