



FINAL REPORT ON
THE RESEARCH OF LEGAL SYSTEM OF THE PHILIPPINES
AND LEGAL INFORMATION CONCERNING SOCIETY,
CULTURE, POLITICS AND SECURITY OF THE PHILIPPINES

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Chapter 1

An Overview of Socio-Cultural Issues in the Philippines

1.1 Socio-Cultural Policy

Social justice is clearly important in the Philippines. The highest law of the land, the constitution, says so. In fact, Article XIII of the 1987 Philippine Constitution is entitled Social Justice and Human Rights. Section 1 of the said article says that the highest priority will be given by Congress “to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.”¹

In addition, the constitution provides that social justice may be attained through various means including giving full protection to labor under Section 3 of Article XIII, “undertaking an agrarian reform program founded on the right of farmers and regular farmworkers who are landless” and for other farmworkers to receive a just share of the fruits of the land they till under Section 4 to Section 10; a “continuing program of urban land reform and housing which will make available at affordable cost, decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens; protection for working women by providing safe and healthful working conditions; upholding the rights of people’s organization to effective and reasonable participation at all levels of social, political, and economic decision-making;” and Section 17 the creation of the Commission on Human Rights which will provide “appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad.”²

¹ 1987 Philippine Const. art. XIII, § 1., *available at* <http://www.lawphil.net/consti/cons1987.html> (last visited October 10, 2015)

² 1987 Philippine Const. art. XIII., *available at* <http://www.lawphil.net/consti/cons1987.html> (last visited October 10, 2015)

1.1.1 Nature and Characteristic of the Philippines' Society

(1) Historical Background

The Philippines bears strong Spanish and American influences combined as a result of being colonized by the two countries. It has been said that “the country is culturally strongly Euro-American”³ and that “Philippine society is a unique blend of diversity and homogeneity”. History of the Philippines can be divided into three period which are Pre-Spanish Period (60,000 B.C.-1521), Spanish Colonization Period (1521-1898) and American Colonization Period (1898-1946).

(1.1) Pre-Spanish Period (approx. 60,000 B.C.-1521)

There are various theories explaining the origin of population in the Philippine archipelago, but according to the characteristics of the Philippine people nowadays, with diverse physical and cultural characteristics, it is likely that there were several immigrations in different time and places. This is due to the latest evidence from the discovery in 2007 showing that there are human beings living in the Philippine archipelago for 67,000 years. Archaeologists call them Callao Man⁴ which is the oldest information about human beings in the Philippines. Later on, there were tribes from Indonesia such as Austronesian and Negrito who introduce cultivation culture to Filipinos and the Malay tribe that brought Islamic culture into the Philippines. In addition, Philippine in this era was also associated with India and China which originated Filipino-Chinese population who influenced the economy of the Philippines until today. In the south, there were also Arabs who came to contact and trade, bringing Islamic religion into proliferation.

In this period, the governance of the Philippines had no complexity. Filipinos lived in scattered villages which were called Barangay that were independent from each other in form of agricultural society, worshiping spirits and Islam (especially in Mindanao of Southern Philippines). Each village was headed by Datu as a chief of the village, governing by patronage system. These Barangays are considered important economic

³ Cultural life (No date) available at <https://www.britannica.com/place/Philippines/Cultural-life> (last visited August 13, 2016)

⁴ Office of the Royal Society, *Historic Encyclopedia of Neighbors in ASEAN Society*, (Bangkok: Office of the Royal Society, 2005), p. 248.

and political units which are the nature of family governance of Philippine politics nowadays.⁵

(1.2) Spanish Colonization Period (1521-1898)

Arrival on the Philippine archipelago in 1521 of Ferdinand Magellan, a Portuguese marine explorer who sailed for the Spanish king were considered the beginning of a new chapter of the history of the Philippines because this was the first time that Filipinos had touched European influence and received Roman Catholic culture. This resulted to the change of social, economic and political structure of the Philippines. The Spanish as a colonial ruler had divided social classes into three classes which were the high class which were composed of Spanish ruling class who were the only group that could serve for public official and could possess land; the middle class which were half-Spanish, half-native. Men were called Mestizo and women were called Mestiza. These class could become public official and later they had participated in Philippine liberation.⁶ The lowest class was the natives who had to rent land and whose rights were limited, called Indio.

In addition, Spain also modified the system of governance from Barangay village system, which was independent from each other and headed by a group of senior people of each village, into metropolitan and provincial governance system. Therefore, villages would be subjected to district and all were centralized. Since all governing units were under dominance of Spanish and the indigenous were tyrannized by class regime, the resistance nationalist movement for liberation was then established which led to the revolution in 1896.⁷

(1.3) American Colonization Period (1898-1946)

While Filipinos were fighting against Spain for independence, on the other side, Spain was also fighting against colonials in Cuba. Likewise, such battle affected the interest of United States in Cuba. Therefore, United States, allied with anti-Spain Filipino

⁵ *Ibid.*, 249.

⁶ Princess Maha Chakri Sirindhorn Anthropology Center, Database of Southeast Asian Sociocultural Information, *available at* http://www.sac.or.th/databases/southeastasia/subject.php?c_id=7&sj_id=62 (last visited May 8, 2018).

⁷ Encyclopedia Britannica, Philippine Revolution, *available at* <https://www.britannica.com/event/Philippine-Revolution> (last visited May 9, 2018).

troops, then declared war against Spain and sent battleships to Philippine fleets to attack Spanish troops and finally won the war. The independence was declared in 1898 and Malolos Constitution was promulgated to establish sovereignty and found principles of various rights. However, at that time United States had a policy to expand their influence outside the territory, especially to pacific region. Therefore, she wanted to annex the Philippines as a colony which caused the new battle between Filipinos and American troops (Philippine- American War). The United States finally won the war which brought the Philippines to the period of American Colonization.⁸

Nature of Philippines' society had changed when being ruled by United States because her governing policy was to grant more rights and liberty, compared with Spanish governance. United States also modernized the education system, for example, systemizing compulsory education, founding institutes for higher education and adult education in accordance with American-based teaching and learning program, using English along with Spanish as a medium language. Indigenous people were taught and trained for democratic and self-governance, municipal and decentralized administration, constitution drafting, systemizing political parties and independent organizations which then became the foundation of the Philippines' administration later on.⁹

(2) Nature of Present Society of the Philippines

Because American culture had played an important role since the colonization period since 1898 until present, American reading materials, television shows, Hollywood movies and American music are prevalent and familiar with almost all Filipinos. Given that English is one of the national languages of the Philippines, it is easy for Filipinos to grasp and appreciate the influences from American sponsored materials, which makes American culture becomes another social identity of the Philippines.

In addition, the Philippines are comprised of many islands, residing with various original tribes with various ethnics, including with other ethnics who immigrated such as western Christians, Chinese and Arab who came for commercial trading since Spanish colonization period, each of them brought their own culture into the territory. Therefore,

⁸ *Supra* note 4, at 262.

⁹ *Supra* note 6.

languages and culture of the Philippines are diverse, moreover, the ruling of Spain and United States have modernized the original tribal society into modern political society. These result in the Filipinos with cultural blend of indigenous, Muslim, Spanish and American, which means they have tight and close relationship in family like Spanish with American-styled modern.¹⁰

For religious aspect, Spain as a colonial ruler, had brought Roman Catholicism for propagation as a tool for governance. Therefore, the Philippines in present ranks 4th place for the country with most catholic prayers (83 % of total population). Filipinos' way of life involve religion, from womb to tomb. They believe that birth control violates catholic teachings, which leads to big family and over-population. The society is also influenced by aristocracy and patronage ideology from Spain and customary family value and seniority system which results in acceptance of authoritarianism. These cause problems of poverty and corruption that the society of the Philippines have to encounter until present day. Namely, the culture of living life of Filipinos is mixture of Asian, European and American culture, especially American culture which enroot self-confidence to Filipinos, making them become extroverted and dare to express their critic opinion no matter how radical the issues are.¹¹

Another uniqueness of Philippine culture and society is a tendency to mask a problem in order to save face or for appearance's sake. One example is what transpired in January 2015 when Pope Francis conducted a five-day visit with the theme "Mercy and Compassion". The last time a pope visited was when Pope John Paul II did in 1994. The visit of Pope Francis was further made controversial when "some 2,000 activists gathered in Manila to greet the pope by unfurling banners highlighting some of the issues that affect the nation's poor, such as hunger, landlessness and injustice".¹² During his visit Pope

¹⁰ *Supra* note 4, at 244.

¹¹ Asean Information Center, Government Public Relations Department, Nature of Society and Culture of the Philippines, *available at* http://Thailand.prd.go.th/1700/ewt/aseanthai/ewt_news.php?nid=895&filename=aseanknowledge (last visited October 10, 2015).

¹² Mong Palatino (2015). How the Philippines hid social justice issues from Pope Francis, *available at* <http://www.pri.org/stories/2015-01-19/how-philippines-hid-social-justice-issues-pope-francis> (last visited March 8, 2016).

Francis preached “his usual message of social justice to a crowd of more than five million Filipinos”.¹³ On the other hand “some local activists say their own calls for justice were silenced during the papal trip”. According to activist leader Nato Reyes the Philippine government “stopped various groups from trying to tell the pope about the ‘real situation’ of the Philippines.” Reyes said that “the government also reportedly ‘detained’ and ‘caged’ street children a few days before the pope's arrival.” On its part, the government said, “the strict security detail is a necessary precaution.”¹⁴

For economic aspect, Philippine still has to encounter problem on inequity of income and quality of life. The numbers of low-income people are still high. Statistically, 26.5 percent of the total population live under poverty line, which includes 10 million of women. While Philippine is full of natural resource but the poor cannot access to it because of exclusion, instability of rights on land possession, inaccessibility to technology or because of degradation of those resource.

In 2013, from the report of United Nations Development Project (UNDP), Philippine had scored 0.418 for Gender Inequality Index which shows gender inequality of participation in labor market, in political represent and access to public health service.¹⁵

Obtaining independence after World War II and diversity of ethnic and culture encourage the Philippines government to carry out the policy which focuses on rights and liberty in accordance with U.S., including naming government agencies and administrative regime after U.S., especially the presidential system. This made the Philippines, during the beginning of independency, became one of the Asian nations with great leap on economic growth. However, when time passed, patronage system, administration under cronyism, deep-rooted corruption and weak law enforcement have deteriorated and restrained Philippines into various troubles such as over-population, poverty and narcotic drugs.

Nevertheless, on 30th June 2016, President Rodrigo Duterte gave an inauguration speech stating that he fully realizes various troubles that Philippines is encountering,

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ United Nations Development Programme (UNDP), About the Philippines, *available at* <http://www.ph.undp.org/content/philippines/en/home/countryinfo.html> (last visited January 28, 2018).

especially corruption and drugs which are gross and deep-rooted than anyone can imagine, including crisis of faith that people have against government agencies and legal channels. He declared that he will fight against these troubles with his best effort with every method even though some people might be against it because it precariously violates religious principals and the rule of law. However, he has to do in order to lead Philippines along the way to the bright future no matter how laborious and rugged such way is.

1.1.2 Policies on Socio-Cultural in the Past Period

Philippine is a multi-cultural society which contain diverse culture, both western, eastern and tribal. It is also a decentralized society since pre-colonization era, and even after being colonized, it was culturally and administratively dominated by Spain and America. Therefore, it is sensitive and difficult to prescribe any policy, direction or identity of national culture. Consequently, before 1987, which was the year that the present constitution was promulgated with prescription of social and cultural policy of present day, there was neither any laws in the Philippines that involve determination to protect cultural heritage or indigenous people nor laws that try to find the peaceful solution for arm-conflict with Muslim militant separatists in southern region¹⁶ who use force and arm to fight, for long, against central government to claim for rights to self-governance.¹⁷ However, what has remained constant over time is respect for religious beliefs.

¹⁶ The expansion of Islamic culture in Philippine islands by sultan of Brunai became so widespread in the beginning of 16th century that it could be said that "If Spanish arrived Philippine half a century later, Muslim Filipino might be so generic that they could be found all over the islands." *Supra* note 4, at 250. (See C. Muslim Separatists in southern region).

¹⁷ Aileen V. Sicat. (February 10, 2018) Lecturer of Lyceum of the Philippines University College of Law [interview].

1.1.3 Policies on Socio-Cultural in Present

A. Preservation of cultural heritage

Policies on Socio-Cultural have been reflected in the form of various laws of Philippine, such as the National Cultural Heritage Act¹⁸ or Republic Act No. 10066 which was signed into law in 2009. A salient feature of the said law is it providing measures to protect historic buildings that are more than fifty years old.

The drafting of what is now known as the National Cultural Heritage Act “aimed to provide for the protection, preservation and promotion of the nation’s cultural heritage”.¹⁹ The enacted law “was the product of almost eight working versions since 1994. It is an intensive output that consolidates all the pending bills in both the Senate and the House of Representative²⁰ relative to the protection and preservation efforts on Philippine culture and the arts making RA No. 10066 an “omnibus cultural heritage law”. The said RA synergizes all efforts that would strengthen the mandates of the National Commission for Culture and the Arts (NCAA) and the attached cultural agencies with respect to the conservation and preservation of our cultural and natural heritage.”²¹

The law defines the sharing of responsibilities among the concerned government agencies and the private sector. More than that, the law came about due to “a need to strengthen the police power of the Commission and the Cultural Agencies in deputizing local and national law enforcement agencies”.²²

Other highlights of the law as provided by the NCAA itself:

- 1) The “redefinition of cultural properties to encompass tangible and intangible properties (Section 3);

¹⁸ REPUBLIC ACT NO. 10066 (2010), *available at* http://www.lawphil.net/statutes/repacts/ra2010/ra_10066_2010.html (last visited October 10, 2015)

¹⁹ NCAA (2015). REPUBLIC ACT NO. 10066 *available at* <http://ncca.gov.ph/republic-act-no-10066/> (visited March 8, 2016)

²⁰ http://www.unesco.org/culture/natlaws/media/pdf/philippines/ph_backgroundculthrtgelawinstit_engorof.pdf (last visited February 14, 2018).

²¹ *Ibid.*

²² *Ibid.*

- 2) Maximizing the NCCA network of interfaced public and private support for protection of the national heritage (Section 25 to Section 30);
- 3) Designation of Heritage Zones to enhance sense of place; and to protect both cultural properties and histories (Section 12 and Section 13);
- 4) The use of sustained cultural education — through the national formal and non-formal schooling, as well as the informal programs run by local governments — in order to generate people support for conservation (Section 38);
- 5) Sustaining local culture studies in formal, non-formal, and informal education.”²³

B. Protecting the Indigenous Peoples

The Philippines is an archipelago nation with population of diverse ethnics, including various indigenous people, therefore, protecting them as a cultural and social heritage is considered a significant concern for Filipino government. That is why there is Republic Act 8371 known as “The Indigenous Peoples Rights Act of 1997.”²⁴ The said law “recognizes, protects and promotes the rights of indigenous cultural communities/indigenous people” in the Philippines. The said law defines indigenous cultural communities/ indigenous peoples as referring “*to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, become historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social,*

²³ *Ibid.*

²⁴ Republic Act No. 8371 (1997), available at <http://www.gov.ph/1997/10/29/republic-act-no-8371/> (last visited October 10, 2015).

economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.”²⁵

Going by the definition, IPs have resisted political, social and cultural inroads of colonization and have differentiated themselves from majority of Filipinos. Hence, they are deemed more in need of special protection given their isolation from the way of life adapted by majority of Filipinos. The law aims to give them equal footing.

C. Dealing with Muslim Separatist Movement in southern part of the Philippines

As aforementioned that Philippine is a multi-cultural society. Majority of people use religion to anchor their mind for a long time. Hence, using religion for political purpose is inevitable and the movement of Muslim Separatist in southern part of the Philippines is a good proof of it. However, arguably “[T]he remote causes of the Muslim separatist rebellion that engulfed much of the southern Philippines in the 1970s and continues in parts of the South today may be found in the policies and practices of the Philippine colonial and national states.”²⁶ As summarized by Thomas M. McKenna: “Early American rule in the Muslim Philippines followed a pattern quite similar to American governance of the rest of the colony--pious paternalism punctuated by brutal pacification operations”²⁷.

In 2014 the Moro Islamic Liberation Front rebel group in the Philippines has signed a peace deal with the Philippine government.²⁸ The Comprehensive Agreement on the Bangsamoro “aims to end armed violence in Mindanao which has by some estimates cost the lives of at least 120,000 people since the 1970s and displaced some two million people”²⁹.

²⁵ Section 3 of Republic Act No. 8371

²⁶ Thomas M. McKenna (No date). The Origins of the Muslim Separatist Movement in the Philippines *available at* <http://asiasociety.org/origins-muslim-separatist-movement-philippines> (last visited August 13, 2016).

²⁷ *Ibid.*

²⁸ Philippines signs landmark deal to end Muslim uprising (2014) *available at* <http://www.bbc.com/news/world-asia-26766215> (last visited August 6, 2016).

²⁹ Government of the Philippines and Moro Islamic Liberation Front achieve historic peace agreement to end conflict in Mindanao (No date) *available at* <http://www.hdcentre.org/en/resources/news/detail>

The said Comprehensive Agreement contains “four additional annexes to the Framework Agreement on the Bangsamoro (FAB), on Transitional Arrangements and Modalities, Revenue Generation and Wealth Sharing, Power Sharing, and Normalization, as well as an Addendum on the Bangsamoro Waters and Zones of Joint Cooperation”³⁰ All of them had been gradually signed by Philippine Government and Moro until finished in January 2014, compared to the (FAB) which was signed by the parties in October 2012.

According to Malaysian Prime Minister Najib Razak: "In signing this agreement, the two sides have looked not to the problems of the past, but to the promise of the future."

³¹ He further said: "After so many years of conflict, and so many lives lost, it is a momentous act of courage."³²

D. On diversity of cultural languages

Because the Philippines is an archipelago nation which comprised of 7,500 islands with population of 102,000,000 and 175 communicative languages, cultural diversity is very high. Therefore, prescribing policies on cultural diversity and languages with deliberate consideration is significant in order to simultaneously maintain solidarity of the nation. As a consequence, it led to the enactment of Republic Act 10533 or the Enhanced Basic Education Act of 2013 which “mandates the use of the mother tongue as the medium of instruction from kindergarten to third grade before English is introduced”³³. The reason for the use of the mother tongue language is “to make it easier for young students to grasp basic concepts”³⁴. Secretary of Education Armin Luistro

/article/1395914377-government-of-the-philippines-and-moro-islamic-liberation-front-achieve-historic-peace-ag/ (last visited August 6, 2016).

³⁰ *Ibid.*

³¹ *Supra* note 28.

³² *Supra* note 28.

³³ Delon Porcalla (May 16, 2013). K-12 for all, use of mother tongue now law, *available at* <http://www.philstar.com/headlines/2013/05/16/942653/k-12-all-use-mother-tongue-now-law> (last visited August 6, 2016)

³⁴ Sec. Luistro: Using mother tongue makes it easier for students to learn (August 9, 2013), *available at* <http://www.gov.ph/2013/08/09/sec-luistro-using-mother-tongue-makes-it-easier-for-students-to->

emphasized the need for teachers to adjust to the needs of the students and to use the language the students are familiar with to teach the necessary concepts.³⁵

The focus of mother tongue as a subject is “the development of reading and speaking from Grades 1 to 3. As a medium of instruction, the mother tongue is used in all learning areas from Kinder to Grade 3 except in the teaching of Filipino and English subjects”. English and Filipino are the two national languages. Filipino is introduced to school children in the first semester of the first grade for oral fluency (speaking). On the other hand, reading and writing in Filipino is taught starting the second semester of the first grade.

Among the Philippine languages which the Department of Education has teaching materials are: Bahasa- Sug, Bicolano, Cebuano, Chavacano, Hiligaynon, Ilokano, Kapampangan, Maguindanaoan, Maranao, Pangasinense, Tagalog, and Waray-waray. The Department of Education is likewise preparing materials as well in Ybanag, Ivatan, Sambal, Aklanon, Kinaray-a, Yakan, and Surigaonon.³⁶

E. On Religion

Freedom of religion reigns supreme in the Philippines. The 1987 Philippine Constitution states in Article III, Section 5: “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights”³⁷.

learn/ (last visited August 6, 2016)

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.” at Article III of 1987 Philippine Constitution.

The Philippines respects all religions including the choice to be an atheist, an agnostic or simply not to believe in religion. Any person in the country may choose to be part of any religion at his or her choice.

F. On education

Education is a priority of the Philippine government.³⁸ Kindergarten is also now mandated as the first stage of compulsory education.³⁹ Before the 2013 law making kindergarten compulsory, Filipino children may enter first grade without any pre-school education. The said practice makes it difficult for some children to adequately comply with the required outputs for first graders. Now that Kindergarten is mandatory it is expected that first graders will have an easier time completing the said grade even and moving up to second grade and so on.

In addition, Philippine also push forward and encourage educational integration in regions by strengthening potentiality of competitiveness of the Philippines and ASEAN at global level. Many measures have been conducted such as:

1) Bilingual program for educational development which is strategically proceeded in primary schools;

2) Provide the implementation guideline related to basic education under the Enhanced Basic Education Act of 2013 in order to strengthen the education and manage the basic education and out-of-school learning to enhance strength of development and early childhood care;

3) Integrate technology and information with education program to proliferate the accessibility to learning of ASEAN students through educational media by website or other forms of instruction media;

4) Provide disadvantageous children with education program for disadvantaged (Reaching the Unreached Children) which is directed by the framework of Southeast Asian Ministers of Education Organization (SEAMEO) and Governance of Basic Education Act of 2001

³⁸ Philippine Education for All 2015 Review Report (2015), *available at* <http://unesdoc.unesco.org/images/0023/002303/230331e.pdf> (last visited August 12, 2016).

³⁹ *Ibid.*

Among ASEAN, Philippine is a leader of arranging education for disadvantaged because educational policies on disadvantaged are comprehensively and diversely implemented. For example:

1) Students who cannot complete the school program and uneducated people will be followed up by the systems arranged by the government;

2) Provide Education in Emergencies to prepare for natural disaster such as typhoon, tsunami, volcanic eruption. For regional part, Philippine has arranged the education for preparation against natural disaster and other emergency situations by cooperating with Indonesia

Philippines also have educational cooperation with SEAMEO (Southeast Asian Ministers of Education Organization) by volunteering to be the leading nation who operate 3 projects which are education in emergencies, education for disadvantaged children and development of early child care.⁴⁰

1.1.4 Implementation of the Policies / Problems and Obstacles

Continuing struggle for IPs

Even though there are laws for protecting rights of indigenous people as mentioned in B, pragmatically, Philippines are comprised of various ethnics and have high level of economic inequality which most property and wealth belong to minor elite groups⁴¹, therefore, more challenges shall be further struggled for existence and for social and cultural acceptance of indigenous people. In 2012 the University of the Philippines wrote that “The significant yet often marginalized and neglected Indigenous Peoples (IPs) of the Philippines continue to struggle for the protection of their rights, rights that they feel are being ignored by the government.”⁴²

⁴⁰ ASEAN Information Center, Government Public Relations Department, Policies on Education for Joining ASEAN Community: Philippines, http://thailand.prd.go.th/1700/ewt/aseanthai/ewt_news.php?nid=4640&filename=index. (last visited February 14, 2018).

⁴¹ *Supra* note 4, at 265.

⁴² Arlyn VCD Palisoc Romualdo (2015). Protecting IPs' Rights to Ancestral Domains and Lands available at <http://www.up.edu.ph/protecting-ips-rights-to-ancestral-domains-and-lands/> (last visited March 8, 2016).

In addition, Wiwat Tamee, a Thai independent researcher from Asian Public Intellectual Project sponsored by Nippon Foundation Fellowships, who had fieldworked and survey the way of life of tribes in Philippines, said that “In present, way of life of indigenous tribes in Philippines has changed a lot from the past. Agricultural manufacturing and handicraft become commercialized and mainly depend on external market. Educated children and juvenile of the tribes have emigrated to urban areas or foreign countries for career and further education.

However, once we look at the overview of problematic situation of the tribes here, we can see the common issue that their workplace lands, residence and mineral resources are looted by the state and transnational private companies which seek for mining, gold and silver digging or marble factories. This leads to frequent conflict between the private companies and the tribes who live in the islands. In some areas, if tribes can gather together with strong bond, they can protect their lands such as tribes who live in northern Luzon, Cordillera administrative region. But in some areas, they cannot protect their own lands and lost almost all of workplace lands such as tribes who live along Visayas islands which impact their way of life.”⁴³

Philippines has attempted to enact the law in order to remedy the problems of indigenous people such as Indigenous Peoples Rights Act of 1997. However, there is an issue whether the legal principle that allows indigenous people to claim for ownership of ancestral lands is unconstitutional or not, which becomes one of the cause that, until present, delays the legal process for solving the problems of indigenous people.

Challenges to Education

According to the Education for All 2015 National Review published by UNESCO: “There are emerging and persistent issues such as poverty, climate change, devastating disasters, armed conflict, and threats to the safety and security of schoolchildren that make universal education attainment a challenge. The government has been addressing

⁴³ Prachatai, special interview: Wiwat Tamee, “Difference” between “Philippines Indigenous People” and “Thai Indigenous People” (Chapter 1), *available at* <https://prachatai.com/journal/2009/11/26554> (last visited February 19, 2018).

these challenges through legislations and proactive measures⁴⁴ embedded in the national plans⁴⁵ and actions of inter-government agencies.”⁴⁶

Still according to UNESCO: “The education sector, through the Department of Education (DepEd) is providing financial assistance to students through the Government Assistance to Students and Teachers in Private Education (GASTPE) and is pushing for inclusive education, particularly for indigenous people, Muslim students, and children with disabilities.”⁴⁷

Philippines also has an attempt to establish educational equality. On August 2017, President Rodrigo Duterte signed on the University Access to Quality Tertiary Act 2017 which principally assigns the state to subsidize public universities, colleges and vocational college so that they can arrange free-tuition education. However, this law is criticized that it will become a huge financial burden of the government.⁴⁸

1.2 International Agreements on Socio-Cultural Issues⁴⁹

Overview of Relationship between Thailand and the Philippines

Before the diplomatic relation between Thailand and the Philippines was established in 1949, characteristic of contacts between the two nations were indirect trading. On June 14, 1949, direct relationship between Thailand and the Philippines had

⁴⁴ For example, Presidential Decree No. 798 prescribes that any children who do not enter education system shall be confined at rehabilitation center or reformatory, or Anti-Bullying Act (RA 10627) legally defines “bullying” and criminalizes it.

⁴⁵ *Available at* Philippine Education for All 2015 (EFA 2015), *Supra* note 38.

⁴⁶ *Supra* note 38.

⁴⁷ *Ibid.*

⁴⁸ Inquirer.net, Duterte signs into law bill granting free tuition in SUCs, *available at* <http://newsinfo.inquirer.net/920306/breaking-duterte-signs-law-granting-free-tuition-in-sucs> (last visited May 10, 2018).

⁴⁹ Section 21 of Article 7 of 1987 Philippine Constitution prescribes that any treaties or international agreements approved by Senate are immediately enforceable as laws without necessity to enact national laws for implementation, Aileen V. Sicat. (May 11, 2018) Lecturer of Lyceum of the Philippines University College of Law [interview].

firstly begun by both countries signing Treaty of Friendship which resulted in the official beginning of bilateral relationship between two nations.

Thailand and the Philippines began to send diplomatic mission to the station of each other in 1949. Since then, the relationship between two countries gradually become tightened and developed. Both nations became founder members who established SEATO in 1967 and joined many regional and international forums. In addition, such type of cooperation has been expanded to various aspects beside trade and culture which includes politics, national defence, aviation service science and technology, telecommunication, agriculture, justice and environment, etc.

Manila and Bangkok became sister-cities on June 24, 1997. In 1999, both countries celebrated 50 years anniversary of relationship by Philippines changing the name of Rada Street into Thailand Street which located in crowded area of Makai, and Thailand establishing Philippine Street which located at Philippine Embassy on Sukhumvit Road, centre of commercial area of Bangkok.

Relationship between Thailand and the Philippines has expanded to inter-assistance during natural disaster. In 2011, Thailand donated 100,000 USD to Philippines for helping victims who suffered from Sendong storm, and in 2010, Thailand donated 10,400 sacks of rice to Philippine government for helping victims who suffered from Ondoy storm. In 2005, Philippine sent forensic scientist teams to Thailand to assist in identifying corpses and organs of the deceases who lost their lives from Tsunami disaster in southern part of Thailand.⁵⁰

Significant Socio-Cultural Agreements between the Philippines and Thailand

1. *Treaty of Friendship between the Government of the Republic of the Philippines and the Royal Thai Government* which was signed and entered into force on June 14, 1949. Its principle is to officially strengthen relationship between two countries in social, cultural and economic aspect. It prescribes that, for example, both nations shall apply peaceful dispute resolution in time of conflict, both shall send diplomatic mission to

⁵⁰ Embassy of the Philippines, Bangkok, Thailand, Overview of Philippines and Thailand Relations, available at <http://bangkokpe.dfa.gov.ph/about-us/overview-of-phils-and-thailand-relations>, (last visited February 17, 1981).

each other with diplomatic immunity, etc.

2. *Cultural Agreement between the Government of the Republic of the Philippines and the Royal Thai Government* which was signed on July 22, 1975. It principally prescribes that both parties shall endeavor to accord to each other on cultural exchange. For example, exchange of books, textbooks, publications, movies or exchange of cultural personnel such as authors, performers, academicians, including exchange-oriented cultural exhibition, etc.⁵¹

3. *Agreement on Scientific and Technical Co-Operation between the Republic of the Philippines and the Kingdom of Thailand* which was signed on April 11, 1983. Its principal is to establish bond between the parties to cooperate⁵² exchange and optimize co-benefit on science and technology.⁵³

4. *Agreement on Cooperation on Tourism between the Government of the Republic of the Philippines and the Government of the Kingdom of Thailand* which was signed on March 24, 1983, binding both parties to encourage more tourism between both nations, encourage exchange of tourism information between two countries. Educational institutions on tourism shall be established. Tourism agencies shall conduct more public relation on tourism of each other, etc.⁵⁴

Moreover, in 2013, Thailand and the Philippines had co-signed agreements on

⁵¹ Philippine Treaty Online, *available at* <http://210.5.104.56/treaty/scanneddocs/49.pdf> (last visited February 17, 2018).

⁵² Supreme Courts of the Philippines ruled that any treaty or international agreement that Philippines is a party shall become enforceable as a law by itself. See The University of Melbourne, Southeast Asian Legal Research Guide: Treaties, Philippines, The Effect of Treaties on Domestic Law, *available at* <http://unimelb.libguides.com/c.php?g=402982&p=2744228> (last visited May 11, 2018).

⁵³ Philippine Treaty Online, *available at* <http://210.5.104.56/treaty/scanneddocs/138.pdf> (last visited February 23, 2018).

⁵⁴ Philippine Treaty Online, *available at* <http://210.5.104.56/treaty/scanneddocs/366.pdf> (last visited February, 2018).

taxation, energy and business cooperation.⁵⁵ Thailand and the Philippines signed on an agreement to establish energy forum and another agreement involving cooperation between Thai and Philippine business tycoons. Surapong Tovichakchaikul, Deputy Prime Minister cum Finance Minister of Thailand, said that both nations will enhance economic and investment cooperation between each other, including stimulate eradication of tax obstacle and encourage exchange of information on labour management. In addition, regarding military cooperation, military cooperation plan was created in which Thailand will provide to the Philippines parts of aircraft OV-10.⁵⁶

Significant Socio-Cultural Agreements between the Philippines and other Nations or International Organizations

1. *Agreement relating to the Exchange of the Official Publications between United States of America and the Republic of the Philippines* which was signed and entered into force on June 7, 1948. Its main objective is to bind each nations' governments to send copies of prescribed publications to another countries, in which Smithsonian Institution and the Library of Congress are responsible, on U.S.' part, for the exchange and the Bureau of Public Libraries will be responsible, on part of the Philippines,⁵⁷ which currently transformed into National Library of the Philippines, under supervise of National Commission for Culture and the Arts.⁵⁸

2. *Agreement between the Republic of the Philippines and the United States of America on the Development and Facilitation of Reciprocal Tourism* which was signed and entered into force on September 17, 1982. Its aim is to encourage tourism of both countries by co-working with World Tourism Organization.

⁵⁵ The Philippine Star, Thailand, Phl sign agreements to boost cooperation (June 22, 2013), *available at* <http://www.philstar.com/headlines/2013/06/22/957008/thailand-phl-sign-agreements-boost-cooperation> (last visited August 7, 2016).

⁵⁶ *Ibid.*

⁵⁷ Philippine Treaty Online, *available at* <http://210.5.104.56/treaty/scanneddocs/317.pdf> (last visited February 23, 2018).

⁵⁸ National Library of the Philippines, History, <http://web.nlp.gov.ph/nlp/?q=node/190> (last visited May 11, 2018).

3. *Cultural Agreement between the Republic of the Philippines and the People's Republic of China 1998 – 1999* which was signed and entered into force on August 4, 1997. It focuses on providing cultural exchange activities between two nations during 1997-1998 such as musical performance, arts and dramatic works, including sending instructors, researchers and public officials to study language and culture of each other, granting scholarship, arranging seminars on culture of both nations and so on.⁵⁹

4. *Memorandum of Understanding between the Department of Science and Technology of the Republic of the Philippines and the Ministry of Internal Affairs and Communication of the Government of Japan on the Cooperation in the Field of Information and Communications Technology* which was signed and entered into force on June 23, 2014. It aims to promote and enhance cooperation on information and communication technology (ICT) between two countries, such as 4G telecommunication technology, digital terrestrial television broadcasting. It also establishes Japan-Philippines ICT Cooperation Committee (JP-ICC) to further implement this agreement.⁶⁰

5. *Agreement on the Importation of Educational Scientific and Cultural Materials* which is hosted by UNESCO and joined by 98 state parties. Philippines signed the agreement on November 22, 1950 and ratified on August 30, 1952. This agreement binds state parties to eradicate custom duties and other expenses, between state parties, on importation of books, publications or educational, scientific, cultural equipment prescribed in the Annex so that exchange of knowledge and civilization of each other can be promoted for keeping the world peaceful.⁶¹

6. *Convention concerning the Protection of the World Cultural and Natural Heritage* which is hosted by UNESCO and joined by 172 member states. The convention focuses on enhancing cooperation among state parties for applying appropriate measures on protecting, preserving and exhibiting cultural and natural heritage, including

⁵⁹ Philippine Treaty Online, available at <http://210.5.104.56/treaty/scanneddocs/15.pdf> (last visited February 23, 2018).

⁶⁰ Philippine Treaty Online, available at <http://210.5.104.56/treaty/scanneddocs/646.pdf> (last visited February 23, 2018).

⁶¹ UNESCO, Agreement on the Importation of Education, Scientific and Cultural Material, available at http://www.unesco.org/education/pdf/FLOREN_E.PDF (last visited February 23, 2018).

establishing the World Heritage Committee to implement the convention. Philippines ratified this convention on September 19, 1985⁶² and enacted the National Integrated Protected Area System Act of 1992 to prescribe protected areas in accordance with the principles of the convention.

7. International Convention against Doping in Sport⁶³ which is hosted by UNESCO and ratified by the Philippines on March 17, 2010 and joined by 187 countries. The convention aims to control doping at national level, promote international cooperation against doping in sport, providing education and training on doping, prescribing measures on monitoring food supplementary products. In addition, it requires the state parties to monitor the performance result after implementing the convention and report the result to UNESCO every 2 years in accordance with Section 28 of the convention.⁶⁴

8. *Convention concerning Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service*⁶⁵ which is hosted by International Labor Organization (ILO). It regulates that the member nations shall allow personnel in public service to establish labor union that is independent from government authority. Philippines was the first nation in Asia who ratified this convention on October 10, 2017, which will be entered into force on October 10, 2018.⁶⁶ However, Article 244 of Labor Code of the Philippines has already legalized establishment of labor union for public service since 1986.⁶⁷

⁶² UNESCO, Convention concerning the Protection of the World Cultural and Natural Heritage, available at <http://whc.unesco.org/archive/convention-en.pdf> (last visited February 23, 2018).

⁶³ UNESCO, International Convention against Doping in Sport, available at <http://unesdoc.unesco.org/images/0014/001425/142594m.pdf#page=2> (last visited February, 23, 2018).

⁶⁴ RYT9, Ratification of International Convention against Doping in Sport, available at <http://www.ryt9.com/s/cabt/61906> (last visited February, 23 2018).

⁶⁵ International Labour Organization, Labour Relations (Public Service Convention, 1978, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312296:NO (last visited February 23, 2018).

⁶⁶ <https://business-humanrights.org/en/philippines-is-first-in-asia-to-ratify-ilo-treaty-on-protection-of-govt-workers-rights> (last visited February 23, 2018).

⁶⁷ Presidential Decree No. 442, The Labor Code of the Philippines, Article 244, available at <https://www>

9. *Forced Labor Convention* which is hosted by International Labor Organization. It aims that the state parties shall suppress and refrain from forced labor and define forced or compulsory labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself.” Philippines ratified this convention on July 15, 2005 and enacted Domestic Workers Act 2013 to implement it by regulating minimum wage, working hour and rescuing forced labor.⁶⁸

10. *Equal Remuneration Convention* which is hosted by International Labor Organization. It binds the state parties to promote and encourage men and women labor to receive equal remuneration from doing the same work. Philippines ratified this convention on December 29, 1953.⁶⁹

11. *Discrimination (Employment and Occupation) Convention* which ILO prescribes that state members shall promote equality and create opportunity of employment without discrimination based on race, color, gender, religion, political view, etc. Philippines ratified this convention on November 17, 1960.⁷⁰

12. *Minimum Age Convention*, which is hosted by ILO, prescribes that state members shall define minimum age requirement of employees in order to prevent child labor force, especially in dangerous work. Philippines ratified this convention on June 4, 1998 and prescribes minimum age of employees at 15 years old.⁷¹

.ilo.org/dyn/natlex/docs/ELECTRONIC/15242/102473/F204947657/PHL15242.pdf (last visited May 10, 2018).

⁶⁸ International Labour Office, Strengthening action to end forced labor, *available at* http://www.ilo.org/ilc/ILCSessions/103/reports/reports-to-the-conference/WCMS_217752/lang--en/index.htm, p. 29 (last visited May 11, 2018).

⁶⁹ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312245:NO (last visited February 23, 2018).

⁷⁰ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312256:NO (last visited February 23, 2018).

⁷¹ http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283 (last visited February 23, 2018).

Chapter 2

Overview of Political and Security Issues in the Philippines

2.1 Political and Security Policies

2.1.1 *Political and Security Circumstance in the Philippines*

(1) Historical Background

The significant historical evidence which points out that the first group of people settled down in the Philippines came from mainland of Asia and Borneo is the discovery of human fossil aged 50,000 years old at Palawan island. This has convinced experts to believe that Philippine archipelago used to be a part of Asian continent mainland of today until the world surface changed which resulted in the separation of partial land from the mainland and became oceanic archipelago. The arrival of Chinese on this archipelago aiming for trade during 10th century made the islands more well-known to the outer world and in 13th century, the Arab leader named Makdam and his fellows settled down in Sulu archipelago and founded kingdom of Islam there. In 1475, Shariff Mohammed Kabungsuwan, a Muslim leader from Johor (a part of Malaysia in present) had married the daughter of an indigenous tribal leader in Mindanao (a big island in Southern Philippines) and became the first Sultan of Mindanao.

History of the Philippines began when Ferdinand Magellan, a Spanish sea explorer, and his explorer team sailed and arrived Philippine archipelago in 1521 and annexed them to a colony of Spain. But not long after that, Magellan was resisted and killed by the islanders. Until 1543, Ruy Lopez de Villalobos, another Spanish explorer, had sailed and arrived Philippines. He named this archipelago "Filipinas" in order to honor Philip II, the King of Spain. Spain then gradually conquered the archipelago, part by part, until all islanded was conquered in 1571 except Sulu archipelago where people were Muslim.

Although Filipinos had tried to continually fight against for independence, they were not successful until in 19th century when there was a war between Spain and United States which finally, United States, allied with the Philippines won the war. General Aguinaldo took advantage of such opportunity by declaring independence for the Philippines, however, in reality, United States, who won the wars both in Cuba and the Philippines still hold the power and U.S. law did not allow colonization which derived from

military invasion. Therefore, United States had to pay 20 million U.S. dollar to by the Philippines from Spain. Although the new ruler of the Philippines was United States, she aimed to liberate the Philippines for independence according to the will of Filipinos, therefore, lenient policy had been applied by allowing the Philippines to partially self-govern, with sovereignty over the archipelago still belonged to United States. In 1935, Manuel Quizon became the first President of the Philippines Commonwealth which was under the government of United States. This was deemed to be the first step of granting independence to the Philippines.

When World War II occurred, Japan invaded and conquer the Philippines, turning Philippines into the battlefield between the Allies and Japanese troops. United States finally won the war and came back as an influencer in the Philippines. In 1946, Philippines finally received true independence.⁷² Philippine history reveals that the country was colonized by Spain for three hundred and thirty-three (333) years, by the United States of America for over 40-years and finally by Japan during World War II.⁷³ How each colonizer affected Philippine law to become a mix system of Common Law and Civil Law will be discussed in other parts of the research. The effect of the history of colonization will also be discussed in later parts.

(2) Present Circumstance

The Philippines became a member of United Nations on October 24, 1945⁷⁴ and values its sovereignty and independence. The Philippines is doing all it can to ensure a stable government and to protect its territory.

In present, the Philippines, under navigation of President Rodrigo Duterte who has inaugurated since May 2016, have to encounter conflicts and threats from many insurgent groups which some of them are in the transnational terrorist organization list of United States.⁷⁵ Philippine government has tried to fight against these terrorist groups for decades, especially against Moro ethnic group in southern part, which leads to the peace

⁷² http://www.asean thai.net/ewt_news.php?nid=3647&filename=index (last visited March 1, 2018).

⁷³ Philippine History *available at* <http://www.philippine-history.org/spanish-colonial-masters.htm> (last visited October 10, 2015).

⁷⁴ <https://www.un.org/press/en/2006/org1469.doc.htm> (last visited October 10, 2016).

⁷⁵ <https://www.state.gov/j/ct/rls/other/des/123085.htm> (last visited March 1, 2018).

agreement with Moro National Liberation Front and peace negotiation with Moro Islamic Liberation Front. In addition, the Philippines has to encounter insurgency from Maoist-inspired New Peoples Army which has arisen for decades. In 2016, Philippine army fought against ISIS which took over Marawi city which resulted to announcement of martial law in the city by President Duterte. Moreover, Philippines also have to face pressure from China in the case of conflict on territorial water in South China Sea.⁷⁶

Principles and State Policies

Separation of Powers

Origin of Separation of Powers

The present doctrine of separation of powers in the Philippines is a direct descendant of the American concept. The Philippine Constitution, following closely the American model⁷⁷, bestowed executive power exclusively on the President who is elected at large. Legislative power is bestowed on a bicameral Congress, which, like its American counterpart, is composed of an upper house called the Senate and a lower house called the House of Representatives. The powers of the Judiciary are vested in a Supreme Court which is independent of both the President and the Congress.

Historically, the separation of powers concept in the Philippines is not uniquely American. After the Philippine Revolution and during the early years of American annexation of the islands (1899-1902)⁷⁸, Filipino leaders attempted to assert Filipino sovereignty over the country by, among others, convening a legislature that has become

⁷⁶ https://www.cia.gov/library/publications/the-world-factbook/geos/print_rp.html, (last visited March 1, 2018).

⁷⁷ U.S. Constitution became the model because in 1916, U.S. passed a law named the Jones Act which required the Philippines to set up a democratic government in U.S. model as a condition to become independent. *available at* <http://www.constitutionnet.org/country/constitutional-history-philippines>, (last visited March 1, 2018).

⁷⁸ During the period of transition of power from Spain to U.S., conflict had arisen between U.S. and Filipino Nationalists who did not want Philippines to be colonized by U.S. which led to the war between the Philippines and U.S. (The Philippine-American War), *available at* <https://history.state.gov/milestones/1899-1913/war> (last visited March 1, 2018).

known as the Malolos Congress (named after the town that served as capital of the still-born Philippine Republic) and enacting a constitution that has become known as the Malolos Constitution.

Article 4 of the Malolos Constitution provides that “(t)he Government of the Republic” is to be “divided among three distinct powers, which shall be named legislative, executive, and judicial.” It also emphatically said that never two or more of these powers shall be vested in a single person or entity.

This separation of powers under the Malolos Constitution is distinct from the present concept. In addition, the present separation of powers did not have its provenance in the Malolos Constitution, due to the fact that the President under the Malolos Constitution is elected by members of the legislature, which is called the National Assembly, and that he has the power to convoke the legislature, suspend and close its sessions, and even dissolve it. Also, under the Malolos Constitution, the National Assembly may be convened as a court to try special cases such as those involving national security.

Separation of powers was not immediately observed while the United States consolidated its sovereignty over its newly-acquired territory. Initially, of course, the portions of the Philippines under United States control were under military government since there was open hostility between Filipino forces and the United States. As hostilities subsided, then US President William McKinley created the first civil government for the Philippines. He created the second Philippine Commission effective September 1, 1900, which was given limited executive and legislative powers. Essentially, it transferred powers that are legislative in nature from the military governor to the commission. The commission’s executive power was in the form of the power to appoint officers in the judiciary, civil service and local government.

Eventually, on June 21, 1901, President McKinley created the first civil government in the Philippines. It explicitly relieved the military governor of civil powers and vested these on a civil governor. Separation of powers was still not clear cut at this point. The Philippine Commission still exercised legislative power and its president exercised executive power as the civil governor.

The executive and legislative powers in the Philippine Commission started to become separated with the enactment of the Philippine Organic Act of 1902. The law provided that when hostilities have ceased, an election shall be called to elect members of a representative body to be called the Philippine Assembly. The Philippine Assembly shall be the lower house of a bicameral legislature while the Philippine Commission will be the upper house. Executive power continued to be vested in the civil governor, who is the president of the Philippine Commission. The organic law also created a Philippine Supreme Court. The Philippine Organic Act of 1902 thus created a government along the outlines of the United States government – a chief executive in the person of the civil governor, a bicameral legislature, and a Supreme Court.

The Philippine Organic Act of 1902 was replaced by the Jones Law of 1916 which made separation of powers more clear-cut. Under the Jones Law, the civil governor became a distinct office⁷⁹ rather than being the president of a commission. In fact, the Philippine Commission was effectively abolished by the Jones Law. In its stead, the law provided for the popular election of a Philippine Senate and House of Representatives.⁸⁰ The law also renamed the Philippine Assembly House of Representatives. The legislature now resembles the US Congress. Under the Jones Law, therefore, executive power was vested in a single individual, which was the civil governor, legislative power in a bicameral Philippine Legislature, and judicial power in a Supreme Court.

All subsequent organic acts and constitutions of the Philippines (with the exception of the 1973 Constitution, which created a presidential-parliamentary form of government) followed this pattern accompanied only by a few changes. Under the 1935 Constitution, the legislature became a unicameral National Assembly, only to revert to a bicameral body called the Philippine Congress consisting of a Senate and a House of Representative. The office of President was created, vesting him with the powers of the executive erstwhile exercised by the civil governor. The Supreme Court remained vested

⁷⁹ Section 21 of the Jones Law of 1916, *available at* <http://www.officialgazette.gov.ph/constitutions/the-jones-law-of-1916/> (last visited March 1, 2018).

⁸⁰ Section 13, 14 of the Jones Law of 1916.

with judicial powers. The 1987 Constitution has a separation of powers structure identical to the 1935 Constitution.

According to a renowned Political Law expert in the Philippines, Justice Isagani A. Cruz⁸¹: “The doctrine of separation of powers is intended to prevent a concentration of authority in one person or group of persons that might lead to an irreversible error or abuse in its exercise to the detriment of our republican institutions.”⁸²

Cruz goes on to cite Justice Jose P. Laurel, who also became President of the Philippines after serving in the judiciary, in the Supreme Court case *Pangasinan Transportation Co. v. PSC*⁸³: “(t)he doctrine is intended to secure action, to forestall over-action, to prevent despotism and to obtain efficiency.”⁸⁴ Referencing the 1992 case *Bengzon v. Drilon*⁸⁵: “To achieve these purposes, the legislature is generally limited to the

⁸¹ Justice Isagani A. Cruz served as Associate Justice of the Supreme Court of the Philippines from 1986 to 1994. He placed eight in the Philippine Bar Examinations of 1951 with a grade of 90.12%. He wrote several editions of books on Constitutional Law, International Law and Philippine Political Law. He was also a former Law School Dean and a bar reviewer on Political Law. His work and interpretation of Philippine political law will be cited in this research given that Justice Cruz is a highly respected authority on Philippine political law.

⁸² Isagani A. Cruz, *Philippine Political Law* 133 (2014), p. 133.

⁸³ G.R. No. 47065 (1940) *available at* http://www.lawphil.net/judjuris/juri1940/jun1940/gr_l-47065_1940.html (last visited March 20, 2016) *Pangansinan Transportation Co. (PANTRANCO)* filed an application with the Public Service Commission (PSC) to operate ten additional buses. The PSC agreed but imposed additional conditions. PANTRANCO questioned the power of the PSC to impose additional conditions and raised that it was undue delegation of powers. The Supreme Court held that there was a valid delegation of powers. The Court further said that what wwas delegated to the PSC was administrative function including the use of discretion to carry out the will of the legislative branch having in view the promotion of public interest.

⁸⁴ See G.R. No. 47065 *available at* https://www.lawphil.net/judjuris/juri1940/jun1940/gr_l-47065_1940.html (last visited June 29, 2018).

⁸⁵ G.R. No. 103524 (1992) *available at* http://www.lawphil.net/judjuris/juri1992/apr1992/gr_103524_1992.html (visited March 20, 2016). In the case it was held that the veto of the President on one portion of the Gerneral Appropriations bill is unconstitutional. The President vetoed the portion providing pensions to the retired justices. According to the Supreme Court the pensions acrued to

enactment of laws and may not enforce or apply them; the executive to the enforcement of laws and may not enact or apply them; and the judiciary to the application of laws and may not enact or enforce them.”⁸⁶ Therefore, it can be said that the task of the legislature is to enact laws whereas that of the executive is the enforcement of laws. The judiciary, on the other hand, is tasked with the application of the laws. Indeed, the three branches of government each have specific tasks that help reinforce one another and at the same time serve as check and balance mechanism to one another.

Separation of Powers: a constitutional concept

Separation of powers is a constitutional concept in the Philippines. Its conception, however, is not an express definition by statute or by a constitutional provision. Rather, it was shaped by decisions of the Supreme Court in actual controversies brought before it. It may be significant to point out in this regard that the Supreme Court is the ultimate arbiter of constitutional issues and its decisions form part of the law of the land.⁸⁷

the retired justices by virtue of a valid republic act. The president thus has no power to amend statutes promulgated by her predecessor much less to repeal existing laws.

⁸⁶ *Ibid.*

⁸⁷ Civil Code of the Philippines, Art. 8 *available at* <http://www.chanrobles.com/civilcodeofthephilippines1.htm> (last visited August 14, 2016) ; *Floresca v. Philex Mining*, G.R. No. L-30642 (April 30, 1985), *available at* http://www.lawphil.net/judjuris/juri1985/apr1985/gr_l30642_1985.html (last visited August 14, 2016) . Heirs of workers who died while working in the underground mines of the respondent sued the mining company for damages arising from negligence, thereby invoking the Civil Code, rather than for compensation under the Workmen’s Compensation Act. The principal issue was whether the heirs of the deceased workers had the option to select which law to invoke or whether they are limited to the remedies under the Workmen’s Compensation Act. In ruling for the right of the heirs to choose the law to invoke, the Supreme Court invoked its earlier decision in a similar case where it was ruled that an injured worker has a choice either to recover from the employer the fixed amounts set by the Workmen’s Compensation Act or to prosecute an ordinary civil action against the tortfeasor for higher damages. In so doing, the Supreme Court invoked the constitutional provision that judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

The present understanding of the concept has its origins in the American structure of government where there are three well-defined branches of government – the Executive, the Legislative and the Judiciary. The Legislative enacts the laws, the Executive executes or implements these laws and the Judiciary interprets these laws and determines the rights and obligations of parties that come before it according to its interpretation of these laws.

In *Jose A. Angara v. The Electoral Commission*,⁸⁸ the Supreme Court had the occasion to observe that the separation of powers is a fundamental principle in the Philippines' system of government and "(i)t obtains not through express provision but by actual division in (the Philippines') Constitution," i.e., the creation in the Constitution of the three branches of government. The same decision of the Supreme Court mentioned in a nutshell that separation of powers means that "(e)ach department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere."

In the more recent case of *Sen. Miriam Defensor Santiago v. Sen. Teofisto Guingona*,⁸⁹ the Supreme Court declares that "(t)he principle of separation of powers

⁸⁸ G.R. No. L-45081 (July 15, 1936) available at http://www.lawphil.net/judjuris/juri1936/jul1936/gr_l-45081_1936.html (last visited August 14, 2016). In this case, Jose Angara was proclaimed by the National Assembly as the elected representative of Tayabas province in said body. Notwithstanding the proclamation, losing candidate Pedro Ynsua instituted an election protest with the Electoral Commission. Angara moved to dismiss the protest but the Electoral Commission denied the motion. Angara raised the matter to the Supreme Court. The issues raised were the jurisdiction of the Supreme Court to pass upon the ruling of the Electoral Commission and the jurisdiction of the Electoral Commission to entertain an election protest notwithstanding that a candidate had been proclaimed winner by the National Assembly. In asserting its jurisdiction to decide the controversy, the Supreme Court emphasized that the constitution has allocated the executive, legislative and judicial powers to the three branches of government and that it was to the judiciary that the power to determine the law, and hence to declare executive and legislative acts void if violative of the Constitution, fell.

⁸⁹ G.R. No. 134577 (November 18, 1998) available at <http://sc.judiciary.gov.ph/jurisprudence/1998/nov1998/134577.htm> (last visited August 14, 2016). Petitioner challenged before the Supreme Court in a *quo warranto* proceedings the election of Sen. Teofisto Guingona as Senate minority floor leader. Among the issues raised is the jurisdiction of the Supreme Court to decide the controversy. In ruling

ordains that each of the three great branches of government has exclusive cognizance of and is supreme in matters falling within its own constitutionally allocated sphere.” Therefore, the Executive and the Judiciary cannot interfere in the Legislative’s exercise of its law-making powers, the Legislative and the Judiciary cannot interfere in the Executive’s execution of the laws, and the Executive and Legislative cannot interfere in the Judiciary’s determination of the issues brought before it.

However, this is not without any caveat, of course. The Judiciary, for instance, can strike down and nullify acts of the Executive and the Legislative if it finds these to be in violation of the constitution. The Judiciary can also nullify acts of the other branches, especially the Executive’s, if it finds that these have been exercised with grave abuse of discretion, that is, with arbitrariness, capriciousness or whimsicality. Each of these branches’ power to affect or influence the exercise of the powers of the other branches is found in the “checks and balances” concept, which will be discussed later.

Checks and Balances

The concept of checks and balances in the context of separation of powers essentially means that the powers of one branch of government limits the absolute exercise of their powers by the other branches of government. Thus, while the President appoints members of his cabinet, his appointees are subject to confirmation by Congress. While the enactment of laws is within the ambit of Congress’ powers, it does not become law unless signed by the President. The Supreme Court, meanwhile, has the power to declare unconstitutional, and therefore null, actions of the President and Congress. The Supreme Court also has the power to declare void acts of the President and Congress if it finds that these were exercised with grave abuse of discretion.

that it has jurisdiction, the Supreme Court discussed that it cannot pass upon questions that involve the wisdom of a particular act of the other branches of government since the separation of powers make each branch supreme within their own sphere but it can pass upon questions that involve legality or validity of these acts or questions involving a determination of whether the act complies with the laws or the Constitution.

Checks-and-balances seek to avoid any single branch of government from lording its power over the other branches or the citizenry.⁹⁰ It requires that “power must be wielded by co-equal branches of government that are equally capable of independent action in exercising their respective mandates to enable one branch of government to check the arbitrary or self-interest assertions of another or others.”⁹¹

According to Cruz: “What makes the doctrine of separation of powers especially workable is the corollary system of checks and balances, by means of which one department is allowed to resist encroachments upon its prerogatives or to rectify mistakes or excesses committed by the other departments. The exercise of this authority is not itself an arrogation in as much as it is the Constitution itself that provides for this system of counteraction. The theory is that that the ends of the government are better achieved through the exercise by its agencies of only the powers assigned to them, subject to reversal in proper cases by those constitutionally authorized”⁹² which is considered as an essential function of this check and balance system. Apparently, the examples can be found i) in Article 6, Section 27 of the 1987 Constitution which entitles the president to veto any laws to be legislated by the Congress, or ii) in Article 11, Section 3 that empower the Congress to render an impeachment upon the president or those being appointed by the president, or iii) to even empower the supreme court being appointed by the president to conduct a judicial review (if necessary) according to Article 8, Section 5 (2)(a)⁹³.

Issues on Check and Balance

Check and balance by, and among, the three branches of government have been criticized not only in the exercise thereof but also in its non-exercise. It was noticed that: “(t)he legislative branch fails to exercise its specific checking powers that include power

⁹⁰ Re: COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate Justices of the Supreme Court, A.M. No. 11-7-10-SC (July 31, 2012) *available at* <http://sc.judiciary.gov.ph/jurisprudence/2012/july2012/11-7-10-SC.pdf> (last visited August 18, 2016)

⁹¹ *Ibid.*

⁹² *Supra* note 82, at 136.

⁹³ Philippine Information Agency, Three Branches of Government, *available at* <http://pia.gov.ph/branches-of-govt> (last visited March 3, 2018).

to override vetoed bills, power to reject appointments, and power to impeach.”⁹⁴ And that: “(t)he power of the legislative branch to override the veto power of the president could have been a real check to the executive’s destructive participation in the law-making process; however, records showed that the legislative branch or Congress has never overridden any vetoed bill.”⁹⁵

A criticism then would be on the inability of the legislative branch’s Commission on Appointments to effectively check the executive’s powers. Under the Philippine Constitution, specific high-level officials, including cabinet secretaries, are required to be confirmed by the Commission on Appointments. Exercised effectively, this limits the executive’s power to appoint high-level officials to those that are acceptable to the legislative branch.

It has also been observed over time that:

“(F)or the past decades, the Commission (on Appointment) has faced several criticisms for being highly partisan considering that membership of the Commission was drawn along party lines. Rampant favor-swapping, undue pressure, patronage, and even corruption have cast doubts on the integrity of the Commission. The twelve senators, twelve representatives and Senate President, who compose the Commission, are all politicians subject to party politics and executive’s influence.”⁹⁶

This suggests that the Commission on Appointment, and hence, the legislative branch, has become more of a rubber stamp of the executive branch concerning the appointment of high-level officials.

Regarding abuse of check and balance, a commonly cited example is the impeachment and subsequent ouster of Supreme Court Chief Justice Renato Corona. Under the constitution, certain officials may be removed from office only through

⁹⁴ April Farrell M. Relacion and Grace C. Melgazo (2014). Systems of Checks and Balances in the Philippine Presidential Form of Government, *available at* <http://multidisciplinaryjournal.com/pdf/System.pdf> (last visited March 20, 2016).

⁹⁵ *Ibid.*, 43.

⁹⁶ *Ibid.*, 44.

impeachment. Among these officials are the justices of the Supreme Court. The power to impeach, i.e., to bring the charge against, these so-called impeachable officials is lodged in the lower house of Congress while the power to try the impeached official is lodged in the Senate. Thus, the lower house acts as prosecutor while the Senate or the upper house acts as judge and jury. In theory, this power is among the legislative branch's check on the powers of the president and the Supreme Court. In practice, however, this power can be abused by the President in connivance with a co-opted Congress to remove an uncooperative Supreme Court justice. As noted above, the senators and members of the House of Representatives are politicians subject to the influence of the executive.

It was widely reported that Chief Justice Renato Corona earned the ire of then President Benigno Aquino III. Among others, Aquino accused Corona of being beholden to former President Gloria Macapagal Arroyo, whom Aquino sought to prosecute for graft.⁹⁷ There have been insinuations that Aquino used the presidency's control over the disbursement of funds, especially the so-called "pork barrel" funds, to bribe members of the House of Representatives to impeach Corona and the senators to convict him.⁹⁸

Blending of Powers

According to Cruz: "There are instances under the Constitution when powers are not confined exclusively within one department but are in fact assigned to or shared by several departments. As a result of this "blending of powers," as it is called, there is some difficulty in classifying some of them as definitely legislative, executive or judicial."⁹⁹ The fact remains that "[t]he Philippines is a republic with a presidential form of government wherein power is equally divided among its three branches: executive, legislative, and judicial. One basic corollary in a presidential system of government is the principle of separation of powers wherein legislation belongs to Congress, execution to the Executive,

⁹⁷ Delon Porcalla (December 6, 2011). Noy takes jab at SC, *available at* <http://www.philstar.com/headlines/755154/noy-takes-jab-sc> (last visited August 21, 2016).

⁹⁸ Ernie Reyes (July 1, 2014). Miriam hails ruling on DAP, pushes probe of 'bribery' in Corona trial, *available at* <http://interaksyon.com/article/90277/miriam-hails-ruling-on-dap-pushes-probe-of-bribery-in-corona-trial> (last visited August 14, 2016).

⁹⁹ *Supra* note 82, at 134.

and settlement of legal controversies to the Judiciary.”¹⁰⁰ However, while the constitution provides for separation of powers, the executive oftentimes exercise powers that may be classified as legislative and judicial in nature.

Under the doctrine of delegated legislative authority, the executive exercises the power to enact administrative regulations that have the force of law. Delegation of legislative authority has been upheld as constitutional by the Supreme Court. In *Gerochi v. Department of Energy*,¹⁰¹ the Supreme Court explained that the increasing complexity of modern life, “it is doubtful if the legislature can promulgate laws that will deal adequately with and respond promptly to the minutiae of everyday life; hence, the need to delegate to administrative bodies the principal agencies tasked to execute laws in their specialized fields the authority to promulgate rules and regulations to implement a given statute and effectuate its policies.”

This delegation of legislative authority, however, is not absolute. The statute delegating legislative authority to the executive is subject to two tests: (1) the completeness test, and (2) the sufficient standard test. The completeness test is satisfied if the law sets forth the policy to be executed, carried out or implemented by the delegate while the sufficient standard test is satisfied if the law provides adequate guidelines or

¹⁰⁰ Philippine Government, *available at* <http://www.gov.ph/about/gov/> (last visited August 19, 2016)

¹⁰¹ G.R. No. 159796 (July 17, 2007), *available at* <http://sc.judiciary.gov.ph/jurisprudence/2007/July2007/159796%20.htm> (last visited August 21, 2016). Environmentalist groups petitioned the Supreme Court to declare unconstitutional Section 34 of the Energy Reform Act of 2001 and Rule 18 of the laws implementing rules and regulations enacted by the Energy Regulatory Commission, both of which deal with the “universal charge.” The universal charge is a charge imposed on electricity end-users to fund, among others, payment of the National Power Corp.’s stranded debts, missionary electrification. The issues raised are whether or not the universal charge is a tax and whether or not there was undue delegation of the legislative power to tax to the Energy Regulatory Commission. The Supreme Court ruled that the universal charge is not a tax but an exaction in the exercise of police power. It also ruled that there was valid delegation of legislative authority to the Energy Regulatory Commission inasmuch as the law delegating the authority is complete and provides adequate standards.

limitations to “specify the limits of the delegate’s authority, announces the legislative policy and identifies the conditions under which it is to be implemented.”¹⁰²

The executive department also exercises powers that are judicial in nature through quasi-judicial agencies under it. Judicial power includes the power to hear and determine questions of law and facts brought before it and render judgement adjudicating the rights and obligations of contending parties. Quasi-judicial agencies exercise this power within their specialized jurisdiction as defined by statute.¹⁰³ For instance, the National Labor

¹⁰² G.R. No. 166715 (2008), *available at* http://sc.judiciary.gov.ph/jurisprudence/2008/august2008/166715_carpio.htm (last visited March 20, 2016). Petitioners petitioned the Supreme Court to enjoin the Department of Finance from implementing the Attrition Act of 2005. Among other issues, the petitioners assert that the law unduly delegates the power to fix revenue targets to the President as it lacks a sufficient standard on that matter. While Section 7(b) and (c) of RA 9335 provides that tax and customs officials may be dismissed from the service if their revenue collections fall short of the target by at least 7.5%, the law does not fix the revenue targets to be achieved, delegating this instead to the President. The Supreme Court ruled that the delegation of legislative power to the President is valid as it satisfies the completeness and sufficient standard test. It is complete because the law sets forth the policy to be carried out by the President and it provides sufficient standards. The provision which requires that the removal of revenue officials who miss their targets shall be made with “due consideration of all relevant factors affecting the level of collection” is considered sufficient standard. The Supreme Court also held in this case that Section 12 of the RA 9355 which creates a Joint Congressional Oversight Committee to review the law’s Implementing Rules and Regulations is invalid. The Court reiterated that Congress may not vest itself with executive or judicial power. The Court found that the doctrine of separation of powers was violated in this case because legislative participation in the implementation and enforcement of the law should the creation of a Joint Congressional Oversight Committee be allowed.

¹⁰³ *Doran v. Executive Judge Luczon, Jr.*, G.R. No. 151344 (September 26, 2006), *available at* http://www.lawphil.net/judjuris/juri2006/sep2006/gr_151344_2006.html (last visited on August 23, 2016). Petitioner, who was a court stenographer, filed an administrative complaint against his superior, who is a judge. Investigation of the administrative complaint was delegated to the area’s executive judge. During the course of the proceeding, the petitioner was dissatisfied with a ruling of the executive judge and challenged this before the Supreme Court through a petition for certiorari. In discussing the appropriateness of the remedy resorted to by the petitioner, the Supreme Court ruled that a petition for certiorari must be directed against a tribunal, board or officer “exercising judicial or quasi-judicial

Relations Commission, which is under the Department of Labor, has the power to hear and decide cases involving workers such as unfair labor practice cases, termination disputes, and claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations.¹⁰⁴ Another instance is the Department of Agrarian Reform Adjudication Board, which has the power to hear and decide agrarian disputes.¹⁰⁵ The decisions of these quasi-judicial agencies are subject to appeal to regular appellate courts just as though they are regular courts themselves.¹⁰⁶

The Executive Branch

Under the Administrative Code of 1987 (Executive Order No. 292), Book II, Chapter 3, Section 11, the President of the Philippines is authorized to exercise its executive power, while the people will elect the President and the Vice-President. The regular presidential elections are held at six-year intervals on the second Monday of May.¹⁰⁷ The President is not allowed to run for re-election but the Vice-President may be re-elected once.¹⁰⁸ The Constitution vests executive power in the President.¹⁰⁹ As such,

functions.” It ruled that the remedy was inappropriate under the circumstances as the executive judge conducting the investigation was not exercising judicial or quasi-judicial functions. His function was merely investigative and recommendatory in nature and he had no power to pronounce judgment on the controversy as such function belongs only to the Supreme Court pursuant to its power of supervision and control over court personnel and officers.

¹⁰⁴ Labor Code of the Philippines Article 217, *available at* http://www.dole.gov.ph/labor_codes/view/6 (last visited August 18, 2016).

¹⁰⁵ *Ibid.*

¹⁰⁶ Rule 43, Rules of Court, *available at* http://www.lawphil.net/courts/rules/rc_1-71_civil.html#r43 (last visited August 18, 2016).

¹⁰⁷ Article VII, Section 4 of the 1987 Constitution of the Philippines.

¹⁰⁸ Article VII, Section 4 of the 1987 Constitution of the Philippines.

¹⁰⁹ Article VII, Section 1 of the 1987 Constitution of the Philippines.

the President has control of all the executive departments, bureaus, and offices.¹¹⁰ The President's primary constitutional duty is to ensure that the laws be faithfully executed.¹¹¹

The framework for the exercise of executive power is provided by the Administrative Code of 1987,¹¹² which was promulgated not by the legislature but through the law-making powers of then President Corazon Aquino during the period between the People Power Revolution of 1986 and the taking into effect of the 1987 Constitution.

Of the 1987 Administrative Code (Executive Order No. 292), Book III, Chapter 1, the President shall have the following authorities/powers¹¹³;

- 1) Power to control. This includes all the executive departments, bureaus, and offices and to be responsible in enforcing laws related to such departments and offices.
- 2) Power ordinance power, a power of the President to have executive issuances (by nature similarly to a royal act or royal decree) to effectively implement executive policies.
- 3) Power over Aliens, a power being endowed to the President to have governing authority over non-Filipino citizens who live in the country. This includes the power to deport, change or upgrade their status to permanent residents, and to overrule the decisions of the Board of Commissioners of the Bureau of Immigration.
- 4) Power to expropriate properties for public purpose, or to bring properties back into possession of the state in case where the deceased has no heir or descendent to inherit the properties, including powers of eminent domain, escheat, land reservation and recovery of ill-gotten wealth.

¹¹⁰ Article VII, Section 17 of the 1987 Constitution of the Philippines.

¹¹¹ Article VII, Section 17 of the 1987 Constitution of the Philippines.

¹¹² Executive Order No. 292 (1987), *available at* <http://www.gov.ph/1987/07/25/executive-order-no-292-s-1987/> (last visited August 19, 2016)

¹¹³ Official Gazette, The Executive Branch, *available at* <http://officialgazette.gov.ph/about/exec/> (last visited June 20, 2018).

- 5) Power of appointment, of which the President is, by virtue of the law and constitution, empowered to appoint officials of the Philippine government, though some appointments may need the approval of the Committee on Appointments. The Committee is from the Senate and the House of Representative.
- 6) Power of general supervision over local government under the Local Government Code of 1991, being known in the name the Republic Act No. 7160.
- 7) Other powers as stated in laws and constitution.

The Office of the President proper consists of the private office, executive office, common support staff system and presidential adviser/assistant system. The private office is concerned with functions and matters personal to the President and the First Family.¹¹⁴ The executive office, under the Executive Secretary, attends to the specific needs and requirements of the President to achieve the purposes and objectives of the Office of the President. Essentially, the executive office assists the President in the exercise of his executive powers, such as implementing presidential decree or order and supervising offices which are under the Office of the President, etc.¹¹⁵ The common support staff system, as the name suggests, provides staff support to the Office of the President such as facilitation of cabinet meetings and providing public information and assistance.¹¹⁶ Meanwhile, presidential advisers and assistants provide advisory or consultative services to the President in such fields and under such conditions as the President may determine.

The Administrative Code provides that “the executive branch shall have such departments as are necessary for the functional distribution of the work of the President and for the performance of their functions.”¹¹⁷ These are headed by Department Secretaries. Among the duties of department secretaries are “advising the President in

¹¹⁴ Administrative Code of 1987 Book III, Title III, Chapter 9, Section 24. “Functions of the Private Office.
- The Private Office shall provide direct services to the President and shall for this purpose attend to functions and matters that are personal or which pertain to the First Family.”

¹¹⁵ Book III, Title III, Chapter 9, Section 27 of Administrative Code of 1987.

¹¹⁶ Book III, Title III, Chapter 9, Section 28 of Administrative Code of 1987.

¹¹⁷ Book IV, Chapter 9, Section 1 of Administrative Code of 1987.

issuing executive orders, regulations, proclamations and other issuances, the promulgation of which is expressly vested by law in the President relative to matters under the jurisdiction of the department, and promulgation of rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects.”¹¹⁸

“Cabinet secretaries act as the alter ego of the President executing, with his authority, the power of the Office of the President in their respective departments.”¹¹⁹ Cabinet secretaries possess the power to issue directives relative to their departments, such as department orders. These orders only apply to offices under a specific department under the cabinet secretary’s jurisdiction. Cabinet secretaries also act as advisors to the President of the Philippines for their areas.”¹²⁰ The number of cabinet secretaries depends on the need of an administration since the President of the Philippines is vested by law with the power to create or dissolve any department as he sees fit.¹²¹

The executive department operates under the doctrine of qualified political agency, or the alter ego doctrine. The doctrine provides that except in cases where the President is required by the Constitution or the law to act in person or the exigencies of the situation demand that he act personally, the executive and administrative functions of the President “are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated” by the President, presumptively the acts of the President.¹²²

¹¹⁸ Book IV, Chapter 2, Section 7 of Administrative Code of 1987.

¹¹⁹ Article VII, Section 16, 17 of 1987 Constitution of the Philippines.

¹²⁰ Article VII, Section 16, 17 of 1987 Constitution of the Philippines.

¹²¹ Under Article VII, Section 1 of 1987 Philippine Constitution states that the executive power shall be vested in the President of the Philippines. Therefore, the President has power to establish or dissolve any departments by issuing executive order.

¹²² Villena v. Secretary of Interior, 67 Phil. 451 (April 21, 1939), *available at* http://www.lawphil.net/judjuris/juri1939/apr1939/gr_I-46570_1939.html (last visited August 23, 2016). Petitioner was a municipal mayor who became subject of an administrative proceeding on corruption charges. The investigation was conducted by the Division of Investigation by the Department of Justice upon the

The following are the President's powers defined in the Constitution subject to Article VII:¹²³

1. Power to appoint (Section 16):
 - a. The heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in the Constitution. This is subject to confirmation by the Congress' Commission on Appointments;
 - b. Other officers of the Government whose appointments are not otherwise provided for by law;
 - c. Those whom he may be authorized by law to appoint.
2. Control of all the executive departments, bureaus, and offices. (Section 17).
3. Commander-in-chief of all armed forces, including the power to suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under martial law. Congress, however, may revoke the declaration of martial law. (Section 18)
4. The power to grant reprieves, commutations and pardons, and to remit fines and forfeitures, after conviction by final judgment. He also has the power to

request of the Secretary of Interior. He was found to have committed the charges against him and consequently, the Secretary of Interior recommended to the President his suspension to prevent possible coercion of witnesses, which recommendation was granted verbally by the President. He challenged the authority of the Secretary of the Interior to suspend him from office. It appears that there is no clear and express grant of power to the secretary to suspend a mayor of a municipality who is under investigation. However, the President has the power to remove a municipal official. In ruling against the petitioner, the Supreme Court ruled that the President's power to remove a municipal official includes the power to suspend a municipal official. The Supreme Court also ruled that the act of the Secretary of Interior in suspending the petitioner is presumptively the act of the President under the qualified political agency doctrine. Since the President has the power to suspend the petitioner, his suspension by the Secretary of the Interior, who acts as alter ego of the President, is valid.

¹²³ Available at https://www.academia.edu/31599890/POWERS_OF_THE_PHILIPPINE_PRESIDENT (last visited March 12, 2018).

grant amnesty with the concurrence of a majority of all the members of Congress. (Section 19)

5. The President may contract or guarantee foreign loans on behalf of the government with the prior concurrence of the Monetary Board. (Section 20)

It may be observed that the Vice President has no specific functions. He or she assumes the presidency only in case of death, permanent disability, removal from office, or resignation of the President. He or she may, however, be appointed to a cabinet post and such appointment requires no confirmation by the Commission on Appointments.

The Vice President is widely seen as a spare but an important one at that. The Vice President may or may not be a political ally of the President. Basically, this is because the election of the President and the Vice President, though to be held at a time, they are separately organized, and the citizens are thus capable of choosing the candidates from different parties to be in the positions. This is what so called a multi-party system which is apparently differed from the system operated in the US where the candidate runs for vice-presidency will be of the same party as of the president election. In the present scenario Vice President Leonor (“Leni”) Gerona Robredo is from a different party than President Rodrigo Duterte. For a long time Duterte did not want to give Robredo a cabinet position though in the end Duterte decided to entrust a cabinet post to Robredo.

In the past administration, former Vice President Jejomar Binay was from a different political party than former President Benigno Aquino III but was assigned a cabinet post. Binay eventually resigned from his cabinet post and became a staunch oppositionist to the Aquino administration in the latter part of their six-year term.

Considerations on Executive Powers

A 2011 Dissenting Opinion of Senior Associate Justice Antonio Carpio summarized the executive branch of the government as follows: “The Constitution provides that executive power shall be vested in the President. This means that neither the Judiciary nor the Legislature can exercise executive power for executive power is the exclusive domain of the President. Second, the Constitution provides that the President shall have control of all the executive departments, bureaus, and offices. Neither the Judiciary nor the Legislature can exercise control or even supervision over executive

departments, bureaus, and offices.”¹²⁴

According to Senior Associate Justice Carpio in a separate opinion he rendered in the case of ABAKADA Party List v. Purisima: “The most important self-executory constitutional power of the President is the Presidents constitutional duty and mandate to ensure that the laws be faithfully executed. The rule is that the President can execute the law without any delegation of power from the legislature. Otherwise, the President becomes a mere figure-head and not the sole Executive of the Government.”¹²⁵

Cruz also briefly describes the executive power as “the power to enforce and administer the laws, but it is actually more than this. In the exercise of this power, the President of the Philippines assumes a plenitude of authority, and the corresponding awesome responsibility, that make him, indeed, the most influential person in the land. The potentials of executive power are tremendous for good or evil.”¹²⁶

Bottom line is the President has power of control over the executive branch. The President also has the “power to give executive issuances, which are means to streamline the policy and programs” of an administration. The President also has power over foreigners in the country and hence, may also deport an alien, may overrule the decisions of the Bureau of Immigration in deportation cases, and may change the status of a foreigner according to law to permanent resident status without need of a visa. The President also has the power to “appoint officials of the Philippine government as provided by the constitution and laws of the Philippines” though some appointments may need the approval of the Committee on Appointments. The President also has the power to

¹²⁴ G.R. Nos. 171947-48 (Promulgated February 15, 2011), *available at* http://sc.judiciary.gov.ph/jurisprudence/2011/february2011/171947-48_carpio.html (last visited March 20, 2016). The mentioned decision tackled whether or not the decision of the Supreme Court ordering the rehabilitation and clean-up of Manila Bay encroached on the powers of the executive branch. The majority of justices held that there was no encroachment since the issuance of the subsequent resolutions by the Supreme Court is but an exercise of judicial power and that the execution of the decision is but an integral part of the adjudicative powers of the court. Justice Antonio Carpio dissented and emphasized the powers of the executive branch.

¹²⁵ *Supra* note 102.

¹²⁶ *Supra* note 82, at 336.

supervise all local governments in the Philippines even those with autonomous status such as the Autonomous Region of Muslim Mindanao. The president also has the “powers of eminent domain, escheat, land reservation and recovery of ill-gotten wealth” which may prompt him or her to direct the Solicitor General to institute the necessary proceeding.¹²⁷

Therefore, as a whole, the powers accorded by the Constitution to the President are sufficient to effectively administer the country. The efficacy will only be truly felt by the citizens, however, when the President is truly able to work hand in hand with the two other branches of government and is backed up by proper implementation of the laws. On paper everything is sufficient. Proper implementation on all parts of the country is necessary though.

Legislative Branch

The legislative branch has a bicameral legislature following that of the United States. Cruz defines legislative power in general as follows: “Legislative power is the power of lawmaking, the framing and enactment of laws. This is effected through the adoption of a bill, or a proposed or projected law, which, once approved becomes a statute.”¹²⁸ The legislative department is composed of a Senate and a House of Representatives, collectively called Congress. Legislative power is vested upon Congress. The main task of the legislative branch is to legislate. Laws are made, modified, repealed in Congress.

Other powers of Congress expressly provided by the Constitution may be summarized as follows:

1. Power to appropriate
2. Power to act as constituent assembly
3. Power to impeach
4. Power to declare the existence of war
5. Power to concur amnesty;
6. Power to act as board of canvasser for presidential/vice-presidential votes

¹²⁷ Book III, Title I of Administrative Code of 1987.

¹²⁸ *Supra* note 82, at 269.

7. Exercise of the power to contempt
8. Blending of power
9. Delegation of power
10. Budgetary power
11. Power to taxation including the grant of tax exemptions

The Legislative Process

The government accurately summarizes the legislative process as follows:

“Congress is responsible for making enabling laws to make sure the spirit of the constitution is upheld in the country and, at times, amend or change the constitution itself. In order to craft laws, the legislative body comes out with two main documents: bills and resolutions.

Resolutions convey principles and sentiments of the Senate or the House of Representatives. These resolutions can further be divided into three different elements:

1. **Joint resolutions** — require the approval of both chambers of Congress and the signature of the President and have the force and effect of a law if approved.” In consideration of the nature, the joint resolutions and the bills are of their similar status, however, the joint resolutions will normally be used to tackle and deal with particular issue, i.e. the continuing or emergency appropriation bill and the amendment of the constitution.
2. **Concurrent resolutions** — used for matters affecting the operations of both chambers of Congress and must be approved in the same form by both houses but are not transmitted to the President for his signature and therefore have no force and effect of a law. Generally, it is used to demonstrate sense of Congress on particular issue and to fix the time of adjournment when postponement of an assembly is taken.
3. **Simple resolutions** — deal with matters entirely within the prerogative of one chamber of Congress, are not referred to the President for his signature, and therefore have no force and effect of a law. Normally, it will be used to demonstrate opinions of one chamber on particular issue or to call upon a congress to do something to avoid problems that will likely cause impact of national interest.

Bills are laws in the making. They pass into law when both houses and the President of the Philippines approve them, and to be in full force and effect after the lapse of 15 days of publishing in the official gazette or at least two national newspapers has passed. The President. The President may veto a bill, but the House of Representatives may overturn a presidential veto by garnering a 2/3rds vote. If the President does not act on a proposed law submitted by Congress, it will lapse into law after 30 days of receipt.”¹²⁹

Hence, for a bill to be enacted into law the said bill has to be passed by both Senate and the House of Representatives. The legislative process is quite lengthy, and laws are scrutinized before being voted upon. In addition, as to any effects on the political security of the country, the fact that the legislative process is quite tedious makes it more difficult for laws could adversely affect the country to pass. Congress effectively safeguards national security by ensuring that only laws that are consistent with the Constitution are enacted.

The Senate

The Senate has law- making powers. It also has the power to conduct investigations in aid of legislation. The Constitution provides that the term of each Senator shall be six years commencing “at noon on the thirtieth day of June following their election.”¹³⁰ The Senate is composed of twenty-four (24) Senators elected at large by the qualified voters of the Philippines.¹³¹ The senators are elected nationally and have a term of six years. No Senator shall serve for more than two consecutive terms. According to Cruz: “By providing for a membership elected at large by the entire electorate, this rule intends to make the Senate a training ground for national leaders and possibly a springboard to the Presidency. The feeling is that the senator, having a national rather than only a district constituency, will have a broader outlook of the problems of the country instead of being restricted by parochial viewpoints and narrow interests. With such a

¹²⁹ The Legislative Branch *available at* <http://www.gov.ph/about/gov/the-legislative-branch/> (last visited August 19, 2016).

¹³⁰ Article VI, Section 3 of 1987 Philippine Constitution.

¹³¹ Article VI, Section 2 of 1987 Philippine Constitution.

perspective, the Senate is likely to be more circumspect and broad-minded than the House of Representatives.”¹³²

Among the past fifteen (15) Philippine presidents eleven (11) were senators before being elected to the presidency namely: Manuel L. Quezon, Sergio Osmena Sr., Jose P. Laurel, Manuel A. Roxas, Elpidio Quirino, Carlos P. Garcia, Diosdado Macapagal, Ferdinand Marcos, Joseph Ejercito Estrada, Gloria Macapagal Arroyo and Benigno Aquino III.¹³³ The public usually speculates who among the existing senators would run for president in the next elections. In the recently concluded May 2016 elections, three out of the five presidential candidates have been elected as senators. One candidate, Grace Poe, resumed her duties as senator after losing the elections. Had Poe won the presidential race, her senate seat would have been declared vacant. Poe was elected senator in 2013 and will continue to be a senator until 2019 when she is eligible for reelection. It is possible for senators to run for higher office and then resume senate work should he or she lose because half of the composition of the senate is elected every three years. This means that twelve out of twenty-four senators are elected every three years. The intention here is to make sure that the senate is a continuing body. The staggered terms ensure that the senate will never be vacant in its entirety.

It is an acceptable trajectory for a politician to run for local, a seat in the senate or in the house of representatives before running for vice president or president because it is not prohibited by the Constitution.¹³⁴ The current president, Rodrigo Duterte, was the mayor of Davao City when he was elected as President. Duterte was a

¹³² *Supra* note 82, at 187.

¹³³ List of Previous Senators *available at* <https://www.senate.gov.ph/senators/senlist.asp> (last visited March 21, 2016)

¹³⁴ Article VII, Section 2 of the 1987 Constitution states that “*No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.*” *available at* <http://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-vii/> (last visited March 18 2018). However, Article VII, Section 13 prohibits the President from holding any position that arouse conflict of interest.

district representative, however, from 1998-2001. The current vice president, Leonor Gerona Robredo, was a district representative when she ran and won as vice president.

House of Representatives

According to the Constitution of the Philippines, the House of Representatives is consisting of two kinds of members, the district representatives and the party-list representative. In accordance to Article 6, Section 5 (2), “the party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list”. And under the current system, representatives will be elected for a 3-year term by voters in their respective legislative districts, with possibility to be re-elected, but in no case can serve more than three consecutive terms. At present, there are 238 legislative districts in the Philippines, each composed of approximately 250,000 people¹³⁵.

While the district representative system is of the objective to seek delegates from the territorial unit to voice local needs, the party-list representative is of its aim to let locals being more involved more in politics by having their people in the House. According to Section 8 of the Republic Act No. 7941 (The Party-List System Act), being put into force on March 3, 1995, “each registered party, organization or coalition shall submit to the COMELEC not later than 45 days before the election a list of names, not less than five, from which party-list representatives shall be chosen... and a person may be nominated in one list only”¹³⁶. However, the COMELEC may refuse or cancel the registration of any national, regional or sectoral party, organization or coalition if the COMELEC found that “i) it is a religious sect or denomination, organization or association, organized for religious purposes, or ii) it advocates violence or unlawful means to seek its goal, or iii) it is a foreign

¹³⁵ Available at <https://www.rappler.com/newsbreak/iq/140715-17th-congress-philippines-composition-numbers> (last visited March 18, 2018).

¹³⁶ Available at https://www.lawphil.net/statutes/repacts/ra1995/ra_7941_1995.html (last visited March 18, 2018).

party or organization, or iv) it is receiving support from any foreign government, foreign political party, foundation, organization and so on” (Section 6)¹³⁷.

With regard to voting, according to Section 10, “every voter shall be entitled to two votes: the first is a vote for candidate for member of the House of Representatives in his legislative district, and the second, a vote for the party, organizations, or coalition he wants represented in the house of Representatives...” (the party-list)¹³⁸. In determining the allocation of seats for the second vote, Section 11 of the same Act regulates the conditions that: “i) the parties, organizations, and coalitions shall be ranked from the highest to the lowest based on the number of votes they garnered during the elections, and ii) the parties, organizations, and coalitions must receive at least two percent of the total votes cast for the party-list system which shall be entitled to one seat each, provided that those garnering more than two percent of the votes shall be entitled to additional seats in proportion to their total number of votes. However, that each party, organization, or coalition shall be entitled to not more than three seats” as maximum¹³⁹.

As of the latest election of the Congress (the 17th Congress) on May 9, 2016 and the first regular session on July 25 of the same year, the result turned out that this batch of lawmakers is comprised of 24 senators and 238 representatives from all legislative districts, plus 59 congressmen from party-list groups¹⁴⁰. Each of them will be in the position for three years.

Protection against gerrymandering

Gerrymandering is defined as the “arrangement of districts in such a way as to favor the election of preferred candidates (usually re-electionists) through the inclusion

¹³⁷ Section 6 of Republic Act No. 7941.

¹³⁸ Section 10 of Republic Act No. 7941.

¹³⁹ Section 11 of Republic Act No. 7941.

¹⁴⁰ <https://www.rappler.com/newsbreak/iq/140715-17th-congress-philippines-composition-numbers> (last visited March 18, 2018).

therein only of those areas where they expect to win, regardless of the resultant shape of such districts.”¹⁴¹

The 2010 case of *Navarro v. Ermita*¹⁴² described it as: “an apportionment of representative districts so contrived as to give an unfair advantage to the party in power.”¹⁴³ The case of *Navarro v. Ermita* is a petition for certiorari to declare Republic Act No. 9355 unconstitutional. Republic Act No. 9355 created the province of Dinagat in Mindanao hence creating a new district which shall be entitled to representation in the House of Representatives. The petitioners asserted that the creation of Dinagat will deprive the existing province Surigao del Norte of territory, earnings and resources. The Supreme Court granted the petition and invalidated Republic Act No. 9355 based on Dinagat’s failure to comply with the requirements of the Local Government Code for the creation of a separate province. Gerrymandering was discussed in the case though evidence failed to prove that the attempt to create Dinagat province was intended to favor a certain representative or candidate. However, in 2011, the Supreme Court overruled its own decision and validated Republic Act 9355 which made Dinagat become a new province based on the reason that it is exempted from the minimum land area and population requirement.¹⁴⁴

In 2013 House Bill No. 4820 proposing to divide the existing province of Camarines Sur into failed to obtain the approval of the senators. The proponents of the said House Bill were the four representatives of the province of Camarines Sur. The House Bill gave the impression that dividing Camarines Sur into two will favor some politicians and ensure control over their political turf. Therefore, it is not far fetched to say that politicians may resort to gerrymandering in order to ensure victory as district representative. Attempts to pass laws that may create new provinces that are actually the bailiwick of a political clan or a particular politician may occur. However, the

¹⁴¹ *Supra* note 82, at 202.

¹⁴² G.R. No. 180050 (2010), *available at* <http://sc.judiciary.gov.ph/jurisprudence/2011/april2011/180050.htm> (visited March 18, 2018).

¹⁴³ *Supra* note 82, at 202.

¹⁴⁴ <http://newsinfo.inquirer.net/274298/sc-affirms-dinagat-island-separation-from-surigao-del-norte> (last visited March 18, 2018).

Constitution “reiterates the guaranty against gerrymandering”. However, the Constitution is the basis for the prevention of gerrymandering.¹⁴⁵

Judiciary

Judiciary is one of the most important matter in democracy¹⁴⁶. According to the Constitution article VIII¹⁴⁷, section 1 provide that the Supreme Court and the lower courts shall hold the judicial power. The judiciary holds neither purse nor sword and yet it “is an indispensable department of every democratic government”.¹⁴⁸ Cruz says: “It is trite to say that courts of justice are the bastion of the rights and liberties of the people. Nevertheless, it cannot be repeated too often that the life-blood of every libertarian regime is found in the vitality of its judicial system.”¹⁴⁹ Independence must be maintained in accordance with Constitution, the judicial procedure in the Philippine is the “single court system” by assigning the court of justice shall has the power to decide all types of disputes and to determine the legitimacy of the Constitution (judicial review) which reflect supreme power to the criminal and the civil trial processes.¹⁵⁰

The court proceedings shall be considered under the combined legal system, which consists of written law, customary law, Islamic law and local tradition. The law relating to family, property, legacy, contract and criminal law shall be subject to the written law system while the Constitution, procedures, taxation, insurance, company, banking and labor law are under the customary law system. In addition, the courts of the Philippines are not being considered using the jury system.¹⁵¹

¹⁴⁵ *Supra* note 82, at 202.

¹⁴⁶ *Supra* note 82, at 466.

¹⁴⁷ See note 1.

¹⁴⁸ *Supra* note 82, at 466.

¹⁴⁹ *Supra* note 82, at 466.

¹⁵⁰ “Dual court system” is a judicial structure employing two independent court systems, one constitution court and administrative court at constitution rights of the law.

¹⁵¹ Office of International Affairs, Office of the Judiciary, Legal and Court Systems on ASEAN Countries, http://www.oia.coj.go.th/doc/data/oia/iad_1469091577.pdf, page 56-57 (last visited March 22, 2018).

Appointment to the judiciary is provided by the Constitution. Appointment is provided in Article VIII, Section 8 that “appointments to the judiciary are made by the President of the Philippines based on a list submitted by the Judicial and Bar Council which is under the supervision of the Supreme Court. Its principal function is to screen prospective appointees to any judicial post. It is composed of the chief justice as ex-officio chairman, the Secretary of Justice and representatives of Congress as ex-officio members, and a representative of the Integrated Bar, a professor of law, a retired member of the Supreme Court and a representative of the private sector as members.”¹⁵² Appointed judges and justices have a mandatory retirement age of seventy years old.

It is not possible to pursue a career as a judge after finishing legal education or after passing the Bar Examinations. There is also no separate legal education program that will train students fresh out of high school or fresh out of college or university to be members of the judiciary. All appointed judges and justices have to be graduates of a Bachelor of Laws or Juris Doctor program along with all lawyers in the Philippines. All appointed judges and justices in the country start out as lawyers.

The first-tier courts require an experience of five years of law practice before a lawyer may be appointed as judge. The Regional Trial Courts, on the other hand, require ten years of law practice prior to eligibility for appointment.¹⁵³ The usual trajectory of a lawyer appointed as a judge for a first level court or for a regional trial court is to apply for vacancies in appellate courts or in the Supreme Court later in their careers.

The Judiciary Reorganization Act of 1980¹⁵⁴, provides the Philippine courts of justice are divided into four categories:

(1) Local Court

Local court is court of first instance which comprises of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts.

¹⁵² The Judicial Branch available at <http://www.gov.ph/about/gov/judiciary/> (last visited August 18, 2016).

¹⁵³ Rules of Judicial and Bar Council (JBC-009), available at https://www.lawphil.net/courts/supreme/jbc/jbc_009_2000.html (last visited March 23, 2018).

¹⁵⁴ https://www.lawphil.net/statutes/bataspam/bp1994/bp_129_1994.html, (last visited March 23, 2018).

Republic Act No. 7691¹⁵⁵ enumerates the jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts. The above-mentioned courts exercise over criminal cases:

“(1) Exclusive original jurisdiction over all violations of city or municipal ordinances committed within their respective territorial jurisdiction; and

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, that in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof.”¹⁵⁶

Simply stated the first-tier courts enumerated above have jurisdiction over violations of ordinances within the applicable territorial jurisdiction. The jurisdiction may be a chartered city (Metropolitan Trial Courts), municipality (Municipal Trial Courts) or several small municipalities covered by one first-tier court (Municipal Circuit Trial Courts). The said first-tier courts also have exclusive jurisdiction over all offenses punishable by imprisonment of six years or less.

The original jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts over civil cases are as follows:

“(1) Exclusive original jurisdiction over civil actions and probate proceedings¹⁵⁷, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed One hundred thousand pesos (approximately 16,000 Baht¹⁵⁸) or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred

¹⁵⁵ Republic Act No. 7691 (1994), *available at* http://www.lawphil.net/statutes/repacts/ra1994/ra_7691_1994.html (last visited August 18, 2016).

¹⁵⁶ Section 2 of Republic Act No. 7691.

¹⁵⁷ For example, an identification of the deceased's property, performance, inherited right and identification of inheritance (similar to Thai civil law of succession).

¹⁵⁸ Exchange rate (Bank of Thailand) at March 22, 2018, *availbale at* https://www.bot.or.th/thai/_layouts/application/exchangerate/exchangerate.aspx (last visited March 22, 2018).

thousand pesos (P200,000. 00) , exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: Provided, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: Provided, further, That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions;

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the questions of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession; and

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.”¹⁵⁹

Beside the mentions above, there are also special courts that perform the trial of Islamic cases in the local level which call “The Shari’a Circuit Courts (SCCs)”. These courts have been established to resolve cases involving Muslims. Shari’a courts are part of the Philippine judicial system, which were created specifically for the effective administration and enforcement of the Code of Muslim Personal Laws, are subject to the administrative supervision of the Supreme Court. For example, all cases involving

¹⁵⁹ Section 3 of Republic Act No. 7691.

custody, guardianship, legitimacy, paternity and filiation arising under the Code of Muslim Personal Laws.¹⁶⁰

(2) Regional Trial Court

Each province or city has a regional trial court. A new regional trial court such as those for newly created cities can be created by law through a republic act enacted by Congress. The Regional Trial Courts have appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. The Regional Trial Courts exercise exclusive original jurisdiction in “all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions.”¹⁶¹ For criminal cases, this pertains to crimes punishable with imprisonment of more than six years except for those under the jurisdiction of other courts such as the court with jurisdiction to try graft and corrupt practices cases. For civil cases beyond the scope of the first-tier courts, it is the regional trial courts that exercise jurisdiction.

(3) Court of Appeals

The Court of Appeals is the second highest tribunal in the Philippines. The jurisdictions of the Court of Appeals are as follows:¹⁶²

“1. Original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;

2. Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and

3. Exclusive appellate jurisdiction over all final judgments, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commission. The Court of Appeals does not have jurisdiction over courts deemed to be equal to it in rank.”

¹⁶⁰ http://www.muslimmindanao.ph/shari'a/code_muslim.pdf (last visited March 23, 2018).

¹⁶¹ Section 1 of Republic Act No. 7691.

¹⁶² The Judiciary Reorganization Act of 1980, Section 9, *available at* https://www.lawphil.net/statutes/batasam/bp1994/bp_129_1994.html, (last visited March 23, 2018).

There are also two more special courts:

1) Sandiganbayan

The Sandiganbayan is special appellate collegial court. It is equivalent to the Court of Appeals in rank. The Sandiganbayan was established “to attain the highest norms of official conduct among officials and employees in the government.”¹⁶³ The Sandiganbayan notably has jurisdiction over violations of Republic the Anti-Graft and Corrupt Practices Act, as amended, and of the pertinent chapter of the Revised Penal Code.

2) Court of Tax Appeals

The Court of Tax Appeals is an appellate collegial court with the same rank as the Court of Appeals. As the name itself indicates the Court has jurisdiction over tax related matters.

(4) Supreme Court

The Supreme Court of the Philippines is the highest court of the land. It is “composed of a chief Justice and 14 associate justices who serve until the age of 70. The court may sit en banc or in one of its three divisions composed of five members each. The chief justice and associate justices are appointed by the President of the Philippines, chosen from a shortlist submitted by the Judicial and Bar Council. The president must fill up a vacancy within 90 days of occurrence.”¹⁶⁴

Article VIII, Section 5 of the Constitution states that the Supreme Court exercises the following powers:

“1. Exercise jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warrant, and habeas corpus.

2. Review, revise, reverse, modify, or affirm, on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of the lower courts in:

¹⁶³ Presidential Decree No. 1486, *available at* https://www.lawphil.net/statutes/presdecs/pd1978/pd_1486_1978.html (last visited March 23, 2018).

¹⁶⁴ Article VIII, Section 4(1) of 1987 Philippine Constitution, *available at* <http://www.officialgazette.gov.ph/constitutions/1987-constitution/> (last visited March 24, 2018).

- a. All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question;
 - b. All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto;
 - c. All cases in which the jurisdiction of any lower court is in issue;
 - d. All criminal cases in which the penalty imposed is reclusion perpetua or higher;
 - e. All cases in which only an error or question of law is involved;
3. Assign temporarily judges of lower courts to other stations as public interest may require. Such temporary assignments shall not exceed six months without the consent of the judge concerned.
4. Order a change of venue or place of trial to avoid a miscarriage of justice.”¹⁶⁵

Simply put, decisions of all lower courts can only be resolved with finality at the level of the Supreme Court. A party may pursue an appeal until the level of the Supreme Court. The court also has the sole power to change the courts that has jurisdiction over a trial in the interest of justice. The researcher has availed of this power to change venue in a case when the petitioner's life will be in danger in the province with original jurisdiction over a criminal case. The Court granted the petition and changed the venue of the trial to a regional trial court in the country's capital.

However, according to Cruz, “While it is the judiciary which sees to it that the constitutional distribution of powers among the several departments of the government is respected and observed, this does not mean that it is superior to the departments.”¹⁶⁶ This means that power of judicial branch to monitor the use of power of any public officials does not make judicial branch more privileged than those organizations.

¹⁶⁵ Article VIII, Section 5 of 1987 Philippine Constitution.

¹⁶⁶ *Supra* note 82, at 136.

Independence of the Judiciary

To uphold the independence of the judiciary. The following protection have been embedded in “Articles VI, VIII, XI of the Constitution.

- (1) The Supreme Court is a constitutional body. It cannot be abolished nor may its membership or the manner of its meetings be changed by mere legislation.
- (2) The members of the Supreme Court may not be removed except by impeachment.
- (3) The Supreme Court may not be deprived of its minimum original and appellate jurisdiction as prescribed in Article VIII, Section 5, of the Constitution.
- (4) The appellate jurisdiction of the Supreme Court may not be increased by law without its advice and concurrence.
- (5) Appointees to the judiciary are now nominated by the Judicial and Bar Council and no longer subject to confirmation by the Commission on Appointments.
- (6) The Supreme Court now has administrative supervision over all lower courts and their personnel.
- (7) The Supreme Court has exclusive power to discipline judges of lower courts.
- (8) The members of the Supreme Court and all lower courts have security of tenure, which cannot be undermined by a law reorganizing the judiciary.
- (9) They shall not be designated to any agency performing quasi-judicial or administrative functions.
- (10) The salaries of judges may not be reduced during their continuance in office.
- (11) The judiciary shall enjoy fiscal autonomy.
- (12) The Supreme Court alone may initiate rules of court
- (13) Only the Supreme Court may order the temporary detail of judges.
- (14) The Supreme Court can appoint all officials and employees of the judiciary.”¹⁶⁷

According to known Filipino lawyer Jose C. Sison, legislative power is basically a constitutional authority to make written act regulating people/s relations with each other or between them and the government and its agencies (Government of the Phil. vs.

¹⁶⁷ *Supra* note 82, at 468.

Springer, 50 Phil. 259). The legislative role is primarily to decide a policy and to materialize it as a prescribed and binding code of conduct (Occena vs. Comelec 95 SCRA 755).

On the other hand, executive power is the power to execute the laws and put them into practice and to impose their due observance. Judicial power is the power to interpret and apply the law to disputes or conflicts between the State and private individuals involving legally recognized rights or duties, or between particular litigants in cases reasonably brought before the Court. According to Article 8 Section 1 par. 2 of the 1987 Constitution, this power encompasses “(1) the settlement of actual controversies involving rights legally demandable and enforceable; (2) the determination whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.”

Under the principle of the separation of powers, as a rule, one branch of government cannot control or execute the primary function of the other branches. Officers from one branch cannot intervene, interfere, enforce or decide how the other branches are supposed to perform their jobs. Essentially, this means that each government department is supreme and has the final say on their actions within their respective spheres. The justification for this power separation is to prevent arbitrary and tyrannical rule if one body exercises all or most of the powers of government.

But while the three branches are meant to be co-equal and separate from each other, the constitutional distribution of power seems to make other divisions stronger than the others. It is even said that the judiciary is the weakest among the three because it does not have the power of the ‘purse’ of Congress and the power of the ‘force’ of the President or the Chief Executive. A system of checks and balances along with the principle of separation of powers is also practiced in order to maintain the balance of power or to restore it if it is broken.

Consequently, each branch of government was armed with certain powers to monitor the other branches. In a particular case of impeachment, it is mainly invoked the power of the Congress to impeach the members of the Supreme Court, particularly its Chief Justice, where the Lower House has the exclusive power to initiate the impeachment complaint and the Senate has the exclusive power to conduct trial and make decision

(Article XI, Section 2).¹⁶⁸ While judicial branch is equipped with power to conduct judicial review on constitutionality of acts performed by legislative or executive branches.

2.1.2 Political and Security Policies in the Past Period

Spanish Colonization

The government was composed of the executive branch and the judicial branch during Spanish colonization in the Philippines.¹⁶⁹ The Governor General who was deemed the leader of the executive branch represented the King of Spain along with Spain itself. The Governor General was responsible for implementing laws from Spain and had the power to appoint or relieve officers in the government and priests in the parish churches with the exception of those appointed personally by the King of Spain.¹⁷⁰ However, generally, the Filipinos look back at the Spanish era as a time when Filipinos were considered inferior to the Spanish people. Security was more for the Spanish colonizers and not guaranteed to the Filipinos.

Spanish occupation ended when Spain ceded the Philippines to the United States of America (USA) with the signing of the Treaty of Paris in 1898.¹⁷¹ With the signing of the treaty of Paris, the war between Spain and the USA ended, among others. Most relevant is the payment of the USA of twenty million US dollars to Spain for the turnover of the possession of the Philippines.¹⁷²

American Occupation

The US colonial rule in the Philippines was “ characterized politically by authoritarian bureaucracy and one-party state building with the collaboration of Filipino

¹⁶⁸ Jose C. Sison (2012). Real Issues as published by PhilStar Global, *available at* <http://www.philstar.com/opinion/764999/real-issues> (last visited March 20, 2016).

¹⁶⁹ Jamie Nicole Malig (July 15, 2010) . The Type of Government in the Philippines in the Spanish Colonial Period, *available at* <https://history.knoji.com/the-type-of-government-in-the-philippines-in-the-spanish-colonial-period/> (last visited August 12, 2016).

¹⁷⁰ *Ibid.*

¹⁷¹ The World of 1898: The Spanish American War *available at* <http://www.loc.gov/rr/hispanic/1898/treaty.html> (last visited August 14, 2016).

¹⁷² *Ibid.*

elites at its core”¹⁷³. The colonial rule was “carried out in the name of promoting "self-government" over an indefinite but calibrated timetable”¹⁷⁴. However, among the policies utilized by the US to attempts at Philippine independence were “a Sedition Act that banned expressions in support of Philippine independence, a Banditry Act that criminalized ongoing resistance, and a Reconcentration Act that authorized the mass relocation of rural populations”¹⁷⁵.

World War II

American occupation was interrupted by World War II in December 1941. Japanese rule lasted until the surrender of Japan in 1944. Filipinos deemed the said period as a dark era as the same is remembered to be characterized by violence, lawlessness and oppression. Philippine guerilla movement continued throughout the occupation. Being part of such movement was deemed a crime by the Japanese and as a result, countless Filipinos died in Japanese hands.

End of World War II

American occupation resumed after the surrender of Japan. Philippine independence was officially recognized by the United States on the 4th of July 1946. America relinquished control of the islands and Philippine President Manuel A. Roxas became the highest leader of the land. US military bases remained in the Philippines until 1991 when the Philippine Senate voted to reject a new treaty for the continued presence of a US military base in the Philippines.¹⁷⁶ However, even after Philippine officially gained

¹⁷³ UNITED STATES COLONIAL RULE IN THE PHILIPPINES, *available at* <http://ic.galegroup.com/ic/uhic/ReferenceDetailsPage/DocumentToolsPortletWindow?displayGroupName=Reference&jsid=1ae5d9d364eeb18e033ca99962c4a20e&action=2&catId=&documentId=GALE%7CCX2587300408&u=seat24826&zid=085dd416d13745ab3e5a267f60ab2c9c> (last visited August 14, 2016).

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ Philip Shenon, (September 16, 1991). PHILIPPINE SENATE VOTES TO REJECT U. S. BASE RENEWAL, *available at* <http://www.nytimes.com/1991/09/16/world/philippine-senate-votes-to-reject-us-base-renewal.html> (last visited August 14, 2016).

independence, US influence lingered politically and culturally.

Policies during Dictatorship of Ferdinand Marcos

Former President Ferdinand Marcos was president of the Philippines from 1965 to 1986. Marcos was able to rule for over twenty years by declaring martial law and subsequently changing the Constitution. Proclamation No. 1081 was the declaration of martial law in the Philippines.¹⁷⁷ The same took effect on 21 September 1972. Then, Marcos ordered six general orders one after the other and one letter of instruction to fully implement martial law.¹⁷⁸ By virtue of General Order No. 1¹⁷⁹ Marcos was able to direct the operation of the entire government.

Through General Order No. 2¹⁸⁰ Marcos was able to order the arrest of certain individuals found in a list approved by him. On the other hand, General Order No. 3¹⁸¹ ordered the continued operation of government offices under their present officers and employees. The Judiciary was likewise ordered to continue its function save in cases particularly enumerated. The enumerated exceptions to the jurisdiction of the Judiciary include cases involving crimes against national security, crimes against public orders, crimes involving usurpation of authority, crimes committed by public officers, crimes against the fundamental laws of the state and those involving the validity, legality or constitutionality of Proclamation 1081 and the rules, orders or acts pursuant to the same.¹⁸²

¹⁷⁷ Proclamation No. 1081, *available at* <http://www.gov.ph/1972/09/21/proclamation-no-1081/> (visited August 14, 2016).

¹⁷⁸ Marcos' Martial Law Orders Reynaldo Santos Jr. (2012), *available at* <http://www.rappler.com/nation/12899-marcos-martial-law-orders> (last visited August 14, 2016).

¹⁷⁹ General Order No. 1 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-1-s-1972/> (last visited August 14, 2016).

¹⁸⁰ General Order No. 2 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-2-s-1972/> (last visited August 14, 2016).

¹⁸¹ General Order No. 3 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-3-s-1972/> (last visited August 14, 2016).

¹⁸² General Order No. 3 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-3-s-1972/>

General Order No. 4¹⁸³ mandated a curfew to be enforced in all places from twelve midnight until four in the morning. For its part, General Order No. 5¹⁸⁴ prohibited “all forms of group action including strikes and picketing in vital industries” such as manufacturing, processing, banking, hospitals, schools and colleges. In effect, this General Order curtailed the right to air grievances.

Lastly, General Order No. 6¹⁸⁵ prevented all individuals from keeping, possessing or carrying firearm outside of his or her residence save for those with authorization from the government. Marcos had the backing of the military and he ruled with an iron fist. Most of Marcos’ political rivals were arrested after the declaration of martial law.

2.1.3 Policies in the Present on Politics and National Security

The Philippine Constitution is the foundation of all policies. “The Constitution is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land, must defer. No act shall be valid, however nobly intentioned, if it conflicts with the Constitution. The Constitution must ever remain supreme. All must bow to the mandate of this law. Expediency must not be allowed to sap its strength nor greed for power debase its rectitude. Right or wrong, the Constitution must be upheld as long as it has not been changed by the sovereign people lest its disregard result in the usurpation of the majesty of the law by the pretenders to illegitimate power.”¹⁸⁶

Philippine jurisprudence provides that “the role of the Constitution cannot be overlooked. It is through the Constitution that the fundamental powers of government are established, limited and defined, and by which these powers are distributed among the

(last visited August 14, 2016).

¹⁸³ General Order No. 4 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-4-s-1972/> (last visited August 14, 2016).

¹⁸⁴ General Order No. 5 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-5-s-1972/> (last visited August 14, 2016).

¹⁸⁵ General Order No. 6 (1972), *available at* <http://www.gov.ph/1972/09/22/general-order-no-6-s-1972/> (last visited August 14, 2016).

¹⁸⁶ *Supra* note 82, at 16.

several departments. The Constitution is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land, must defer. Constitutional doctrines must remain steadfast no matter what may be the tides of time. It cannot be simply made to sway and accommodate the call of situations and much more tailor itself to the whims and caprices of government and the people who run it.”¹⁸⁷

The Evolution of the Philippine Constitution

The Malolos Constitution

Though never really applied in the country, the Malolos Constitution also known as the Political Constitution of 1899¹⁸⁸ is deemed the first basic law of the Philippine Republic. The Constitution was written in Spanish which was the official language of the country at that time. The said Constitution declared that the Philippines is a free and independent republic which was not realized at that time due to the Treaty of Paris which saw the country changing colonial masters from the Spanish to the Americans follow by the Article III of The Treaty of Paris. Hence, the Malolos Constitution is considered as political Constitution (the Political Constitution), due to the content of the provisions and independence of the country. Therefore, the constitution was not actually enforced in such a way as general constitution, but then later on, it is considered the source of evolution of the Constitution of the country.

¹⁸⁷ G.R. No. 193036 (2010), *available at* http://www.lawphil.net/judjuris/juri2010/dec2010/gr_192935_2010.html (last visited March 20, 2016). The said case held that Executive Order No. 1 creating the Philippine Truth Commission was unconstitutional. According to the Supreme Court, Executive Order No. 1 is violative of the equal protection clause due to the Philippine Truth Commission’s clear mandate of investigate and find out the truth concerning the reported cases of graft and corruption during the previous administration only. The equal protection clause requires that all similarly situated should be treated alike and hence, the administration previous to that of President Benigno Aquino III should not be singled out.

¹⁸⁸ The 1899 Malolos Constitution (1899), *available at* <http://www.gov.ph/constitutions/the-1899-malolos-constitution/> (last visited 14 August 2016).

1935 Constitution

The 1935 Constitution was enacted during American occupation of the Philippines and was in force until the 1973. The said 1935 Constitution defines Philippine territory as follows: "The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain..."¹⁸⁹ The 1935 Constitution originally provided for a unicameral legislative arm and a six-year term for the President. An amendment ratified in 1941 paved the way for a bicameral Congress composed of a Senate and a House of Representatives.¹⁹⁰

A notable provision of the 1935 Constitution resulted from the ratification of the required amendment in 1947 which granted parity rights to the United States. The amendment "granted United States citizens and corporations equal rights with the Filipinos in the utilization and exploitation of its natural resources and the operation of public utilities."¹⁹¹ The ratification was by way of national plebiscite and the approval of three-quarters of the members of Congress as required by the Constitution. Most believe that the grant of equal rights to the United States stemmed from the belief of majority of Filipinos then that the US was an ally. The US played an important role in liberating the Philippines from Japanese occupation. The memory of the war and the US as an ally was fresh in the minds and hearts of the Filipino people when the parity rights amendment was granted.

¹⁸⁹ The 1935 Constitution Article I Section 1, *available at* <http://www.gov.ph/constitutions/the-1935-constitution/> (last visited August 16, 2016).

¹⁹⁰ Philippine Congress History (no date), *available at* <http://www.congress.gov.ph/about/?about=history> (last visited August 16, 2016).

¹⁹¹ Today in Philippine History, March 11, 1947, the "parity amendment" to the 1935 Constitution was ratified (2012), *available at* <https://kahimyang.com/kauswagan/articles/995/today-in-philippine-history-march-11-1947-the-parity-amendment-to-the-1935-constitution-was-ratified> (last visited August 14, 2016).

1943 Constitution

The 1943 Constitution¹⁹² was drafted by a body appointed by the Japanese and ratified by an assembly appointed by the Japanese during the Japanese occupation. The said Constitution was never recognized by the United States, the Commonwealth of the Philippines and by Filipino. The 1943 Constitution was implemented in parts of the country controlled by the Japanese but was not truly recognized by the Filipino people.

1973 Constitution

The 1973 Constitution was promulgated after President Ferdinand E. Marcos declared Martial Law in 1972. The main difference of this Constitution with other Philippine constitutions is the establishment of a parliamentary government with both a Prime Minister and a President. Article VII Section 1 provides that the President shall be the chief executive and head of state. Section 3 provides that the minimum age to be elected President is 50 years of age. This is different from the 1935 Constitution which required the President to be at least forty years old.

The increased age requirement ensured that political rivals of Marcos, particularly then Senator Benigno Aquino Jr. who was born in 1932 and was only forty-one years old in 1973, may not be elected as President in the immediate years after the promulgation of the Constitution. Aquino was deemed by many as a likely successor to Marcos. Aquino, part of the opposition against the Marcos regime, became a political prisoner during Martial Law and was only freed from incarceration to undergo heart surgery in the United States. Aquino was gunned down at the Manila International Airport on August 21, 1983 when he returned home from the United States against the advice of many supporters. In 1986 Aquino's widow, Corazon Aquino, became the President and in 2010, Aquino's only son, Benigno III, was elected as President.

The 1973 Constitution underwent a number of amendments. One amendment allowed the President to also be the Prime Minister and also exercise legislative powers until martial law was lifted. Another amendment made the Prime Minister head of the Cabinet. The 1973 likewise provided for a unicameral National Assembly later changed

¹⁹² The 1943 Constitution, *available at* <http://www.gov.ph/constitutions/the-1943-constitution/> (last visited August 14, 2016)

to Batasang Pambansa as opposed to the bicameral Congress provided for in the amended 1935 Constitution.

A 1981 amendment changed the form of government to what is effectively a Presidential form of government once again. A presidential election was held in that year which saw Marcos achieve a landslide victory over a person often described as a token candidate and never a serious contender for the presidency. Opposition groups boycotted the 1981 presidential election.

1986 Freedom Constitution

After President Marcos was deposed, President Corazon Aquino issued Proclamation No. 3¹⁹³ which is known as the Freedom Constitution. The Freedom Constitution granted the President powers to reorganize the government and provided guidelines for the drafting of a new constitution.

1987 Constitution

The current Constitution is known as the 1987 Constitution. Like the 1935 Constitution the 1987 Constitution was largely modeled on the American Constitution but at the same time also incorporated Roman, Spanish, and Anglo law.¹⁹⁴

The said 1987 Constitution restored the required minimum age for presidential candidates to forty years old. There is also a longer declaration of policies including emphasis on separation between Church and State. Owning land is also exclusively for Filipino citizens under the 1987 Constitution. Article XII likewise enumerates the required percentage of Filipino ownership for several activities such as the grant of a franchise for public utility.

¹⁹³ Proclamation No. 3 (1986), *available at* <http://www.gov.ph/1986/03/25/proclamation-no-3-s-1986-2/> (last visited August 14, 2016).

¹⁹⁴ Constitutional history of the Philippines, *available at* <http://www.constitutionnet.org/country/constitutional-history-philippines> (last visited August 14, 2016).

Backgrounds of Cordillera Administrative Region

The region comprises six provinces: Abra, Apayao, Benguet, Ifugao, Kalinga and Mountain Province. The region is located in the island of Luzon, north of the Philippines. Various parts of the region have never been totally subjugated by colonizers. Mountain Province, for one, was never totally conquered by Spain due to “the fierce, warlike and hostile Igorots and formidable travel obstacles”¹⁹⁵ which intimidated the Spaniards.

The 1987 Constitution mandated the creation of an autonomous regional government each in Muslim Mindanao and the Cordillera with the purpose of allowing “greater self-governance in these two geographic areas in the country with a distinct historical and socio-cultural heritage”.¹⁹⁶ In the Cordillera region no autonomous regional government has been put in place unlike the Autonomous Region in Muslim Mindanao which was set up in the south in 1989.¹⁹⁷

Two laws have been passed to realize the constitutional mandate: the original Organic Act for an autonomous Cordillera region (Republic Act No. 6766) in 1990, and the amended law, Republic Act No. 8438, that was passed in 1998. In both instances, voters turned down the law.

National Security Policy

According to then Senator Benigno Aquino III before he was elected as President: “Our quest must not only focus on ensuring stability of the State and the security of our nation. Our ultimate goal must be the safety and well-being of our people.”¹⁹⁸

Motive

President Benigno Aquino III describes the National Security Policy for 2011 to 2016 in its foreword as a “people-centered document that lays down the foundation, and

¹⁹⁵ Mt. Province (no date), *available at* <http://www.visitmyphilippines.com/index.php?title=Mt.Province&func=all&pid=415> (last visited August 14, 2016).

¹⁹⁶ Miriam Coronel Ferrer (April 9, 2010). Cordillera autonomy, *available at* <http://news.abs-cbn.com/insights/04/08/10/cordillera-autonomy-miriam-coronel-ferrer> (last visited August 12, 2016).

¹⁹⁷ *Ibid.*

¹⁹⁸ National Security Policy 2011-2016: Securing the Gains of Democracy, *available at* <http://www.gov.ph/2011/08/18/national-security-policy-2011-2016/> (last visited March 8, 2016).

provides the enabling environment conducive in achieving security, peace, and prosperity for the Philippines.”¹⁹⁹

Origin

The National Security Policy was formulated with the government ready to face the challenges of governance and wanting to help strengthen the regional community within ASEAN. The National Security Policy aims to go beyond traditional national defense and to evolve the definition of national security.²⁰⁰ An article release by the Asian Institute of Management adequately summarizes the concept of national security: “The current concept of national security now concerns itself with the protection and enhancement of our national fundamental values, the ways of life, institutions and socio-political interests of the Filipino, the welfare, and the well-being and vitality of the citizenry and the state – that is, it now covers the psycho-social aspects the nation, such as people’s perceptions, social norms and character. Now, national security is not only the concern of the military but of all Filipinos”²⁰¹.

Objective

The objective is to promote “internal socio-political stability” and to “capacitate the Philippines to exercise full sovereignty over its territory and provide protection to its maritime and other strategic interests.”²⁰²

At the present, the Philippines rates at 5.5 (Moderately Secure) and is targeting a 7 (Secure).

The National Security Policy of the Philippines “focuses on four key elements namely:

- (1) Governance;
- (2) Delivery of Basic Services;
- (3) Economic Reconstruction and Sustainable Development;

¹⁹⁹ *Ibid.*

²⁰⁰ NSC on the National Security Policy and Its Organization (2015), *available at* <http://development.aim.edu/blog/2015/06/80-nsc-on-the-national-security-policy-and-its-organization> (last visited August 14, 2016).

²⁰¹ *Ibid.*

²⁰² *Ibid.*

(4) Security Sector Reform”

The purpose of the National Security Policy is stated as follows: “to identify the strategic priorities to establish the correct balance in the “guns or butter” debate for the allocation of scarce resources; and to establish the prioritization, among others, between external and internal defense”.²⁰³

Internal Security Situation

The existing National Policy provides as follows: “The Philippines continues to be confronted with internal security threats coming from a protracted communist insurgency and a secessionist rebellion in parts of Mindanao, as well as the proliferation of partisan armed groups (PAGs). This is further aggravated by the existence and activities of the terrorist Al Harakatol Al Islamiyah (AHAI) or Abu Sayyaf Group (ASG) with its links to international terror networks. Apart from insurgency, the country is beset with the problems of criminality, poverty, graft and corruption, pandemics, climate change, and energy issues.”²⁰⁴

Acknowledging the archipelagic situation

The Philippines is an archipelago. Acknowledging the same, the National Security Report states: “Given its archipelagic geographic character, the Philippines’ porous borders make it more vulnerable to international criminal syndicates’ activities such as illegal drug trafficking, human trafficking, arms smuggling, money laundering, and other crimes that affect its stability and security.”²⁰⁵

Indeed, having porous borders allows multiple entries and exit points to the country and raises more security concerns. Mindanao, the southern part of the Philippines, has been known to be the southern “backdoor” of the Philippines where foreigners enter the country illicitly and also where Filipinos evading arrest escape from.

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

Mindanao is also another possible entry point of contrabands and other goods that have not secured the proper permits.

2.1.4 Implementation of the Policies / Problems and Obstacles

Solutions on illegal immigrants because of being an archipelagic nation

As of 2014 more than one million foreigners are in the Philippines as illegal aliens.²⁰⁶ The government simply deports the over staying illegal alien absent a case filed against an individual that may warrant keeping the person in custody.

CHALLENGES IN MINDANAO

(1) Origin

Parts of Mindanao, particularly those controlled by Islamic leaders, were never subjugated by the Spaniards during the more than three hundred years of colonization. Islam remained prevalent in those parts whereas the parts of the Philippines under Spanish control were introduced to Catholicism. The difference in religion up to now leads to disenfranchisement, perceived or otherwise, for some Islamic Filipinos

(2) Relevant Separatist Groups in Mindanao

There are 4 major groups of separatists in Mindanao

(2.1) The Moro National Liberation Front (MNLF)

The MNLF is an Islamic separatist organization founded in 1972. Its base is in the southern part of the Philippines and the goal of the organization is achieve an independent Islamic state for the Muslim minority in Mindanao. The MNLF is composed of the younger members of the Muslim Independent Movement (MIM) founded in 1968 whose goal is also to achieve a separate Islamic state in the Philippines. While the MIM is mostly a political organization, the MNLF has an armed wing. As early as 1969 Malaysia provided

²⁰⁶ More than 1M foreigners stay as illegal aliens in the Philippines Angie V. September 27, 2014, available at <http://kickerdaily.com/posts/2014/09/more-than-1m-foreigners-stay-as-illegal-aliens-in-the-philippines/> (last visited August 12, 2016).

training and arms to Filipino Muslims.²⁰⁷ The group is still active up to now and continues to launch attacks on various targets. Countless people have killed during clashes between the military and the MNLF, civilians included.

(2.2) The Moro Islamic Liberation Front (MILF)

The Moro Islamic Liberation Front (MILF) is divergent group from the MNLF. The MILF was founded in 1977 by Hashim Salamat and 57 MNLF officers. The reason for the break was the MILF's refusal to accept the Philippine government's offer of semi-autonomy which the MNLF was willing to accept. The MILF also resorts to armed struggle with many violent incidents between it and the military over the years.

(2.3) Bangsamoro Islamic Freedom Fighters (BIFF)

The BIFF is an Islamist militant organization. It broke away from the MILF in 2008 due to the MILF's decision to accept the government's offer of autonomy. The BIFF preferred independence. The BIFF has resorted to armed struggle with the military.

(2.4) Jemaah Islamiyah

Jemaah Islamiyah (JI) is a transnational Southeast Asian militant Islamist terrorist group. Jemaah Islamiyah is dedicated to the establishment of a Daulah Islamiyah (regional Islamic caliphate) in Southeast Asia. The said group has been declared a terrorist organization in various countries all over the world and has launched violent attacks such as bombings in the Philippines. JI is affiliated with the MILF. JI found sanctuary with the MILF and has in fact trained in MILF camps since the mid-1990s.²⁰⁸

²⁰⁷ Moro National Liberation Front (2015), *available at* <http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/379> (last visited August 16, 2016).

²⁰⁸ Zachary Abuza (February 2012). The Philippines Internal and external security challenges Special report for the Australian Strategic Policy Institute, *available at* https://www.aspi.org.au/publications/special-report-issue-45-the-philippines-internal-and-external-security-challenges/SR45_Philippines.pdf (last visited August 12, 2016).

(3) Current situation

There is still the presence of terrorist groups in Mindanao, the southern part of the Philippines. More so “the Philippines is beset by several different insurgencies, with significant regions of ungoverned or poorly governed space, endemic corruption, a rapidly growing population, and threats to its maritime resources and continental shelf posed by China’s activities in the South China Sea. For Manila, these problems are compounded by the limited resources available for national security spending²⁰⁹”.

A major challenge is how the Armed Forces of the Philippines (AFP) can meet current security challenges. A 2012 study conducted for the Australian Strategic Policy Institute found that “military expenditure is limited, the 18-year defence reform program is slow out of the starting blocks, the inventory comprises ageing second-hand equipment, and 125,000 military personnel remain poorly trained, ill-disciplined, and mired in corruption.

The Philippine Navy, for example, has only 2 frigates, 11 corvettes, 58 patrol craft and assorted other vessels. But the average age of the corvettes is 57 years, with all but three—built in the early 1980s for the UK’s Royal Navy—being decommissioned US naval vessels from World War II.”²¹⁰ A solution to the challenges is to start a fleet modernisation program. The same is underway but there is no evident improvement as of 2016.

(4) Attempts at overcoming the terrorist groups

The Philippines is able to utilize its connections with the United States in Mindanao. A contingent of US Special Forces was deployed to Mindanao and this “kept the MILF on notice”²¹¹. As to dealing with the weakness of the Philippine Navy the limited maritime policing capabilities of the Philippines “have been greatly enhanced by Australia’s sale of six patrol craft. This capability, compounded by greater maritime policing by the Indonesians and Malaysians along the northern portion of Borneo, has made the maritime route more dangerous for JI operatives”²¹².

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² *Ibid.*

Peace talks with the militant groups are also continuously being pursued whenever possible.

2.2 International Agreements in Political and Security Issues

According to Geneva academy of international humanitarian law and human rights: “With the exceptions of Additional Protocol I, the Hague Convention and Protocol, the Philippines are party to all humanitarian and human rights laws treaties. Furthermore, the Philippines have not made any reservations to those treaties.”²¹³

The treaties to which the Philippines is signatory to reflect the state policies of the Philippines and the country’s support to all movements that promote human rights, the rule of law and equality among all people.

When it comes to the protection of national security the Defense Cooperation Agreement and the membership of the Philippines in UNCLOS are highly important in recent times.

The Enhanced Defense Cooperation Agreement (EDCA)

The Enhanced Defense Cooperation Agreement (EDCA) is a military agreement between the United States and the Philippines. The agreement was signed by Philippine Defense Secretary Voltaire Gazmin and U. S. Ambassador to the Philippines Philip Goldberg on April 28, 2014. It is widely seen as an attempt to bolster the alliance between the two countries. As summarized by the Supreme Court of the Philippines: “EDCA authorizes the U.S. military forces to have access to and conduct activities within certain “Agreed Locations” in the country”²¹⁴. The Supreme Court upheld the constitutionality of the same on January 2016. According to the Supreme Court the EDCA “carries out provisions of previous agreements such as the 1951 Mutual Defense Treaty and the 1998 Visiting Forces Agreement”²¹⁵.

²¹³ Philippines International Treaties Adherence *available at* http://www.geneva-academy.ch/RULAC/international_treaties.php?id_state=171 (last visited October 10, 2015).

²¹⁴ G.R. No 212426 (2016) *available at* <http://www.chanrobles.com/cralaw/2016januarydecisions.php?id=60> (last visited August 13, 2016).

²¹⁵ What You Need to Know About EDCA CNN Philippines Staff (April 2014), *available at* <http://cnnphilippines>

In addition, among the goals of the EDCA according to U.S. Defense Secretary Ash Carter is to “support freedom of navigation and freedom of the commons in regional waters.”²¹⁶ The researcher is of the opinion that the EDCA, along with prior agreements such as the 1951 Mutual Defense Treaty and the 1998 Visiting Forces Agreement, are but means for the Philippines to have an ally in defending its territorial sovereignty given the limitations in the strength of the country’s military and naval forces. The Philippines has been “long belittled as one of Asia’s weakest militaries and Washington’s laggard regional alliance”²¹⁷ which by virtue of the EDCA “has become a critical part of the United States’ rebalance to the region”²¹⁸.

UNCLOS

As stated in its preamble the United Nations Convention on the Law of the Sea (UNCLOS) was “prompted by the desire to settle, in a spirit of mutual understanding and cooperation, all issues relating to the law of the sea.”²¹⁹

The said agreement took effect in 16 November 1994. UNCLOS is significant for the Philippines as it pursued an arbitration case against the People’s Republic of China in 2013 under the arbitration rules provided by the said law. China refused to participate in the proceedings despite being a signatory to UNCLOS. According to China: “the court has no jurisdiction, and that its historic rights and sovereignty over the South China Sea

.com/news/2016/01/13/what-you-need-to-know-about-edca.html (last visited August 13, 2016)

²¹⁶ *Ibid.*

²¹⁷ Prashanth Parameswaran (April 10, 2016). US-Philippines Alliance to Reach ‘New Level’: US Defense Chief, *available at* <http://thediplomat.com/2016/04/us-philippines-alliance-to-reach-new-level-us-defense-chief/> (last visited August 13, 2016).

²¹⁸ *Ibid.*

²¹⁹ United Nations Convention on the Law of the Sea (took effect 16 November 1994), *available at* http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf (last visited August 13, 2016).

predates UNCLOS”²²⁰. In October 2015 the Permanent Court of Arbitration ruled that it had jurisdiction to hear the case.²²¹

On 12 July 2016 an international panel composed of a five-member Arbitral Tribunal unanimously ruled that “China’s “nine-dash line” maritime claim is excessive and encroached into the Philippines’ 200-nautical mile exclusive economic zone (EEZ)”²²². The “nine-dash line” is China’s alleged historical boundary. The said “nine dash line” covers “about 85 percent of the South China Sea, including 80 percent of the Philippines’ EEZ in the West Philippine Sea.”²²³ However, the fact remains that “UNCLOS has no enforcement body and legal experts say it remains unclear what can be done if China ignores the ruling”²²⁴. In instances like this the ties between the Philippines and the United States bring some level of comfort to Filipinos as they hope that the United States will be an ally should China resort to military action.

²²⁰ Why the Philippines’ South China Sea legal case matters (July 12, 2016), *available at* http://www.japantimes.co.jp/news/2016/07/12/asia-pacific/philippines-south-china-sea-legal-case-matters/#.V6_feRFYnEo (last visited August 13, 2016).

²²¹ *Philippines v. China*: Court Rules Favorably on Jurisdiction, Case Will Proceed Ankit Panda (October 30, 2015), *available at* <http://thediplomat.com/2015/10/philippines-v-china-court-rules-favorably-on-jurisdiction-case-will-proceed/> (visited August 13, 2016).

²²² PH wins maritime arbitration case vs. China (July 12, 2016), *available at* <http://cnnphilippines.com/news/2016/07/12/PH-wins-maritime-arbitration-case-vs-China.html> (last visited August 13, 2016).

²²³ *Ibid.*

²²⁴ Reuters, Factbox: Why the Philippines’s South China Sea legal case matters, *available at* <https://www.reuters.com/article/us-southchinasea-ruling-factbox/factbox-why-the-philippines-south-china-sea-legal-case-matters-idUSKCN0ZR283>, (last visited July 12, 2016).

Chapter 3

Laws Concerning Society, Culture, Politics and National Security

3.1 Laws Concerning Education

3.1.1 Overview of Education of the Philippines

Since the 1987 Philippine constitution, the highest law of the land, emphasizes the importance of education in the Philippines. All citizens have the right to quality education at all levels.²²⁵

Elementary education or *Paaralang Elementaria* is the first level of the Philippines's education system. It is a 6 - year compulsory education from grade 1 to grade 6 (some schools may offer an alternative to grade 7). The major subjects are math, science, English, Filipino and social science, while optional subjects consist of music, art, physical education and health. Private schools provide more various choices for students in selecting the subjects including an opportunity to study a religion that they believe in.

Secondary Education or *Paaralang Sekundarya* of the Philippines can be divided into 4 grades. It is prescribed that the programs arranged by either private or public schools shall compose of core subjects and minor subjects as alternatives such as health education, music, physical education, home economics and technology. Each school provide different minor subjects. The total number of secondary level school is more than 5.5 million students. In 2016, when Enhanced Basic Education Act of 2013 has been implemented, it extends the duration of secondary education to 6 years which will be explained in details in 3.1.2.

For vocational education, most vocational education institutions in the Philippines are operated by accredited private agencies. The vocational education programs vary in duration. The short ones have a duration of two to three weeks while the long ones have a duration of two years program with diploma or certificates after the students have passed centrally-administered examination. Most vocational colleges do not require entrance examination. The applicants are required to provide only a record of high school education and to pay enrollment fee.

Tertiary education institutions are regulated by Commission for Higher Education.

²²⁵ Section 1, Article XIV, 1987 Philippine Constitution, "The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible."

Most of the colleges provides one program for study while some colleges may provide more than one specialized program. Universities typically provide at least 8 programs for undergraduate degree in various fields and at least 2 programs for graduate degree. All public universities are non-sectarian with English as a medium of instruction, financially subsidized by the government. The University of the Philippines, which is the largest university, receives a lot of budget from the government annually.²²⁶

Over recent years, however, only four Philippine universities have consistently made it into the Asian and world university rankings of Quacquarelli Symonds (QS),²²⁷ despite the existence of thousands of higher education institutions in the Philippines. The four universities are: University of the Philippines (UP), Ateneo de Manila University (AdMU), University of St. Tomas (UST) and De la Salle University (DLSU). The rankings of the abovementioned universities in the past years are as follows:

QS WORLD RANKINGS			
	<u>2012</u>	<u>2013</u>	<u>2014</u>
University of the Philippines	348	380=	367=
Ateneo de Manila University	451-500	501-550	461-470
	<u>2012</u>	<u>2013</u>	<u>2014</u>
University of St. Tomas	601+	701+	701+
De la Salle University	601+	601-650	651-700

²²⁶ Education System in the Philippines, *available at* <https://www.scholaro.com/ed/Countries/Philippines/Education-System> (last visited January 29, 2019).

²²⁷ Jee Y. Geronimo (2015), School rankings in ASEAN: A 'perception game' for PH, *available at* <http://www.rappler.com/world/specials/southeast-asia/98408-school-rankings-asean-perception-game-philippines> (last visited January 29, 2019).

QS ASIA RANKINGS			
	<u>2013</u>	<u>2014</u>	2015
University of the Philippines	67	63=	70
Ateneo de Manila University	109	115	114
University of St. Tomas	150	141	143
De la Salle University	151-160	151-160	181-190

The Philippines wishes to improve its international rankings and to be more competitive with leading Asian universities such as National University of Singapore, University of Hong Kong, and the University of Tokyo.

Starting 2016, basic education in the Philippines will be changed expressly to adapt to global standards. The next portions will discuss the Philippine laws giving importance to education and the steps being undertaken to improve basic education which may lead to better university performance and to a more competitive Philippine education system.

Nevertheless, according to the report of World Bank published in 2016, the Philippines have to encounter many challenges on managing basic education such as teacher quality because it is found from the survey that, averagely, teachers who teach in primary or secondary level can correctly answer less than half of the amount of questions that concern their responsible subjects (except English).²²⁸ In addition, ratio of students per a classroom which is 55:1 is considered dense.²²⁹ As well as the problem of

²²⁸ The World Bank, *Assessing Basic Education Service Delivery in the Philippines*, p. 18 (xviii), available at <http://documents.worldbank.org/curated/en/507531468325807323/Assessing-basic-education-service-delivery-in-the-Philippines-public-education-expenditure-tracking-and-quantitative-service-delivery-study> (last visited January 29, 2019).

²²⁹ *Ibid.*, 20 (xx).

education inequality which can be seen when poor students tend to enroll in schools that have limited resource²³⁰ and hire teachers with limited knowledge. These challenges are what the Philippines have to overcome.

3.1.2 Laws Concerning Basic Education

Governance of Basic Education Act of 2001 (Republic Act No. 9155)

The Philippine Constitution of 1987 establishes a free public education system at the elementary and high school levels.²³¹ The Constitution also mandates compulsory elementary education for all of children of school age.²³²

Basic education in the Philippines is administered by the Department of Education, popularly known as the DepEd, which was created by Republic Act No. 9155, otherwise known as the Governance of Basic Education Act of 2001²³³.

The statute declared the policy of the government concerning basic education as follows:²³⁴

- (a) To protect and promote the right of all citizens to quality basic education;
- (b) To make education accessible to all citizens by providing a free and compulsory education in the elementary level and free education in the high school level;
- (c) Education will include alternative learning systems for out-of-school youth and adult learners;
- (d) The goal of basic education is to provide the citizens with the skills, knowledge and values they need to become caring, self-reliant, productive and patriotic

²³⁰ *Ibid.*, 34 (xxxiv).

²³¹ Article 14 Section 2 of 1987 Philippine Constitution, "The State shall... (2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age;"

²³² Article 14 Section 2 of 1987 Philippine Constitution.

²³³ Governance of Basic Education Act of 2001 (REPUBLIC ACT NO. 9155 (2001)), *available at* http://www.lawphil.net/statutes/repacts/ra2001/ra_9155_2001.html (last visited January 29, 2019).

²³⁴ Section 2 of Republic Act No. 9155.

citizens;

- (e) The school shall be the heart of the formal education system;
- (f) Policies and principles for the governance of basic education are formulated at the national level while the field offices implement the programs developed, adapted and offered to fit local needs;
- (g) The government shall encourage local initiatives for improving the quality of basic education;
- (h) The government shall ensure that the values, needs and aspirations of a school community are reflected in the program of education for the children, out-of-school youth and adult learners; and,
- (i) Schools and learning centers shall be empowered to make decisions on what is best for the learners they serve.

On the basis of the declared policy of the government, the DepEd formulated its mission statement as follows:

“To protect and promote the right of every Filipino to quality, equitable, culture-based, and complete basic education where:

“Students learn in a child- friendly, gender-sensitive, safe, and motivating environment.

“Teachers facilitate learning and constantly nurture every learner.

“Administrators and staff, as stewards of the institution, ensure an enabling and supportive environment for effective learning to happen.

“Family, community, and other stakeholders are actively engaged and share responsibility for developing life-long learners.”²³⁵

In addition, Section 3 of Governance of Basic Education Act of 2001 also prescribes purposes and objectives of the law, which is an important mechanism to drive the basic education system such as framework for governing basic education, roles, responsibility and resource allocation to agencies and field offices. The law as well aims to encourage schools and learning centers to reflect community value and support

²³⁵ Vision, Mission, Core Values, and Mandate, *available at* <http://www.deped.gov.ph/about-deped/vision-mission-core-values-and-mandate/> (last visited January 29, 2019).

community to initiate development of sustainability for schools and learning centers. Section 4 provides legal definition for terms related to governing basic education such as Alternative Learning System, cluster of schools, Informal and Non-Formal Education and Quality Education.

In Chapter 1, Section 5 states that an important principle of governing basic education shall be shared governance. To govern basic education, it shall be realized that all educational-related public agencies have particular role, task and responsibility. They shall have consultation and discussion in proper level of democratic way with communication channels between each unit in order to optimize their in-handled information and extend such communication channels to other government units while maintaining accountability and transparency. Section 6 and Section 7 assign Department of Education (DepEd) to be responsible for governing basic education. Secretary of Education is assigned to monitor and regulate the Department and basic education of all level; national, regional, division, school district and school level.

In Chapter 2, Section 8 prescribes that cultural agencies to be under administration of National Commission for Culture and Arts (NCAA) and no longer be under umbrella of Department of Education. In Chapter 3, Section 9 transfers all responsible agencies concerning sport competition from Department of Education to the Philippine Sports Commission (PSC). Chapter 4 is the implement provisions commanding other relevant government agencies such as Department of Budget and Management and the Commission on Audit to co-implement this law by which Secretary of Budget and Management shall cooperate with Secretary of Education to issue the guidelines on the allocation, distribution and utilization of resources for implementation of basic education governance under this law. The Commission on Audit shall also conduct the audit in the way that recognize distinctiveness of each agencies under Department of Education, schools and learning centers (Section 12).

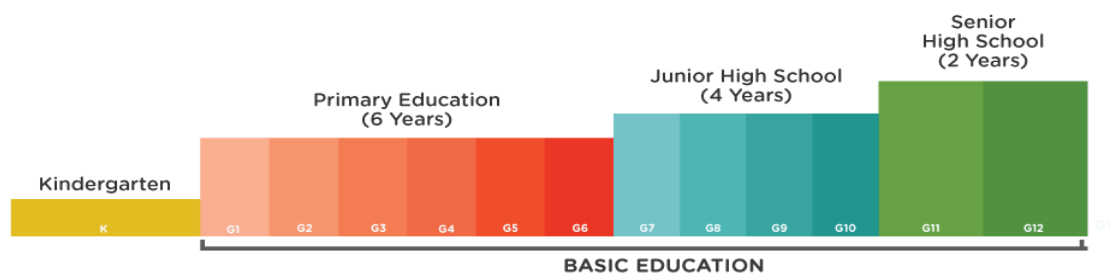
Enhanced Basic Education Act of 2013

Prior to the enactment of Republic Act No. 10533, otherwise known as the Basic Education Act of 2013, which is the main law that framework the basic education of the Philippines, basic education consists of six years of elementary school and four years of

secondary school. Elementary school, or grade school, covers the first six years of compulsory education (Grades 1 to 6), informally divided into three years of primary level and three years of intermediate level. Secondary education, or high school, consists of four levels (First Year to Fourth Year), which is a system influenced by the American schooling system. DepEd specifies a compulsory curriculum for all secondary schools, public and private, as narrated in 3.1.1.

The most recent law affecting basic education is Republic Act No. 10533, or the Enhanced Basic Education Act of 2013²³⁶, which was signed into law in 2012 and is fully implemented in 2016. In a nutshell, the law adds a pre-school or kindergarten component, and an additional two years of secondary education (Section 4). High school will then consist of six levels, which will be divided into four years of junior high school and two years of senior high school. Section 2 prescribes that the state shall create the basic education system that aims to develop productive and responsible citizen with expertise and readiness for lifelong learning and working.

Below is a graph²³⁷ from the Philippine government website summarizing the new basic education program:



The enhanced basic education program will change the education program in the country. The enhanced program will “encompass at least one year of kindergarten education, six years of elementary education, and six years of secondary education, in that sequence. Secondary education includes four years of junior high school and two

²³⁶ REPUBLIC ACT NO. 10533 (2012), *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10533_2013.html (last visited January 29, 2019).

²³⁷ K To12 Basic Education Program, *available at* <https://www.officialgazette.gov.ph/k-12/> (last visited January 29, 2019).

years of senior high school education.”²³⁸ The two years of senior high school education do not exist in the previous education program in the Philippines. Basic education used to consist of only six years of elementary education and four years of high school education.

Previously, elementary levels were denominated as Grades 1 to 6, while high school levels were denominated as First Year to Fourth Year. Under the new law, high school levels will be denominated as Grades 7 to 12. Thus, what used to be First Year to Fourth Year high school will now be called Grades 7 to 10, while the additional two years of senior high school will be called Grades 11 and 12.

The enhanced basic education program aims to strengthen early childhood education by requiring universal kindergarten.²³⁹

Grade 1 to 10 students will receive an enhanced learning program based on context and spiral progression with the following subjects with the following subjects: Mother Tongue, Filipino, English, Mathematics, Science, Araling Panlipunan, *Edukasyon sa Pagpapakatao* (Character Education), Music, Arts, Physical Education, Health, *Edukasyong Pantahanan at Pangkabuhatan* (Home Economics and Livelihood Education), Technology and Livelihood Education (TLE).²⁴⁰

The senior high school, on the other hand, is composed of two years of specialized upper secondary education. Specialized means “students may choose a specialization based on aptitude, interests, and school capacity.”²⁴¹

Each senior high school student will have a different career track and may have different subjects during their Grades 11 and 12 of senior high school. The core curriculum provides seven learning areas that all senior high school students have to take. These are languages, literature, communication, mathematics, philosophy, natural sciences, and social sciences.

Each senior high school student may choose among three tracks:

²³⁸ Section 4 of Republic Act No. 10533.

²³⁹ *Supra* note 237.

²⁴⁰ *Supra* note 237.

²⁴¹ *Supra* note 237.

- (a) Academic (including three strands: Business, Accountancy & Management (BAM)); Humanities, Education & Social Sciences (HESS); and, Science, Technology, Engineering & Mathematics (STEM);
- (b) Technical-Vocational-Livelihood; and,
- (c) Sports and Arts.

Students who finish a Technical- Vocational- Livelihood track may obtain certificate(s) showing he/she passed a competency-based assessment of the Technical Education and Skills Development Authority (TESDA) . Such graduates are already employable.

In theory, the main advantage of adding two years of senior high school to the basic education is to produce graduates who are already employable after completing high school education. A graduate can also choose which career path to take in accordance with his or her aptitude and interest rather than the fixed, uniform curriculum of the previous system.

Also, a thirteen- year program is the “ recognized standard for students and professionals globally. ”²⁴² The additional years of basic education is meant to make the Philippines more globally competitive.

Beside extending the duration of compulsory education, Enhanced Basic Education Act of 2013 also contains other mechanisms that support enhancement of basic education. For example, Section 5 prescribes that Department of Education (DepEd), Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA) and Department of Employment (DOLE) shall work together to create harmonized education programs that potentialize graduates to compete in global level. In addition, Section 6 establishes a joint curriculum consultative committee comprised of the aforementioned organizations to be responsible for monitoring and assessing programs of basic education, including providing advice to Department of Education for improving and developing curriculums.

Section 7 provides mechanism for teacher education and training by which Department of Education and Commission on Higher Education shall cooperate with

²⁴² *Supra* note 237.

agencies of other sectors such as government, academe, industry, and nongovernmental organizations to arrange teacher education and training. Section 8 stipulates that Department of Education and education institutions shall hire graduates with background in scarce fields such as science, mathematics, statistics, technical-vocational courses or other specialist in subjects to be teachers without taking teacher license examination in order to solve problem of teacher shortage. Section 9 prescribes that Department of Education, Department of Employment, Technical Education and Skills Development Authority and Commission on Higher Education shall periodically arrange activities of guidance for future career path for secondary students to help them choose proper career tracks.

Free Public Secondary Education Act of 1988

This law requires that the policy of the State is to provide for a “free public secondary education”²⁴³ to all qualified citizens and to promote quality education at all levels.²⁴⁴ The students who are qualified for free secondary education includes those who are studying in high school, trade, technical, vocational, fishery, and agricultural school which are public schools, including those who are studying in the schools supported by local government. The law commenced in School Year 1988 - 1989.

In addition, “to effectively implement the free education system, the establishment, renaming, conversion, integration, separation, administration, supervision and control of all public secondary schools and public secondary school teachers and other school personnel, including the payment of their salaries allowances and other fringe benefits as well as those already provided by local governments,” are transferred to the Department of Education, Culture and Sports, by virtue of this law (Nationalization of Public Secondary Schools).²⁴⁵

²⁴³ It means the students shall not have to pay tuition fee and other relevant fees, excluding fees concerning membership of schools such as ID card, school clubs and other published materials.

²⁴⁴ Free Public Secondary Education Act of 1988 (Republic Act No. 6655), Section 2, *available at* https://www.lawphil.net/statutes/repacts/ra1988/ra_6655_1988.html (last visited January 29, 2019).

²⁴⁵ Section 7 of Republic Act No. 6655.

3.1.3 *Laws Concerning Higher Education*

The Commission on Higher Education (CHED) is the body tasked with formulating and recommending development plans as well as monitoring and evaluating the same when it comes to higher education.²⁴⁶ The office was created by Republic Act No. 7722, otherwise known as “The Higher Education Act of 1994”, which was signed into law by former President Fidel Valdez Ramos on May 18, 1994. The law prescribes that “the Commission shall be independent and separate from the Department of Education, Culture and Sports (DECS), and attached to the Office of the President for administrative purposes only. Its coverage shall be both public and private institutions of higher education as well as degree-granting programs in all post-secondary educational institutions, public and private.”²⁴⁷

Attached administratively to the Office of the President, the establishment of CHED is part of a comprehensive educational reform plan proposed by the Congressional Education Commission (EDCOM), directed by Office of the President, in 1992. Part of this reform was the tri-focalization of the education sector into three governing bodies: the CHED for tertiary and graduate education, the Department of Education (DepEd) for basic education, and the Technical Education and Skills Development Authority (TESDA) for technical-vocational and middle-level education.²⁴⁸

Higher education institutions (HEI), which offer courses of studies that lead to a bachelor’s, master’s or doctorate degrees, are either colleges or universities. CHED Memorandum Order No. 48²⁴⁹, series of 1996, adopted the then existing guidelines under the Manual of Regulations of Private Schools for the grant of university status to all HEI’s, including state-run HEI’s. Under this memorandum order, an HEI may be granted university status if it offers: (a) a four-year course in the liberal arts, a four-year course in

²⁴⁶ Republic Act No. 7722, Section 8 (1994), *available at* https://www.lawphil.net/statutes/repacts/ra1994/ra_7722_1994.html (last visited January 29, 2019).

²⁴⁷ Section 3 of Republic Act No. 7722.

²⁴⁸ COMMISSION ON HIGHER EDUCATION Pertinent Laws, *available at* <http://www.ched.gov.ph/index.php/home/about-ched/pertinent-laws/> (last visited January 29, 2019).

²⁴⁹ CHED Memorandum Order (CMO) No. 48, *available at* <http://www.ched.gov.ph/wp-content/uploads/2013/07/CMO-No.48-s1996.pdf> (last visited March 25, 2016).

basic sciences/Mathematics, and a four-year course in the social sciences; (b) at least three professional programs, or courses that require special study towards a specific competence and a license to practice, e.g., law and medicine; and, (c) at least two graduate level courses leading to a doctorate degree.²⁵⁰

In addition, on August 3, 2017, President Rodrigo Duterte has signed on Universal Access to Quality Tertiary Act (Republic Act No. 10931).²⁵¹ It binds the state to fully support those who study in 114 public universities for tuition fee, including fees of library, computer, laboratory, admission and of other relevance although the government have to face challenge in short-term financial management.²⁵² It is expected that the government have to spend 100,000,000,000 peso/year for supporting all tuition and expense.²⁵³

3.1.4 Laws Concerning Vocational School System

Technical Educational and Skill Development Act of 1994 (Republic Act No. 7796)

The 1987 Philippine Constitution that education shall be provided to “adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills.”²⁵⁴

In order to implement such constitutional provision, there was an establishment of Technical Education and Skills Development Authority (TESDA) which has jurisdiction over technical-vocational education. The agency was created by Republic Act No. 7796, otherwise known as the Technical Education and Skills Development Authority Act.²⁵⁵

²⁵⁰ *Ibid.*

²⁵¹ Universal Access to Quality Tertiary Education Act (RA 10931), *available at* https://www.lawphil.net/statutes/repacts/ra2017/pdf/ra_10931_2017.pdf (last visited May 16, 2018).

²⁵² CNN Philippines, Duterte signs free tuition bill into law, *available at* <http://cnnphilippines.com/news/2017/08/04/president-rodrigo-duterte-free-tuition-bill-law.html> (last visited January 29, 2019).

²⁵³ Philstar Global, Duterte signs law on free college tuition, *available at* <https://www.philstar.com/headlines/2017/08/04/1725170/duterte-signs-law-free-college-tuition> (last visited January 29, 2019).

²⁵⁴ Article XIV Section 2(5) of 1987 Philippine Constitution.

²⁵⁵ Technical Educational and Skill Development Act of 1994 (Republic Act No. 7796), Section 5, *available at* <http://www.tesda.gov.ph/uploads/File/REPUBLIC%20ACT%20NO.%207796.pdf> (last visited January 29, 2019).

A major goal of TESDA is to “promote and strengthen the quality of technical education and skills development programs to attain international competitiveness.”²⁵⁶

Technical education is formally defined by Section 4(c) of R.A. No. 7796 as “the education process designed at post- secondary and lower tertiary levels, officially recognized as non-degree programs aimed at preparing technicians, para-professionals and other categories of middle-level workers by providing them with a broad range of general education, theoretical, scientific and technological studies, and related job skills training.”²⁵⁷

Section 5 establishes Technical Education and Skills Development Authority (TESDA) to become an organization that implement the law, which is comprised of TESDA Board and TESDA Secretariat. Section 7 prescribes that Secretary of Labor and Employment, Secretary of Education, Culture and Sports and Secretary of Trade and Industry shall position as chairpersons and co-chairpersons with Secretary of Agriculture, Secretary of Interior and Local Government and Director-General of the TESDA Secretariat as members. In addition, Technical Educational and Skill Development Act of 1994 also stipulates that the President shall appoint 6 board members from private sector; 2 persons as representatives from employers of industrial sector, 3 persons as representatives from employees and 2 persons from technical and vocational institution, by which at least 1 person of each group shall be a woman.

Section 8 empowers and assigns the Board to perform duties which are to conduct vocational and technical education in accordance with the state policy to develop quality of human resource of the Philippines, arrange equal participation for representatives from representatives from all sectors such as industry, trade, employers and employees to give recommendation to the Board and improve linkages between each sector. The Board have power to implement this law after due consideration from every sectors such as making contracts and agreements with other local and international agencies under this law for accreditation on training standard, establishing an advisory committee rooted from private sectors, providing a system of accreditation of both public and private institutions,

²⁵⁶ Section 2 of Republic Act No. 7796.

²⁵⁷ Section 4 (c) of Republic Act No. 7796.

including performing other duties and functions necessary to implement this law in accordance with the purposes of the creation of TESDA.

The Ladderized Education Act of 2014²⁵⁸

This law mainly focuses on recognizing constitutional right on accessibility to quality education at all level by allowing students to enter and leave vocational education level to continue their studies for higher education level at anytime without repeating the same courses (Section 3 (a)). It is equivalent to “Educational Ladder” that learners can cross between vocational and higher education at any time to simultaneously seek for educational and professional progress seamlessly and borderlessly (Section 3 (g)).

In effect, technical education is any training after high school short of a degree program that gives a student particular job skill. Thus, it can be a specific training for particular skills set such as welding or bartending, or the lower levels of a so-called “ladderized” professional degree course. For instance, a student may take a course that trains her to be a midwife. After completion of the course, she may get employment as a midwife. Later on, she may continue her studies to obtain a degree in nursing by transferring credits under central standardization of Philippine Qualification Framework (PQF) which is a collaboration between Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), Department of Labor and Employment (DOLE) and Professional Regulation Commission (PRC), chaired by Secretary of Education (Section 4).

In addition, with the implementation of the K-12 basic education program provided under Republic Act No. 10533, technical-vocational education may be integrated into the senior high school component. Students who complete a technical-vocational course may be assessed for competency by TESDA and issued a certificate for future career.

3.1.5 Laws Concerning Non-Formal Education and Laws Concerning Informal Education

The 1987 Philippine Constitution encourages “ non- formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school

²⁵⁸ Republic Act No. 10674 (2014), *available at* https://www.lawphil.net/statutes/repacts/ra2014/ra_10647_2014.html (last visited January 29, 2019).

study programs particularly those that respond to community needs.”²⁵⁹

In 2001, the term Alternative Learning System was defined by Section 4 (a) of Governance of Basic Education Act of 2001 (Republic Act No. 9155) as “a parallel learning system to provide a viable alternative to the existing formal education instruction. It encompasses both the non-formal and informal sources of knowledge and skills.”²⁶⁰ The same law defined informal education in Section 4 (e) as “a lifelong process of learning by which every person acquires and accumulates knowledge, skills, attitudes and insights from daily experiences at home, at work, at play and from life itself.”²⁶¹ On the other hand, non-formal education was defined in Section 4 (j) as “any organized, systematic educational activity carried outside the framework of the formal system to provide selected types of learning to a segment of the population.”²⁶²

The law clearly differentiates informal education as one obtained from daily experiences anywhere and everywhere whereas non-formal education is any organized, systematic education activity outside the formal system.

Homeschooling

Homeschooling is not prohibited by law since the same falls under the natural rights of parents to rear their children. The Constitution further provides under Article XIV Section 4(1) that “(t)he State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.”²⁶³ DepEd Memorandum No. 216, series of 1997, entitled “Home Education Program” provides for means as to how a homeschooled

²⁵⁹ Article XIV Section 2 (4) of 1987 Philippine Constitution, “The State shall...(4) Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs;

²⁶⁰ Section 4 (a) of Republic Act No. 9155.

²⁶¹ Section 4 (e) of Republic Act No. 9155.

²⁶² Section 4 (j) of Republic Act No. 9155.

²⁶³ Article XIV, Section 4 (1) of 1987 Philippine Constitution.

student can transfer into a conventional school.²⁶⁴ The said memorandum requires a homeschooled student to first be accredited by the DepEd before admission to a conventional school. As of 2012, the estimated number of homeschooled students in the Philippines between the ages of six to twelve is at around 4,000.²⁶⁵

Homeschooling Association of the Philippine Islands (HAPI) is advocating homeschooling in the Philippines.²⁶⁶ HAPI further encourages Filipinos to see homeschooling as a positive alternative and not just limited to children who are celebrities, are ill or can't afford good schools.²⁶⁷

3.2 Laws Concerning Labor Safety Protection and Enhancement of Potential Labor

3.2.1 Overview of Labor in Philippines

The Philippine labor force population is composed of both the employed and the unemployed 15 years old and over.²⁶⁸ As of January 2016, the employment rate was estimated at 94.2%.²⁶⁹

In 2010, the biggest employment contribution came from agriculture, hunting and forestry (29.1%); wholesale and retail trade (19.5%); manufacturing (8.4%); and transport, storage and communication (7.6%). The smallest shares were attributed to mining and quarrying (0.6%); electricity, gas and water (0.4%); financial intermediation (1.1%); and health and social work (1.2%).²⁷⁰

²⁶⁴ HSLDA/Home Schooling-Philippines, *available at* <http://www.hslda.org/hs/international/philippines/> (last visited January 29, 2019).

²⁶⁵ *Ibid.*

²⁶⁶ Alina R. Co (2012), Homeschooling as an alternative to sending kids to school, *available at* <http://www.gmanetwork.com/news/story/256144/lifestyle/homeschooling-as-an-alternative-to-sending-kids-to-school> (last visited January 29, 2019).

²⁶⁷ *Ibid.*

²⁶⁸ Philippine Statistics Authority (2015). Labor Force, *available at* <https://psa.gov.ph/tags/labor-force> (last visited January 29, 2019).

²⁶⁹ Philippine Statistics Authority. Labor Force Survey, *available at* <http://www.census.gov.ph/statistics/survey/labor-force> (last visited January 29, 2019).

²⁷⁰ THE PHILIPPINE LABOR & EMPLOYMENT PLAN 2011-2016, *available at* <http://www.dole.gov>

Own-account workers comprise about 35.7% of the labor force, which implies a high incidence of employment in the informal sector.²⁷¹ Among the unemployed, 43.2% are considered “educated unemployed.”²⁷² This viewed as a symptom of the labor mismatch in the country and a factor contributing to the growing deployment of Filipino workers overseas, averaging about 1.1 million per year.²⁷³

The number of Overseas Filipino Workers (OFWs) who worked abroad at anytime during the period of April to September 2014 was estimated at 2.3 million.²⁷⁴ Overseas Contract Workers (OCWs) or those with existing work contract comprised 96% (2.2 million) of the total OFWs.²⁷⁵ The rest (4.0% or 92,000) worked overseas without contract.²⁷⁶

As of 2013, the Philippines was one of the top two countries for business process outsourcing (BPO) services.²⁷⁷ With English being one of the country’s two national languages, the Philippines continues to be the go-to country for business process outsourcing.

This portion regarding labor will detail the laws that deal with the protection of the rights and safety of Filipino laborers both local and overseas.

3.2.2 Laws Concerning Labor Protection

Section 3 of Article XIII of the 1987 Philippine Constitution provides that “the State shall afford full protection to labor, local and overseas, organized and unorganized,

.ph/fndr/bong/files/PLEP-26%20April%20version.pdf (last visited January 29, 2019)

²⁷¹ Philippine Development Plan 2011-2016 Chapter 2, *available at* <http://www.neda.gov.ph/wp-content/uploads/2013/09/CHAPTER-2.pdf> (last visited January 29, 2019).

²⁷² *Ibid.*

²⁷³ *Ibid.*

²⁷⁴ Philippine Statistics Authority. Overseas Filipino, *available at* <https://psa.gov.ph/tags/overseas-filipinos> (last visited March 25, 2016).

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*

²⁷⁷ Danessa O. Rivera. Young workforce, government support drive BPO industry’s growth (2013), *available at* <http://www.gmanetwork.com/news/story/312595/money/economy/young-workforce-gov-t-support-drive-bpo-industry-s-growth> (last visited January 29, 2019).

and promote full employment and equality of employment opportunities for all.”²⁷⁸

The rest of Section 3 emphasizes full protection to labor by including the right of workers to self-organization, peaceful concerted activities including the right to strike in accordance with law, security of tenure, humane conditions and a living wage. The workers also have the right to participate in policy and decision-making processes affecting their rights.²⁷⁹

Clearly the highest law of the land, the Constitution, seeks to protect labor and aims to promote equality for all Filipinos.

Labor Code of the Philippines

Labor Code of the Philippines or Presidential Decree No. 442 is a significant law promulgated on Labor Day (1st of May) of 1974 to protect and look after labor in the Philippines. It composed of six Books which covers the whole circle of labor protection, from pre-employment until post-employment.²⁸⁰

Book One prescribes the principle and condition of pre-employment period. It legally defines recruitment and placement²⁸¹ which shall also be applied to alien workers. In addition, Article 4 prescribes that in case of doubt in legal provisions, they shall be interpreted in favor of employee.²⁸²

Book Two focuses on human resource development of Philippines by legally

²⁷⁸ Article XIII Section 3 of 1987 Philippine Constitution.

²⁷⁹ Article XIII Section 3 of 1987 Philippine Constitution.

²⁸⁰ Labor Code of the Philippines, *available at* https://www.lawphil.net/statutes/presdecs/pd1974/pd_442_1974.html (last visited January 29, 2019).

²⁸¹ Article 13 b. of Labor Code of the Philippines, “Recruitment and placement” refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, that any person or entity which, in any manner, offers or promises for a fee, employment to two or more persons shall be deemed engaged in recruitment and placement.”

²⁸² Article 4 of Labor Code of the Philippines, “Construction in favor of labor. All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.”

defines “apprentices”²⁸³ to mean practical training on the job supplemented by related theoretical instruction. The period of apprenticeship shall not exceed six months and the wage shall not be below legal minimum wage more than 25 percent.²⁸⁴ The law also provides legal definition of “learners” which means persons hired as trainees in semi-skilled and other industrial occupations which are non-apprenticeable and which may be learned through practical training on the job in a relatively short period of time which shall not exceed three (3) months. Both apprentices and learners are protected by Labor Law as same as normal employee. However, the provisions of apprentices and learners are rarely enforced in practice because employers prefer hiring experienced employees.²⁸⁵

Book Three aims to regulate conditions of employment, working hour, weekly rest and working conditions for special group of employment such as women, minors, househelpers and homeworkers.

Article 83 states that the normal hours of work of any employee shall not exceed 8 hours a day, including minimum 60 minutes time-off for meal period. Article 86 prescribes that every employee shall be paid a night shift differential of not less than 10 percent of his regular wage for each hour of work performed between ten o’clock in the evening and six o’clock in the morning. Article 87 regulates that work may be performed beyond eight 8 hours a day provided that the employee is paid for the overtime work, an additional compensation equivalent to his regular wage plus at least 25 percent thereof. Work performed beyond eight hours on a holiday or rest day shall be paid an additional compensation equivalent to the rate of the first eight hours on a holiday or rest day plus at least 30 percent thereof. Article 91 regulates the employer to provide a rest period of

²⁸³ Supreme Court of the Philippines ruled in 1995 that any apprenticeship program shall be approved from Department of Labor and Employment, otherwise, such apprenticeship will be considered a conventional employment. See G.R. No. 114337. Nitto Enterprise v. National Labor Relations Commission and Roberto Capili, *available at* https://www.lawphil.net/judjuris/juri1995/sep1995/gr_114337_1995.html (last visited May 24, 2018).

²⁸⁴ Article 61 of Labor Code of the Philippines.

²⁸⁵ Aileen V. Sicat. (May 24, 2018) Lecturer of Lyceum of the Philippines University College of Law [interview].

not less than 24 consecutive hours after every 6 consecutive normal work days for employees. Article 95 prescribes that every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave of five days with pay.

Minimum wage is regulated by Article 99 which shall be those prescribed by the Regional Tripartite Wages and Productivity Boards. Currently the highest rate is 537 peso per day and the lowest is 256 peso per day.²⁸⁶ (please see additional detail at 3.2.3 Laws of Social Security and Laws Concerning Work Compensation.)

In addition, Article 139 states that no child below 15 years of age shall be employed, except when he works directly under the sole responsibility of his parents or guardian, and his employment does not in any way interfere with his schooling. Article 140 prohibits discrimination against any person in respect to terms and conditions of employment on account of his age. Article 130 to 138 states about employment of women which prohibit women to work at night unless it is urgent or necessary, or working in managerial or technical nature, or working in provide health and welfare services. The employee shall provide, for women employee, seats to rest during working hour, separate toilet rooms and lavatories for men and women and provide at least a dressing room for women. 2 weeks of maternity leave shall be granted before delivery and 4 weeks after delivery with full payment. Employers shall be prohibited from discriminating against women employee such as paying less amount of wage than male employee or favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.²⁸⁷

Book Four covers protection of health, safety and welfare benefits. Article 156 prescribes that every employer shall keep in his establishment such first-aid medicines and equipment as the nature and conditions of work may require and shall take steps for the training of a sufficient number of employees in first-aid treatment. Article 157 regulates that any workplaces that have more than fifty employees shall have a full-time nurse.

²⁸⁶ Department of Labor and Employment, Current Statistics on Wages, *available at* <http://www.nwpc.dole.gov.ph/stats/current-statistics-on-wages/> (last visited January 29, 2019).

²⁸⁷ Before 1974, the law that protect woman and child employee was Woman and Child Labor Law of 1952 (Republic Act 679). It was revoked by Labor Code of 1974, *available at* https://www.lawphil.net/statutes/repacts/ra1952/ra_679_1952.html (last visited January 29, 2019).

Book Five concerns labor relation which prescribes relation between employer and employee. It also grants employees the right to establish a labor union which is in accordance with Article XIII Section 3 of Philippine Constitution of 1987 that approves the right of employee to gather together to set up an organization with bargaining power with peaceful operation and allow lawful strike.²⁸⁸ However, some rights are limited by the law, for example, managerial employees have no right to establish, join or assist labor union. In addition, although the law allows and encourage setting up of labor union, it does not allow labor union to conduct unfair labor practice such as “restraining or coercing employees in the exercise of their right to self -organization; causing or attempting to cause an employer to discriminate against an employee; and asking for or accepting negotiation fees from the employer as part of the settlement of any issue in collective bargaining.”²⁸⁹

The law prescribes that a labor union shall be registered with Department of Labor and Employment (DOLE) in order to be eligible for any rights provided by laws as a labor union. It can choose to be registered in form of independent labor union or federation or national union. In addition, a labor union has to be recognized by employees to be an exclusive representative of them in case of collective bargaining²⁹⁰ Article 250-256 elaborate the procedure of collective bargaining, in brief, stating that a party who wish to start the negotiation shall submit a notice to another party and it shall reply within 10 days.

²⁸⁸ Article XIII, Section 3 of the 1987 Philippine Constitution. Section 3. “The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.”

²⁸⁹ Quisumbing Torres (Member Firm of Baker & McKenzie International), Guide to Philippine Employment Laws for the Private Sector, p. 8, *available at* https://www.bakermckenzie.com/-/media/files/insight/publications/2017/02/guide-to-philippine-employment-laws/qrg_ap_philippineemploymentlaws_feb17.pdf?la=en (last visited January 29, 2019).

²⁹⁰ Collective bargaining means negotiation of wages and other conditions of employment between a labor union and an employer.

In case of conflict opinion, they can ask for joint meeting for collective bargaining between representatives of two parties.

In case of bargaining deadlock, Article 263-268 grant employees the right to conduct picket and strike and grant an employer the right to lockout. Collective bargaining shall be conducted peacefully with assistance from DOLE for underprivileged workers.

Book Six contains provisions about post-employment. It prescribes causes of lawful termination of employment in Article 282. Most of them concerns termination of employment because of gross misconduct, fraud or disobedience lawful order of an employers²⁹¹ which disqualify employees from receiving separation pay, while termination of employment under Article 283 can be conducted by an employer based on economic reasons such as use of labor-saving devices, budget-saving, reducing redundancy, preventing loss or seizing production. In case of termination of employment based on labor-saving devices or reduce redundancy, an employer needs to send a written notice to employees and to DOLE at least one month in advance before termination of employment. Employees have a right to receive separation pay equivalent one-month pay or to at least one month pay for every year of service, whichever is higher.

In case of retrenchment to prevent losses and in cases of closures or cessation of operations, the separation pay shall be equivalent to one month pay or at least one-half month pay for every year of service, whichever is higher. Academically, termination of employment under Article 282 is called “just causes” and under Article 283 is called

²⁹¹ Labor Code of the Philippines, Article 282: Termination by employer. - An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
- (e) Other causes analogous to the foregoing.

“authorized causes”.²⁹²

13th Month Pay

On December 16, 1975, President Ferdinand Marcos signed on Presidential Decree 851²⁹³ demanding that every employer shall pay salary of the 13th month to every employee who received less than 1,000 peso a month so that they could celebrate Christmas festival. An employer should pay this amount no later than December 24th of each year. The amount of 13th Month Pay shall be equivalent to 1/12 of the whole wage that employees received in a calendar year.

However, on April 13, 1986, President Corazon Aquino issued Memorandum Order No. 28²⁹⁴ amending Decree 851. It revoked the 1,000-peso ceiling which means that every employee, no matter how much wage they receive, have right to receive this 13th Month Pay, which has been effective until present.

Department of Labor and Employment (DOLE)

Department of Labour and Employment is an executive department of the Philippine government, which is responsible for launching policy, designing workplan and coordinating on labor management. The main responsibility is to encourage employment that receives fair returns (gainful employment) and promotes development and use of human resources for the highest benefit. It also promotes employee welfare by providing fair and humane terms and conditions as well as maintaining industrial peace by promote strong and steady labor relation which will cause equal rights protection of all relevant parties.²⁹⁵ The major Bureaus of the department are:

- Bureau of Local Employment (BLE): Its main subordinate is Public Employment

²⁹² Azucena, Cesario Alvero Jr. Everyone's Labor Code. (2001) Rex Printing Company, pp. 216-217.

²⁹³ Presidential Decree 851, *available at* <http://www.chanrobles.com/presidentialdecreeno851rules.htm#.WwmjSUiFPDc> (last visited January 29, 2019).

²⁹⁴ Memorandum Order No. 28, *available at* <http://www.chanrobles.com/PDF.LAWS/MEMORANDUM%20ORDER%20NO.%2028.pdf> (last visited January 29, 2019).

²⁹⁵ Department of Labor and Employment, DOLE Profile: Vision, Mission and Functions, *available at* <https://www.dole.gov.ph/pages/view/7> (last visited January 29, 2019).

Service Office (PESO) which was established by Republic Act No. 8759²⁹⁶ in 1999. Its duty is to create equal opportunity for employment by strengthening and extending local employment recruitment process driven by the government. The office will provide measures and facility system for job seekers such as launching job fairs, developing testing and assessing tools for selecting jobs, training and providing effective consultancy including being a labor-related-data-exchange center for employment between employers and job seekers.²⁹⁷

The office also provides Career Guide which provides information about needed job position, including provides information about qualification of such job position that an applicant should possess such as education, talent, skill, personality, etc., remuneration rate, salary or career advancement so that job seekers will have sufficient information to make the best decision for applying for jobs that fit their qualification. For example, the Minute Guide for Young Jobseekers provides content that advice any youths who first time enter into job market. It helps the youths find their aptitude and favor including teaches about how an employer evaluates ability of job applicants and how to get an acceptance for jobs. In addition, the office also provides Guiding Youth Careers which aims to be a manual for those who may help the youths seeking for jobs such as parents, advisors or even officers of the office. The content focuses on how the advisor should treat those youth who are seeking for advice, what should be the proper duty and scope of the advisor and how to discover potentiality and skill of the advisee, etc.²⁹⁸

In addition, Public Employment Service Office is also an organization that is responsible for Labor Market Information System (LMIS) which collects up-to-date information that is related to labor market, for example, in demand jobs, skill shortage, creating Philippine Labor Market Information (Phil-LMI) to assist labor planning and

²⁹⁶ Public Employment Service Office Act of 1999 (Republic Act No. 8759), *available at* https://www.lawphil.net/statutes/repacts/ra2000/ra_8759_2000.html (last visited January 29, 2019).

²⁹⁷ Public Employment Service Office, About PESO, *available at* <http://www.ble.dole.gov.ph/index.php/porgams-projects/2013-12-16-01-22-48> (last visited January 29, 2019).

²⁹⁸ Bureau of Local Employment, Career Guidance Materials, *available at* <http://ble.dole.gov.ph/index.php/career-guide> (last visited January 29, 2019).

development.²⁹⁹

There are other organization that are supervised by Department of Labor and Employment:

- Bureau of Labor and Employment Statistics (BLES)
- Bureau Working Condition (BWC)
- Bureau of Workers with Special Concerns
- International Labor Affairs Bureau (ILAB)
- National Reintegration Center for OFWs (NRCO)

Contracting and Subcontracting

In the Philippines, labor contracting or subcontracting is permitted. What is prohibited is labor-only contracting. The law defines contracting or subcontracting to refer “to an arrangement whereby a principal agrees to put out or farm out with a contractor or subcontractor the performance or completion of a specific job, work or service within a definite or predetermined period, regardless of whether such job, work or service is to be performed or completed within or outside the premises of the principal.”³⁰⁰

Labor-only contracting, which is prohibited by law, on the other hand, is defined as “an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements are present:

(1) The contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or

(2) the contractor does not exercise the right to control over the performance of the work of the contractual employee.”³⁰¹

In an ordinary employer-employee relationship there are only two parties: the

²⁹⁹ Bureau of Local Employment, Phil-LMI, *available at* <http://www.ble.dole.gov.ph/index.php/web-pages/11-phil-lmi> (last visited January 29, 2019).

³⁰⁰ Department Order No. 18-02 (2002), Sec. 4, *available at* http://www.chanrobles.com/doledepartment/orderno18-02-2002.html#.VvdvOhFYk_M (last visited January 29, 2019).

³⁰¹ Section 5 of Department Order No. 18-02 (2002).

employer and the employee. In contracting or subcontracting there are three parties: the contractor or subcontractor, the principal and the employees. The employer in the ordinary employer-employee relationship becomes the principal when a subcontractor is involved.

According to the Department of Labor and Employment (DOLE):

“Contracting shall be legitimate if the following conditions concur:

a. the contractor or subcontractor carries on a distinct and independent business and undertakes to perform the job, work or service on its own account and under its own responsibility, according to its own manner and method, and free from the control and direction of the principal in all matters connected with the performance of the work except as to the results thereof;

b. the contractor or subcontractor has substantial capital or investment;

c. The agreement between the principal and the contractor or subcontractor assures the contractual employee entitlement to all occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social and welfare benefits.”³⁰²

Contracting, despite its legal status, is seen by many minimum wage workers negatively. In effect many workers are employees of employment or manpower agencies for years instead of the company which acts as principal. That being the case, the contractual employee is not entitled to tenure and other benefits that he or she would otherwise have had it been an ordinary employer-employee relationship between the employee and the principal.

The Domestic Workers Act

Domestic workers are called as “kasambahay” in Filipino. It is not uncommon for many households to employ domestic workers. Many Filipinos prefer to employ domestic workers who can administer to their personal comfort at home by cooking, cleaning, doing the laundry, ironing, gardening and/or taking care of their children or pets.

³⁰² DOLE Primer on Contracting and Subcontracting, *available at* http://www.chanrobles.com/dolecontracting/subcontractingprimer.html#.Vvd0whFYk_M (last visited January 29, 2019).

The Domestic Workers Act³⁰³ was enacted in 2013 and is considered “a landmark piece of labor and social legislation that recognizes for the first time domestic workers as similar to those in the formal sector.”³⁰⁴ It took sixteen years for Congress to pass the Domestic Workers Act.³⁰⁵ It is further said that the said Act “strengthens respect, protection, and promotion of the rights and welfare of domestic workers or *kasambahay*”.³⁰⁶

Among the acts declared unlawful under the law are:

- a. Employment of children below 15 years of age;
- b. Withholding of the *kasambahay*’s wages;
- c. Interference in the disposal of the *kasambahay*’s wages;
- d. Requiring *kasambahay* to make deposits for loss or damage;
- e. Placing the *kasambahay* under debt bondage; and
- f. Charging another household for temporarily performed tasks.³⁰⁷

The said Act further provides that an employment contract be executed between the employer and the domestic worker before the commencement of the service.³⁰⁸ The Act Also provides the mandatory minimum wage, the privileges and responsibilities of the domestic worker and the grounds for termination of service.

³⁰³ Domestic Workers Act 2013 (REPUBLIC ACT NO. 10361), *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10361_2013.html (last visited January 29, 2019).

³⁰⁴ Department of Labor and Employment. Q&A on Batas Kasambahay, *available at* [http://www.dole.gov.ph/files/Q%20%26%20A%20on%20Batas%20Kasambahay%20\(RA%20No%2010361\).pdf](http://www.dole.gov.ph/files/Q%20%26%20A%20on%20Batas%20Kasambahay%20(RA%20No%2010361).pdf) (last visited March 25, 2016).

³⁰⁵ Domestic Workers Act 2013 (REPUBLIC ACT NO. 10361), *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10361_2013.html (last visited January 29, 2019).

³⁰⁶ Department of Labor and Employment, Q&A on Batas Kasambahay, *available at* [http://www.dole.gov.ph/files/Q%20%26%20A%20on%20Batas%20Kasambahay%20\(RA%20No%2010361\).pdf](http://www.dole.gov.ph/files/Q%20%26%20A%20on%20Batas%20Kasambahay%20(RA%20No%2010361).pdf) (last visited January 29, 2019).

³⁰⁷ *Ibid.*

³⁰⁸ Section 11 of Republic Act No. 10361.

3.2.3 Laws Concerning Social Security and Compensation

The Social Security System (SSS)

By virtue of Republic Act No. 8282 or Social Security Act of 1997, the Social Security System (SSS) provides and administers a pension fund for workers in the private sector that has the following social security benefits: sickness, retirement, maternity, disability, death, funeral, and employee's compensation.³⁰⁹

Qualification for obtaining the benefit are as follows:

1. Member is 60 years old, separated from employment or ceased to be self-employed, and has paid at least 120 monthly contributions prior to the semester of retirement.
2. Member is 65 years old, whether employed or not, and has paid at least 120 monthly contributions prior to the semester of retirement.
3. Underground Mineworkers:
 - o Aged 55 years old and is an underground mineworker for at least 5 years (either continuous or accumulated) prior to the semester of retirement but whose actual date of retirement is not earlier than March 13, 1998; separated from employment or has ceased self-employment; and has paid at least 120 monthly contributions prior to the semester of retirement.
 - o Aged 60 years old, whether employed or not, and has paid at least 120 monthly contributions prior to the semester of retirement.

In case of wage, it is the Regional Tripartite Wages and Productivity Boards of each region in the Philippines that prescribes the minimum wage rates for agricultural and non-agricultural workers and employees.³¹⁰ On the other hand, it is the Secretary of Labor and Employment who regulates the payment of wages by results including piecework and other non-time work.³¹¹

Law mandates a prescribed minimum wage for workers. As of November 2018,

³⁰⁹ The Philippine Government, Official Gazette, SSS membership, *available at* <http://www.officialgazette.gov.ph/services/sss-membership/> (last visited January 29, 2019).

³¹⁰ The Labor Code of the Philippines As Amended, Article 99, *available at* <http://www.chanrobles.com/legal4labor.htm> (last visited January 29, 2019).

³¹¹ Article 101 of the Labor Code of the Philippines.

the minimum wage for non-agricultural workers in the National Capital Region ranges from 500 pesos³¹² to 537 pesos. On the other hand, both plantation and non-plantation agricultural workers in the National Capital Region shall receive 500 pesos as daily minimum wage. The Summary of Current Regional Daily Minimum Wage Rates: Non-Agriculture, Agriculture provided by the Department of Labor and Employment lists the mandated minimum wage for the other regions in the country.³¹³

3.2.4 Laws Concerning Safety, Occupational Health and Working Environment

The Labor Code of the Philippines requires every employer to keep first-aid medicines and equipment as the nature and conditions of work may require.³¹⁴ It is also the duty of every employer to “furnish his employees in any locality with free medical and dental attendance.”³¹⁵

The law further provides that “mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces and institute new, and update existing, programs to ensure safe and healthful working conditions in all places of employment”.³¹⁶

³¹² 1 peso equals 0.63 baht. See Bank of Thailand Currency Exchange Rate on January 29, 2019, available at https://www.bot.or.th/thai/_layouts/application/exchangerate/exchangerate.aspx (last visited January 29, 2019).

³¹³ Department of Labor and Employment, National Wages and Productivity Commission, Summary of Current Regional Daily Minimum Wage Rates by Region, Non-Agriculture, Agriculture, available at <http://www.nwpc.dole.gov.ph/stats/summary-of-current-regional-daily-minimum-wage-rates-by-region-non-agriculture-and-agriculture/> (last visited January 29, 2019).

³¹⁴ Article 156 of the Labor Code of the Philippines.

³¹⁵ Article 157 of the Labor Code of the Philippines.

³¹⁶ Article 162 of the Labor Code of the Philippines.

3.2.5 Laws Concerning Encouragement of Labor Skill Development

Technical Educational and Skill Development Act of 1994 (Republic Act No. 7796)³¹⁷ creates the Technical Education and Skills Development Authority (TESDA) which is “responsible for formulating, continuing, coordinated and fully integrated technical education and skills development policies, plans and programs”³¹⁸. TESDA is further tasked with strengthening “the network of national, regional and local skills training centers for the purpose of promoting skills development.”³¹⁹

In order to achieve such mission, TESDA offers scholarships and affordable short courses to enable Filipinos to acquire technical skills that will find them a place in the labor force. Many Filipinos who opt not to proceed to college or cannot afford to do so will obtain a TESDA certificate before proceeding to be employed.

3.2.6 Laws Concerning Protection of Migrant Workers

More than one million Filipino migrant workers are deployed overseas each year. Filipino migrant workers are popularly called Overseas Filipino Workers (OFW). Remittances from OFWs are important to the Philippine economy. Statistics from the Philippine Overseas Employment Agency (POEA) provide as follows:

Annual Report of OFW Deployment, POEA³²⁰

Year	Number of OFWs deployed	Average per day
2010	1,470,826	4,018
2011	1,687,831	4,624
2012	1,802,031	4,937

³¹⁷ Technical Educational and Skill Development Act of 1994 (Republic Act No. 7796), *available at* <http://www.tesda.gov.ph/uploads/File/REPUBLIC%20ACT%20NO.%207796.pdf> (last visited January 29, 2019).

³¹⁸ Section 8 of Republic Act 7796.

³¹⁹ Section 20 of Republic Act 7796.

³²⁰ #SONA 2015 Number of OFWs Leaving Daily Rose from 2,500 in 2009 to 6,092 in 2015, *available at* <http://migranteinternational.org/2015/07/29/sona2015-number-of-fws-leaving-daily-rose-from-2500-in-2009-to-6092-in-2015/> (last visited January 29, 2019).

2013	1,836,345	5,031
2014	1,844,710	5,054
2015	————	6,092 (DOLE)

The relevant Philippine law to OFWs is Republic Act No 10022³²¹ which amends the Migrant Workers and Overseas Filipinos Act of 1995. Section 3 of Republic Act 10022 provides that “the State shall allow the deployment of overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected.”³²² The Philippine government requires a guarantee that the country receiving the overseas Filipino worker is taking concrete measures to protect the rights of the migrant workers.

3.3 Laws Concerning Public Health

3.3.1 Overview of the Philippines’ Public Health

According to Allianz Worldwide Care, “Although there have been recorded cases of drug dependency and malnutrition in the Philippines, the healthcare system can still be considered to be of a good standard. This is despite the fact that the facilities may not be as impressive as those found in high-end US or European hospitals. The top Philippine hospitals include the Medical Centre in Alabang, the Asian Hospital, the Makati Medical

³²¹ REPUBLIC ACT No. 10022 (2009), available at http://www.lawphil.net/statutes/repacts/ra2010/ra_10022_2010.html (last visited November 18, 2015).

³²² Section 3 of Republic Act No. 10022, “*Deployment of Migrant Workers*. - The State shall allow the deployment of overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection of the rights of overseas Filipino workers:

- (a) It has existing labor and social laws protecting the rights of workers, including migrant workers;
- (b) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers; and
- (c) It has concluded a bilateral agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers:

Provided, That the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b) and (c) hereof.”

Centre, the Medical City in Ortigas, and St. Lukes Medical Centre in Quezon City.

Medical practitioners in the Philippines are graduates from the top universities in the country and most of them have studied in US medical schools. Additionally, there are doctors that have practiced medicine in the US before sharing their expertise in the Philippines. Filipino nurses are also trained by nursing schools that have excellent standards. In fact, a large percentage of Filipino nurses go on to work in the US.”³²³

According to the information of World Health Organization gathered recently in 2012, in general, the health of Filipinos has much improved since the second half of 20th century. Rates of death of Infant and maternal including communicable diseases has been decreased by half, while life expectancy of Filipinos raises to 70 years, which are resulted from health system assisted by modern technology and participation of government in health system on most territory of the country. However, health service is not sufficient for many Filipinos who live in remote and poor areas, suffering from inequity of health service accessibility.³²⁴

However, “Philippine Health Agenda 2016-2022: Healthy Philippine 2022” ,created by Department of Health, aims to protect poor, weak, disadvantaged Filipinos from high cost of health care with possible health outcomes with no disparity. Filipinos shall feel respected, valued and empowered when receiving health service.”³²⁵

Due to significance of public health issue, this portion of Chapter 3 will discuss the laws enacted by the Philippine Congress as measures to promote and upgrade public

³²³ Healthcare in the Philippines, *available at* <http://www.allianzworldwidecare.com/healthcare-in-the-philippines?choice=en> (last visited January 29, 2019).

³²⁴ World Health Organization. Regional Office for the Western Pacific. (2011). The Philippines health system review. Manila: WHO Regional Office for the Western Pacific, p. 112, *available at* http://www.searo.who.int/entity/asia_pacific_observatory/publications/hits/hit_philippines/en/ (last visited January 29, 2019).

³²⁵ Department of Health, Philippine Health Agenda 2016-2022, p. 2, *available at* https://www.doh.gov.ph/philippine_health_agenda, (last visited May 18, 2018). It is a continuing health agenda from National Objectives for Health 2011-2016, See World Health Organization, PHILIPPINES–WHO Country Cooperation Strategy 2017–2022, p. 1, *available at* <http://iris.wpro.who.int/bitstream/handle/10665.1/13584/WPRO-2017-DPM-003-eng.pdf?ua=1> (last visited January 29, 2019).

health in the country.

3.3.2 Laws Concerning Health Insurance, Health Protection and Health Enhancement

National Health Insurance Act

Republic Act No. 10606 otherwise known as “An Act Amending Republic Act No. 7875”, or the ‘National Health Insurance Act of 2013’” provides that the State shall “adopt integrated and comprehensive approach to health development.”³²⁶ The law aims to “make essential goods, health and other social services available to all people at affordable cost and to provide free medical care to paupers.”³²⁷ The law mandates that the state provides “comprehensive health care services to all Filipinos through a socialized health insurance program that will prioritize the health care needs of the underprivileged, sick, elderly, persons with disabilities (PWDs), women and children and provide free health care services to indigents.”³²⁸

The aforementioned law established National Health Insurance Program (NHIP). It is a compulsory universal healthcare plan which its insurance premium is fully supported by the government, instead of co-payment like the previous one. In addition, the government also established Philippine Health Insurance (PhilHealth) corporation to manage and administer any matter concerning health insurance under this law, for example, setting premium insurance rate, providing free health care service to indigent, partially sponsoring premium contribution for orphans, abandoned and abused minors, out-of-school youths, senior citizens under the rules of Department of Social Welfare and Development (DSWD), providing rights and privileges for members and managing others that are relevant to health insurance. Such universal healthcare intends to decrease inequality of accessibility to health service of citizen no matter because of poverty or remoteness of residency. Therefore, the law contains some provisions that favor accessibility to public health service such as Section 6 (amending Section 8 paragraph 2) which states that “The absence of the ID card shall not prejudice the right of any

³²⁶ National Health Insurance Act of 2013 (Republic Act No. 10606), Section 2, *available at* <http://www.gov.ph/2013/06/19/republic-act-no-10606/> (last visited January 29, 2019).

³²⁷ Section 2 of Republic Act. No. 10606.

³²⁸ Section 2 of Republic Act. No. 10606.

member to avail of benefits or medical services under the National Health Insurance Program (NHIP)..."³²⁹. Moreover, the law also prescribes that implementing rules and regulations shall be issued for pragmatic purpose within sixty days after the law becomes effective so that the problem of lack of implementing secondary laws will not occur.³³⁰

Social Pension

Social Pension Program for Indigent Senior Citizens (SPISC) is the monthly stipend in the amount of five hundred pesos (P 500.00) given by the government as assistance to support the daily living and other medical necessity of indigent senior citizens. The Expanded Senior Citizens Act of 2010 or Republic Act No. 9994 indicates that the Social Pension for Indigent Senior Citizens intends to: "improve the condition of indigent senior citizens by augmenting their daily subsistence and medical needs; reduce incidence of hunger; and protect them from neglect, abuse, deprivation and natural and man-made disasters."

According to the law, *Indigent senior citizen* covers any elderly (60 years old and above) who is frail, sickly or with disability, and without pension or permanent source of income, compensation or financial assistance from his/her relatives to support his/her basic needs, as determined by the Department of Social Welfare and development (DSWD) in consultation with the National Coordinating and Monitoring Board.³³¹

The Government Service Insurance System (GSIS)

The Government Service Insurance System (GSIS) is a social insurance institution. It provides and administers a pension fund for employees of the government that has the following social security benefits: compulsory life insurance, optional life insurance,

³²⁹ National Health Insurance Act of 2013 (Republic Act No. 10606), Section 6, *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10606_2013.html (last visited January 29, 2019).

³³⁰ PhilHealth, The Revised Implementing Rules and Regulations of the National Health Insurance Act of 2013, *available at* https://www.philhealth.gov.ph/about_us/irr_nhia2013.pdf (last visited January 29, 2019).

³³¹ Section 3 of Republic Act No. 9994, *available at* <https://www.officialgazette.gov.ph/2010/02/15/republic-act-no-9994/> (last visited January 29, 2019).

retirement benefits, and disability benefits for work-related accidents and death benefits.

According to Republic Act No. 8291 of 1997 or the Government Service Insurance System Act of 1997, GSIS covers all government workers irrespective of their employment status, except:

1. Members of the Judiciary and Constitutional Commissions who are covered by separated retirement laws;
2. Contractual employees who have no employee-employer relationship with their agencies;
3. Uniformed members of the Armed Forces of the Philippines and the Philippine National Police, including the Bureau of Jail Management and Penology and the Bureau of Fire Protection.³³²

Public Health Workers

In 1992 The Magna Carta of Public Health Workers or Republic Act 7305 was enacted. The said law attempts to increase the benefits being received by public health workers. The law mandates that additional cash incentives be given to health workers.³³³ Section 2 mandates the State “to promote and improve the social and economic well-being of the health workers, their living and working conditions, develop their skills and capabilities in order that they will be more responsive and better equipped to deliver health projects and programs and to encourage those with proper qualifications and excellent abilities to join and remain in government service.”

Section 3 legally defines that "health workers" shall mean all persons who are engaged in health and health-related work, and all persons employed in all hospitals, sanatoria, health infirmaries, health centers, rural health units, barangay health stations, clinics and other health-related establishments owned and operated by the Government or its political subdivisions with original charters and shall include medical, allied health professional, administrative and support personnel employed regardless of their

³³² The Philippine Government, Official Gazette, GSIS membership, *available at* <http://www.gov.ph/services/gsis-membership/> (last visited January 29, 2019).

³³³ The Magna Carta of Public Health Workers 1992 (Republic Act No. 7305), *available at* https://www.lawphil.net/statutes/repacts/ra1992/ra_7305_1992.html (last visited January 29, 2019).

employment status.³³⁴ Section 4 prescribes that recruitment policy and minimum requirements with respect to the selection and appointment of a public health worker shall be developed and implemented by the appropriate government agencies and temporary appointment shall not exceed 12 months. Section 5 obliges the Secretary of Health to prepare a uniform career and personnel development plan which include provisions on merit promotion, performance evaluation, in-service training grants, job rotation, suggestions and incentive award system.

Section 6 prescribes that transfer of position of public health workers shall be equitable with no lowering of rank or salary. It also provides appellate channel to Civil Service Commission for public health workers who believe that their transfer is not equitable. During the appellate process, the transfer will be held in abeyance. Section 7 governs that authorities shall take steps to enable married couples, both of whom are public health workers, to be employed or assigned in the same municipality.

Section 15 stipulates that the normal hours of work of any public health worker shall not exceed 8 hours a day or 40 hours a week, including the time of "on duty" but not include "on call" time period which entitle the public health worker to an "on call" pay equivalent to 50% of his/her regular wage. Section 21 prescribes that public health workers who work in dangerous area shall be compensated hazard allowances. Section 24 grants laundry allowance for all public health workers who are required to wear uniforms regularly. Section 26 prescribes that all public health workers who are on tour of duty shall be entitled to free living quarters within the hospital, sanatorium or health infirmary. In addition, section 34 establishes a Congressional Commission on Health (HEALTHCOM) to review and assess health human resource development, particularly on continuing professional education and training.

However, the alleged lack of implementation because of lack of budget has been criticized. In addition, there is a problem on how to define "health worker" under such law that provides too broad legal definition.³³⁵

³³⁴ Section 3 of Republic Act No. 7305.

³³⁵ *Carl Abelardo Antonio*. Policy critique: Republic Act No. 7305 (The Magna Carta of Public Health Workers) and Its Revised Implementing Rules and Regulations *available at* http://www.researchgate.net/publication/233782699_Policy_critique_Republic_Act_No._7305_ (last visited January 29, 2019).

3.3.3 Laws Concerning Contagious Disease

According to Section 1 of Law on Reporting of Communicable Diseases (Republic Act No. 3573),³³⁶ which was promulgated since 1929, prescribes that “For the purpose of preventing and suppressing dangerous communicable diseases, any person may be inoculated, administered, or injected with prophylactic preparations of recognized efficiency and standard, and no person shall refuse as to hinder or obstruct in any way such protective measures...”

Section 2 mandates anyone who works in hospitals, schools or factories to notify the nearest health station in case of occurrence of communicable diseases. Section 3 prescribes the list of communicable diseases subjected to this law such as Malaria, Poliomyelitis, Meningitis, Food Poisoning, Influenza and Yellow Fever. In 2008, Administrative Order No. 2008-2008 was issued to revise the list of notifiable diseases, syndromes, health-related and conditions by adding more communicable diseases that shall be subjected to Republic Act No. 3573 such as Rabies, Measles, Human Avian Influenza and Anthrax.³³⁷

In addition, the Philippine Health Insurance Corporation (Philhealth) issued Philhealth Circular No.030 s-2000 requiring all accredited healthcare providers, regional health insurance offices and all others concerned to strictly comply with Republic Act No. 3573, the Law of Reporting Communicable Diseases.³³⁸

³³⁶ Law on Reporting of Communicable Diseases, *available at* <http://www.ethics.healthresearch.ph/index.php/phoca-downloads/category/13-ra-ao-memo-etc?download=71:ra-3573-reporting-of-communicable-diseases> (last visited January 29, 2019).

³³⁷ Department of Health, Office of the Secretary, Administrative Order No. 2008-0009: Adopting the 2008 revised List of Notifiable Diseases, Syndromes Health-Related Evens and Conditions, *available at* <https://www.scribd.com/doc/310352475/A-O-2008-0009> (last visited January 29, 2019).

³³⁸ Strict Compliance to Republic Act 3573, The Law on Reporting Communicable Diseases (2000), *available at* https://www.philhealth.gov.ph/circulars/2000/circ30_2000.pdf (last visited January 29, 2019).

3.3.4 Laws Concerning Control on Alcohol Beverages and Tobacco

Alcoholic beverages and tobacco are levied additional taxes in the Philippines. Ad valorem taxes, excise taxes and value-added taxes are imposed on the said products.

In 2012, Republic Act No. 10351³³⁹ or an Act Restructuring the Excise Tax on Alcohol and Tobacco Products was signed into law. The said law restructured the excise tax on alcohol and tobacco products by amending the provisions of the National Internal Revenue Code of the Philippines with the aim to reduce the consumption of such goods by the citizen.

In 2013 the “combined excise tax payments by alcohol and cigarette manufacturers amounted to P 91.6 billion in the first nine months of the year, already exceeding the government’s full year target of P 85.56 billion.”³⁴⁰ The so called-sin taxes have indeed been generating revenues for the Philippine government.³⁴¹ Patrons of tobacco and alcoholic products continue to purchase the same despite the additional taxes levied.

Liquor

As of January 1, 2015, there are “(1) An *ad valorem* tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per proof;³⁴² and (2) In addition to the *ad valorem* tax herein imposed, a specific tax of Twenty pesos (P 20.00) per proof liter.”³⁴³

Taxes on liquor will continue to increase as the law provides that “the specific tax rate of Twenty pesos (P 20.00) imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2016, through revenue

³³⁹ REPUBLIC ACT NO. 10351 (2012), available at https://www.lawphil.net/statutes/repacts/ra2012/ra_10351_2012.html (last visited January 29, 2019).

³⁴⁰ Zinnia B. De la Pena (2013). Cigarette, alcohol taxes up 81.5%, available at <http://www.philstar.com/business/2013/12/21/1270420/cigarette-alcohol-taxes-81.5> (last visited January 29, 2019).

³⁴¹ *Ibid.*

³⁴² ‘Proof’ is a unit for measuring quantity of ethanol or degree of alcohol mixed in a liquor.

³⁴³ Section 1 of Republic Act 10351.

regulations issued by the Secretary of Finance.”³⁴⁴

Regarding liquor consumption control, the minimum age of drinking is 18³⁴⁵ and only during elections that drinking is banned in public places,³⁴⁶ including on a few occasions when crowd control is prioritized, such as during festival of the Black Nazarene which is held on January 9th annually. Apart from those, any person can drink anywhere and at any time of the day.

However, there are ordinances passed in at least three cities which are Manila, Caloocan in the capital region, and Davao in Mindanao province to ban street drinking but the penalty fines are so small and enforcement is practically non-existent in Manila and Caloocan that the rules are widely unenforceable. Alternatively, in Davao, as it is in Mindanao where Islam dominates, is seriously enforcing an ordinance promulgated in 2013 prohibiting stores and bars from selling or serving alcohol from 1am to 8am.³⁴⁷

Tobacco

As same as liquor, tobaccos are also levied ad valorem tax, excise tax and the value-added tax. Cigars are levied *ad valorem* tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per cigar; and a specific tax of five pesos per cigar plus four percent every year, effective January 1, 2016.³⁴⁸

Cigarettes are either packed by hand and packed using machines. Cigarettes packed by hand are imposed a graduating scale of excise tax. As of 2015, the tax is eighteen pesos per pack. The same will continue to increase as follows:

³⁴⁴ Section 1(c) of Republic Act 10351.

³⁴⁵ Presidential Decree No. 1619 (1917), Section 5, *available at* https://www.lawphil.net/statutes/presdecs/pd1979/pd_1619_1979.html (last visited January 29, 2019).

³⁴⁶ World Health Organization, Management of substance abuse, Philippines, *available at* http://www.who.int/substance_abuse/publications/policy_philippines.pdf (last visited January 29, 2019).

³⁴⁷ The Straits Times, Liquor Control Bill, How other countries and cities in Asia tackle drinking, *available at* <http://www.straitstimes.com/singapore/liquor-control-bill-how-other-countries-and-cities-in-asia-tackle-drinking> (last visited January 29, 2019).

³⁴⁸ Section 5 of Republic Act No. 10351.

Effective on January 1, 2016, P 21.00 per pack; and effective on January 1, 2017, P 30.00 per pack. The rates of tax imposed under this subsection shall be increased by 4% every year effective on January 1, 2018, through revenue regulations issued by the Secretary of Finance.

Cigarettes packed by machine are levied taxes depending on the net retail price excluding the excise tax and the value-added tax. As of 2015, if the net retail price (excluding excise tax and value-added tax) is eleven pesos and fifty centavos and below per pack, the tax shall be P 21.00 per pack. On the other hand, if the net retail price (excluding the excise tax and the value-added tax) is more than P 11.50 per pack, the tax shall be P 28.00 per pack. The law provides for increased taxes every year between 2015 to 2018. Effective January 1, 2018 the rates of tax imposed shall be increased by four percent every year through revenue regulations issued by the Secretary of Finance.³⁴⁹

With purpose to limit and control tobacco consumption, “the law prohibits smoking in enumerated indoor public places and workplaces such as government facilities, healthcare and educational institutions, and facilities frequented by minors” while allowing smoking in “other public places and workplaces, including bars and nightclubs and designated smoking areas.” Prohibited Smoking areas include public land transportation vehicles and terminals. In addition, smoke free laws that are less lenient than the national law may be enacted by sub-national jurisdictions.

“Tobacco Advertising, Promotion and Sponsorship: Many forms of tobacco advertising and promotion are prohibited, though tobacco advertising and promotion at points of sale and free distribution of tobacco products, among other promotional activities, are allowed. There are some restrictions on tobacco sponsorship and the publicity of such sponsorship.”³⁵⁰

“Tobacco Packaging and Labeling: Rotating and combined picture and text health warnings are required to be placed on 50 percent of each of the principal display areas of tobacco product packaging. Misleading terms such as “light” and “low” are prohibited

³⁴⁹ Section 5 of Republic Act No. 10351.

³⁵⁰ Tobacco Regulation Act of 2003, Section 25, *available at* <http://www.officialgazette.gov.ph/2003/06/23/republic-act-no-9211/> (last visited January 29, 2019).

on tobacco product packaging, but other misleading packaging (e.g., colors, numbers, and symbols) are not prohibited.”³⁵¹

3.3.5 Laws on Food

The Food Safety Act of 2013³⁵² was signed into law in 2012. The law has the following objectives:

- “(a) Protect the public from food-borne and water-borne illnesses and unsanitary, unwholesome, misbranded or adulterated foods;
- (b) Enhance industry and consumer confidence in the food regulatory system; and
- (c) Achieve economic growth and development by promoting fair trade practices and sound regulatory foundation for domestic and international trade.”³⁵³

The law sets out food safety requirements³⁵⁴ and food safety standards³⁵⁵. The law further lays out the responsibilities of food business operators and different government agencies on food safety.³⁵⁶

Food and Drug Administration (FDA) Act of 2009

The Food and Drug Administration Act of 2009³⁵⁷ provides the powers and responsibilities of the Food and Drug Administration (FDA). The FDA Act is aimed at enhancing and strengthening the administrative and technical capacity of the FDA, “ensuring the FDA’s monitoring and regulatory coverage over establishments and

³⁵¹ Tobacco Control Laws, Legislation by Country: Philippines, <http://www.tobaccocontrollaws.org/legislation/country/philippines/summary> (last visited January 29, 2019).

³⁵² Food Safety Act of 2013 (REPUBLIC ACT NO. 10611), *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10611_2013.html (last visited January 29, 2019).

³⁵³ Section 3 of Republic Act No. 10611.

³⁵⁴ Section 5 of Republic Act No. 10611.

³⁵⁵ Section 9 of Republic Act No. 10611.

³⁵⁶ Article IV of Republic Act No. 10611.

³⁵⁷ Food and Drug Administration Act of 2009 (Republic Act No. 9711), *available at* https://www.lawphil.net/statutes/repacts/ra2009/ra_9711_2009.html (last visited January 29, 2019).

products under its jurisdiction and providing coherence in the FDA's regulatory system.”³⁵⁸

Laws relating to Food Establishment Sanitation Control

There are various laws that concern sanitation control on food establishments. However, the main law is the Code on Sanitation of the Philippines which was promulgated since 1975. Section 14 to 17 prescribe that all food establishment, either natural persons or juristic persons shall secure a sanitary permit from the local health office before operation and all employees shall obtain a health certificate issued from a local health authority after the required physical and medical health and routine immunization are performed and administered. All raw food materials shall be brought from healthy and standardized sources, shall be properly cooked before consumption. Milk shall be kept in fridge. Proper temperature for storing raw and cooked food material is prescribed. Fruits and vegetable shall be cleaned before cooking. Cooking and preparing for cooking shall not be committed in the sleeping room or place with animals, etc.³⁵⁹

3.3.6 Laws on Pharmaceutical Products

A substantial law concerning pharmaceutical products of the Philippines is Food, Drug and Cosmetic Act which was enforced since 1963 before it was amended in the part of organizational structure of Food and Drug Administration by Food and Drug Administration Act in 2009. Section 10 (amended by Food and Drug Administration Act 2009) prescribes that “‘Drug’ means: (1) articles recognized in official pharmacopeias and formularies, including official homeopathic pharmacopeias, or any documentary supplement to any of them, which are recognized and adopted by the FDA; (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (3) articles (other than food) intended to affect the structure of any function of the body of humans or animals; or (4) articles intended for use as a component of any articles specified in clauses (1), (2), or (3) but do not include devices or their

³⁵⁸ Section 4 of Republic Act No. 9711.

³⁵⁹ Code on Sanitation of the Philippines, *available at* http://www.lawphil.net/statutes/presdecs/pd1975/pd_856_1975.html (last visited January 29, 2019).

components, parts or accessories.”³⁶⁰

3.3.7 *Laws on Narcotics and Prevention and Suppression against Narcotics*

The applicable law is the Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165).³⁶¹ The state’s policy is “to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation.”³⁶² Dangerous drugs are defined to “include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated”³⁶³.

The long list of prohibited acts in the law can be summarized to say that the use, possession, sale, manufacture, distribution, unlawful prescription and unnecessary prescription of dangerous drugs are punishable. The other prohibited acts are those related acts.

Drug cases are taken seriously as Section 23 of the law provides the plea-bargaining shall not be allowed for any person charged under any provision of the said law.³⁶⁴

Philippine Drug War

Philippines drugs problem had evolved to become a narco-political concern, from a crime problem to a national security. A multi-billion worth of illegal drugs was seized by drug enforcement agency revealing the depth of involvement of government employees, police personnel and local politicians in the drug trade as violence in the country have

³⁶⁰ Food, Drug and Cosmetic Act 1963 (Republic Act 3720), *available at* http://www.lawphil.net/statutes/repacts/ra1963/ra_3720_1963.html (last visited January 29, 2019).

³⁶¹ The Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165), *available at* http://www.lawphil.net/statutes/repacts/ra2002/ra_9165_2002.html (last visited January 29, 2019).

³⁶² Section 2 of Republic Act No. 9165.

³⁶³ Section 3 J of Republic Act No. 9165.

³⁶⁴ Section 23 of Republic Act 9165.

been associated with illegal drug use as evidenced by a shooting rampage killing 8 people in Cavite making Philippines' drug problem as second worst in Asia.

Series of drug-related raids and buy bust operations were conducted by the Philippine National Police on drugs suspects with suspects ending up dead after Duterte became President of the Philippines. Duterte claim to power to be the 16th President of the Republic of the Philippines on May 2016 on the platform of eliminating crime, illegal drugs in 3 to 6 months. Before formally assuming the post, he told the public to go after the drug traffickers. Hence then, reports of drug suspects being killed occur almost daily.

The drug operations when Duterte became President were found to show successful outcomes. Series of drug raids and buy bust operations were conducted across the country with suspects who allegedly fought the government forces ended up dead. In some instance, a barangay official and a police official were also killed. The killings sent a chilling effect among the drug users, with more than a thousand thronged to the police station or their local officials to surrender: 700 in Quezon City; 400 in Tagum City; 3500 in Negros Island.³⁶⁵ In addition, President Duterte also collected the name list of 150 high-ranked public officers who were linked to drug trading. The name list includes judges, representatives, governors, police officials, local government official, etc., which was publicized by Duterte himself.³⁶⁶

3.3.8 Laws on Cosmetics

The Food and Drugs Authority (FDA) is the regulatory agency tasked with providing rules and regulations that shall be followed by establishments that will engage in cosmetics either as manufacturer, trader, importer or distributor. FDA Issued its Circular No. 2013-002 with the subject Revised Guidelines in Licensing Cosmetic Establishments. The said circular provides that cosmetic establishments that would engage in business in

³⁶⁵ Ardrian Tamayo, University of Mindanao, Determining Statistical Pattern on the Drug-Related Killing in Philippines Using ARIMA and Poisson Techniques, *available at* https://mpr.ub.uni-muenchen.de/72518/1/MPRA_paper_72518.pdf, p. 1-2. (last visited January 29, 2019).

³⁶⁶ Rappler, The Duterte list: Judges, mayors, police officials linked to drugs, *available at* <http://www.rappler.com/nation/142210-duterte-list-lgu-police-officials-linked-drugs> (last visited January 29, 2019).

the Philippines shall institute their own regulatory mechanism aligned with ASEAN Cosmetic Directive (ACD) aimed at ensuring the quality, efficacy and safety of all cosmetic products in the market.³⁶⁷

3.3.9 Laws on Healthcare and Hospitals

Republic Act No. 8344³⁶⁸ (An Act Prohibiting the Demand of Deposits or Advance Payments for the Confinement or Treatment of Patients in Hospital and Medical Clinics in Certain Cases) does not allow hospitals or any of its staff or physicians to require or advance payment before treating a patient who is in a life threatening or emergency situation. The law requires that death and permanent disability should be prevented and that neither lack of money on the part of the patient nor lack of sufficient facilities of the hospital may prevent the rendering of the necessary emergency treatment.³⁶⁹ In case of inadequacy of medical facilities, the appropriate emergency treatment and support should be rendered to stabilize the patient before transferring him or her to a more appropriate facility.³⁷⁰

In addition, in order to protect patients, Republic Act No. 9439³⁷¹ (An Act Prohibiting the Detention of Patients in Hospitals and Medical Clinics on the Ground of Non-payment of Hospital Bills or Medical Expenses) prohibits the detention of patients on hospitals and medical clinics on the ground of non-payment of hospital expenses. The law further provides that a patient may be released and issued the corresponding medical certificate and other pertinent documents upon the patient's execution of a promissory note covering the unpaid obligations and further "secured by either a mortgage, or a

³⁶⁷ Food and Drug Administration, Revised Guidelines in Licensing Cosmetic Establishments (2013), available at <https://www2.fda.gov.ph/attachments/article/15751/FC2013-002.pdf> (last visited January 29, 2019).

³⁶⁸ REPUBLIC ACT NO. 8344 (1997), available at http://www.lawphil.net/statutes/repacts/ra1997/ra_8344_1997.html (last visited January 29, 2019).

³⁶⁹ Section 1 of Republic Act No. 8344.

³⁷⁰ Section 1 of Republic Act No. 8344.

³⁷¹ REPUBLIC ACT NO. 9439 (2008) available at https://www.lawphil.net/statutes/repacts/ra2007/ra_9439_2007.html (last visited January 29, 2019).

guarantee of a co-maker who shall be jointly and severally liable for the unpaid obligations.”³⁷²

Regarding regulation on standardization of medical profession, the Philippines apply Republic Act 2382 or the Medical Act of 1959 which is considered as the main law for regulating medical profession. Section 2 establishes the Board of Medical Education under the Department of Education and the Board of Medical Examiners under the Commissioner of Civil Service. The Board of Medical Education has main responsibilities to consider and approve Medical education curriculums taught in colleges and universities, to follow up and standardize learning and teaching, proportion between teachers and students, teaching equipment used in classes and grant approval to specific hospitals for conducting training for medical students, etc. In addition, Section 5 and Section 6 of this law also prescribe the minimum score requirement for medical school applicants, including specifies prerequisite courses taken during undergraduate level because attending medical school in Philippines requires any prior undergraduate degree. The Board of Medical Examiners' main roles are to prescribe examination standard and conducting the test for granting medical license.³⁷³

Nursing profession is regulated by virtue of Republic Act No. 9173 which is named Philippine Nursing Act of 2002. It establishes Board of Nursing which is responsible for granting nursing license and supervising nursing institutions with standardization, etc.³⁷⁴

Concerning liability for medical profession, Philippines do not have specific regulations or laws that directly cope with, therefore Article 2176 of Civil Code and Article 365 of the Revised Penal Code, which state about negligence and gross negligence, will be mainly applied. However, due to the fact that Philippines law system is highly commingled with Common Law, the Supreme Court of the Philippines has erected the legal principles regarding medical malpractice within reasonable numbers of rulings. For example, in *Dr. Ninevetch Cruz vs. Court of Appeals and Lydia Umali*, G.R. No. 122445,

³⁷² Section 2 of Republic Act 9439.

³⁷³ The Medical Act of 1959, *available at* http://www.lawphil.net/statutes/repacts/ra1959/ra_2382_1959.html (last visited January 29, 2019).

³⁷⁴ Philippine Nursing Act of 2002, *available at* http://www.lawphil.net/statutes/repacts/ra2002/ra_9173_2002.html (last visited January 29, 2019).

the court ruled on 18 November 1997 that:

“Doctors are protected by a special rule of law. They are not guarantors of care. They do not even warrant a good result. They are not insurers against mishaps or unusual consequences. Furthermore, they are not liable for honest mistakes of judgment . . .”

In addition, in *Dr. Ruby Li vs. Spouses Soliman*, G.R. No. 165279 ruled in 2011, the court established the principle of evidence hearing on medical negligence that “In order to successfully pursue such a claim, a patient must prove that a health care provider, in most cases a physician, either failed to do something which a reasonably prudent health care provider would have done, or that he or she did something that a reasonably prudent provider would not have done; and that that failure or action caused injury to the patient.” Moreover, evidence of these health and professional standards must be presented to the Court in order to prove a claim of medical malpractice against a doctor. The evidence of a layman is not enough. On the other hand, a doctor who defends herself against a claim of medical malpractice or negligence would be well advised to demonstrate the requirements and specific procedures required by the situation. She should provide evidence that she has met such standard of care.

However, in some cases, the court has held a doctor liable without hearing expert witness, instead, *res ipsa loquitur* (the thing speaks for itself) will be applied. This doctrine will be used, only as an exception, when there is no doubt, without necessity to rely on any medical knowledge, that the doctor was negligent, for example, the case when a doctor forgot to remove medical equipment from patients’ internal organ, remove the wrong part of the body or accidentally detach a tooth while a patient’s jaw was under anesthetic for the removal of his tonsils.³⁷⁵

3.3.10 Laws on Medical Products, Laws on Standardization of Medical Products, Drugs and Cosmetics

For the Philippines, laws on medical products, laws on standardization of medical products, drugs and cosmetics are covered by the Consumer Act of the Philippines which

³⁷⁵ Lawyers in the Philippines, proving medical malpractice, *available at* <https://lawyerphilippines.org/2016/03/29/proving-medical-malpractice/> (last visited January 29, 2019).

is promulgated since 1992 (Republic Act No. 73940). It provides that: “The state shall ensure safe and good quality of food, drugs, cosmetics and devices, and regulate their production, sale, distribution and advertisement to protect the health of the consume.”³⁷⁶

Article 29 of the same provides the definition of adulterated drugs whereas Article 30 provides exemptions. Licensing and registration of drugs are discussed in Article 31 for apparent enforcement.

Adulterated cosmetics are defined in Article 35 whereas the factory inspection requirement is tackled in Article 36.

Conclusion

The Philippines does not lack laws when it comes to education, labor and public health. In fact, there is a wealth of laws. Each year the number of Republic Acts enacted by Congress increase along with the number of Executive Orders that may be issued by the President. However, overlapping implementation of the laws, challenging arrangement of funds and corruption are the aspects where difficulty may be encountered. These challenges shall be tackled, improved and overcome so that all Filipinos have sufficient health readiness to further develop the nation.

3.4 Laws Relating to the Country's Promotion of Science, Technology and Communication

Article XIV Section 10 of the 1987 Philippine Constitution³⁷⁷ states:

“Science and technology are essential for national development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to science and technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.”

State's Mission on Promoting Scientific and Technological Research

Beside Section 14 of the Philippines' Constitution that burdens the state to promote research on developing of science and technology, there is another core law that

³⁷⁶ Consumer Act of the Philippines (Republic Act No. 7394), *available at* https://www.lawphil.net/statutes/repacts/ra1992/ra_7394_1992.html (last visited November 29, 2015).

³⁷⁷ Article XIV, Section 10 of 1987 Philippines Constitution.

direct and frame such promotion which is Republic Act No. 2067 or Science Act of 1958.³⁷⁸

Section 3 of this law assigns the following missions to the government in order that Article XIV, Section 10 of the Constitution can be concretely implemented:

- “(1) Stimulate and guide scientific, engineering and technological efforts towards filling the basic and immediate needs of the people;
- (2) Survey the scientific, engineering and technological resources of the country and formulate a comprehensive program for the development and maximum utilization of such resources in the solution of the country's problems;
- (3) Strengthen the educational system of the country so that the same will provide a steady source of competent scientific and technological manpower;
- (4) Furnish incentives to private and individual initiative in scientific work, as a fundamental basis for the advancement of science;
- (5) Promote and encourage the dissemination of the results of scientific and technological research and the general application thereof;
- (6) Encourage and facilitate the active participation of domestic and foreign sectors in furnishing financial, technical and other forms of assistance for scientific and technological activities;
- (7) Promote coordination and cooperation in research in order to secure concentration of effort, minimize duplication and thereby achieve maximum progress;
- (8) Initiate and bring about the establishment of standards, quality control measures and documentation facilities; and
- (9) Encourage studies in the pure and fundamental sciences.”

Moreover, Section 4 of this law establishes the National Science Development Board functioning as promoter, facilitator and supporter of finance and resource for personnel and institutions of both private and public sectors to conduct scientific research and development as priority. The Board also has to “submit to the President of the Philippines and to both Houses of Congress an annual report on the status of the national science effort, embodying such recommendations as it may deem proper to make.”

³⁷⁸ Science Act of 1958 (Republic Act No. 2067), *available at* http://www.lawphil.net/statutes/repacts/ra1958/ra_2067_1958.html (last visited January 29, 2019).

Section 5 and Section 6 provide organizational framework of the National Science Development Board which is “composed of a Chairman; a Vice-Chairman, who shall concurrently be the Executive Director of the Board; and the following members:

- (1) the Chairman of the National Research Council of the Philippines,
- (2) the Commissioner of the National Institute of Science and Technology,
- (3) the Commissioner of the Philippine Atomic Energy Commission,
- (4) the Director of the Office of National Planning of the National Economic Council,
- (5) a representative from the University of the Philippines to be designated by the President of the University,
- (6) one member representing industry,
- (7) one member representing scientific and/or technological associations or societies,
- (8) one member representing agriculture, and
- (9) one member representing education.”

The National Science Development Board shall have power under the law to issue necessary rules and regulations for implementation of Science Act of 1958. Section 9 prescribes that the concurrence of at least six members is required for the approval of any resolution.

Additionally, Section 12 of this law establishes the National Institution of Science and Technology, supervised by the National Science Development Board, which its function is to implement policies and plans of the National Science Development Board and to operate research projects for development, assessment, improvement and conduct other measures in order to achieve research and development goals set by the Board.³⁷⁹

Section 16 establishes the Philippine Atomic Energy Commission under supervision of National Science Development Board, responsible for establishing, encourage support and facilitate nuclear research and development, regulating personnel, issuing licenses for the use of radioactive material, including providing knowledge related to atomic energy to public. In addition, in order to prevent conflict of interest that may arise from working, The Chairman and Vice-Chairman of the Board, the

³⁷⁹ Section 12 of Republic Act No. 2067.

Commissioners and Deputy Commissioners of both the National Institute of Science and Technology and the Philippine Atomic Energy Commission are prohibited from engaging, or intervening, directly or indirectly, in the management or control of any private enterprise and from being financially interested in any contract with the Government or any subdivision or instrumentality thereof (Section 22).

Section 23 and 24 prescribes that money or any benefits granted or donated to National Science Development Board, foundations or scientific projects supported by the Board shall be tax-exempt and deductible from the donor's income tax returns. However, any person who evades or defeats any tax imposed by law by availing himself of the provisions of section 23 or 24 shall be punished by a fine of not more than four thousand pesos or imprisonment for not more than one year, according to Section 25.

On January 30th, 1987, President Corazon C. Aquino signed Executive Order No. 128 s. 1987 or the Reorganization Act of the National Science and Technology Authority to enhance the status of National Science Development Board to Department of Science and Technology (DOST) in order to make the organization more efficient and more responsive to scientific and technological need of the country. Section 5 of Executive Order No. 128 assigns DOST to implement scientific and technological policies of the state, encourage, promote and assist scientific and technological research and development of the country and undertake the transfer of research results to end-users including create scientific and technological awareness to general public. Section 13 establishes various sectoral planning councils such as industry and energy council, health council and aquatic and marine council to be responsible, in their respective sectors, for the formulation of strategies, policies, plans, programs and projects for science and technology development. Chairman of the councils of each sector is a minister of other departments that have duties related to science and technology development such as Minister of Trade and Industry, Minister of Transportation and Communications, Minister of Agriculture and Food, Minister of National Resources and Minister of Health.

Section 19 establishes various science and technology institutes such as Industrial Technology Development Institute, Philippine Food and Nutrition Research Institute, Forest Products Research and Development Institute, Philippine Textile

Research Institute, Advanced Science and Technology Institute, Science Education Institute for conducting research to benefit end-users.

Privacy of Communication

Article III Section 3 (1) of the 1987 Philippine Constitution provides that: “The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.”³⁸⁰ The entire Article 3 covers the Bill of Rights afforded to every Filipino citizen. Privacy of communication and correspondence is highly regarded.

Data Privacy Act of 2012

According to Senator Edgardo Angara, the major proponent of the law: “the law establishes a policy framework that protects Internet freedoms while making sure the internet remains safe”³⁸¹. The law was patterned after the European Parliament and Council's Directive 95/46/EC³⁸² and the Asia Pacific Economic Cooperation's (APEC) Information Privacy Framework standard.³⁸³

The law is seen by champions of the Data Privacy Law as a landmark legislation that serves key to securing urgently needed investments in the Philippines still booming information technology- business process outsourcing (IT- BPM- KPM) industry by addressing investor concerns about the lack of protection of personal data.

³⁸⁰ Article III, Section 3(1) of 1987 Philippines Constitution.

³⁸¹ Henry Schumacher (2015). The Data Privacy Law: Badly needed to protect the IT/ BPM / KPM sector, *available at* <https://europebeat.wordpress.com/2015/07/03/the-data-privacy-law-badly-needed-to-protect-the-it-bpm-kpm-sector/> (last visited January 29, 2019).

³⁸² European Union, Directive No. 95/46/EC, *available at* <http://www.wipo.int/wipolex/en/details.jsp?id=13580> (last visited January 29, 2019).

³⁸³ Asia-Pacific Economic Cooperation, APEC Privacy Framework (2005), *available at* https://www.apec.org/-/media/APEC/Publications/2005/12/APEC-Privacy-Framework/05_ecsg_privacyframewk.pdf (last visited January 29, 2019), latest updated in 2015. See Asia-Pacific Economic Cooperation, APEC Privacy Framework (2015), *available at* (last visited January 29, 2019). [https://www.apec.org/Publications/2017/08/APEC-Privacy-Framework-\(2015\)](https://www.apec.org/Publications/2017/08/APEC-Privacy-Framework-(2015)).

Republic Act No. 10173³⁸⁴ otherwise known as “Data Privacy Act of 2012” prescribes the policy that the State shall “protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.”³⁸⁵

In addition, in order to implement the law, Section 7 of the act hereby establishes National Privacy Commission to supervise and enforce, administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection. The Commission also has duties to recommend, propose, amend any laws required for data privacy protection, including to receive complaint, provide assistance to public and private organizations nationally and internationally regarding data privacy protection.³⁸⁶

The Commission is composed of a “Privacy Commissioner, who shall also act as Chairman of the Commission, assisted by two Deputy Privacy Commissioners, one to be responsible for Data Processing Systems and one to be responsible for Policies and Planning. They shall be appointed by the President of the Philippines for a term of three years and may be reappointed for another term of three (3) years.”³⁸⁷ In addition, the law prescribes that the “Privacy Commissioner, the Deputy Commissioners, or any person acting on their behalf or under their direction, shall not be civilly liable for acts done in good faith in the performance of their duties. However, he or she shall be liable for willful or negligent acts done by him or her which are contrary to law, morals, public policy and good customs even if he or she acted under orders or instructions of superiors. Provided, that in case a lawsuit is filed against such official on the subject of the performance of his or

³⁸⁴ Data Privacy Act of 2012 (Republic Act 10173), *available at* <https://privacy.gov.ph/data-privacy-act/> (last visited January 29, 2019).

³⁸⁵ Section 2 of Republic Act No. 10173.

³⁸⁶ Section 7 of Republic Act No. 10173.

³⁸⁷ Section 9 para. 1 of Republic Act No. 10173.

her duties, where such performance is lawful, he or she shall be reimbursed by the Commission for reasonable costs of litigation.”³⁸⁸

Under Data Privacy Act of 2012, personal information is defined by the law to refer to “any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.”³⁸⁹ While privileged information, on the other hand, “refers to any and all forms of data which under the Rides of Court and other pertinent laws constitute privileged communication.”³⁹⁰

On its part, sensitive personal information was defined by the law to refer to personal information:

- “(1) About an individual’s race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) About an individual’s health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or cm-rent health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) Specifically established by an executive order or an act of Congress to be kept classified.”³⁹¹

The law prescribes specific rules on collecting and processing³⁹² this type of

³⁸⁸ Section 9 para. 4 of Republic Act No. 10173.

³⁸⁹ Section 3(g) of Republic Act No. 10173.

³⁹⁰ Section 3(k) of Republic Act No. 10173.

³⁹¹ Section 3(l) of Republic Act No. 10173.

³⁹² “Processing” refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data. See Section 3(j) of Republic Act No. 10173.

data, for example, consent from data subject is required before processing the data and the processing of such information can be done as far as it is necessary and is related to the fulfillment of a contract with the data subject prior to entering into a contract. It shall be “kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed, provide that personal information collected for other purposes may lie processed for historical, statistical or scientific purposes.”³⁹³ The law penalizes those who process personal information without permission by imprisonment ranging from one year to three years and a fine of not less than five hundred thousand pesos but not more than Two million pesos and for personal sensitive information, shall be penalized by imprisonment ranging from three years to six years and a fine of not less than five hundred thousand pesos but not more than four million pesos.³⁹⁴

Implementation

Even though the Data Privacy Act was enforceable since 2012 which requires establishment of National Privacy Commission to implement the law, such Commission was not established until August 2015 when President Benigno Aquino III was urged by the Joint Foreign Chambers (JFC) to create the National Privacy Commission (NPC) to implement the Data Privacy Law, which is crucial in the continued growth of the information technology-business process management (IT-BPM) sector, otherwise the law will become only a piece pf paper³⁹⁵.

President Aquino, therefore, officially established National Privacy Commission on March 7, 2016. Later, in August 2016, the Commission then issued Implementing Rules and Regulations of Republic Act No. 10173, known as the “Data Privacy Act of 2012”³⁹⁶

³⁹³ Section 11-13 of Republic Act No. 10173.

³⁹⁴ Section 25 of Republic Act No. 10173.

³⁹⁵ Philstar Global, JFC laments non-implementation of Data Privacy Act, *available at* <https://www.philstar.com/business/2015/08/30/1494041/jfc-laments-non-implementation-data-privacy-act> (last visited January 29, 2019).

³⁹⁶ Republic of the Philippines, National Privacy Commission, *available at* <https://privacy.gov.ph/wp-content/uploads/2016/07/IRR-Version-072716.pdf> (last visited January 29, 2019).

in order to concrete the implementation of enforcement of the law.

3.5 Laws on Improvement of National Bureaucracy

Article XI³⁹⁷ of the 1987 Philippine Constitution lays down the principle in performing the duty of Public Officers in Section 1, which expressly states that: “Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.”³⁹⁸

Bureaucratic Administration System of the Philippines

Bureaucratic System of the Philippines is unique due to the blending of political and administrative influences from Spanish and American colonial rulers. Before the arrival of Spain, the Philippines were tribal societies where people lived independently in small villages called Barangay. This tribal societies were simple and uncomplicate as the researcher has mentioned in Chapter 1. Patterns of Philippine bureaucratic systems starting from Spanish colonization can be divided as follow.

Spanish Colonization Period (1521-1898)

When Spanish Empire came into power, the existing ruling elite class in tribal system was reformed. Spain established a new elite class called “principalia” which consisted of former Barangay leaders and rulers authorized by Spain. They were prescribed by Spain to be the highest class that enjoyed political rights and were eligible to work in administrative organs. Barangay was transformed in to the smallest administrative unit which contained no more than 50 families, ruled by a leader called “cabeza” who was assigned to collect tax and transfer it to Spanish government.³⁹⁹

³⁹⁷ 1987 Philippine Constitution, *available at* <https://www.lawphil.net/consti/cons1987.html> (last visited March 20, 2019).

³⁹⁸ Article XI Section 1 of 1987 Philippine Constitution.

³⁹⁹ College of Development on Local Administration, King Prajadhikok's Institute, Systems of Local Administration of Nations in ASEAN Community, pp. 28-29, *available at* <https://hengwelcome5000.files.wordpress.com/2014/07/142-e0b89fe0b8b4e0b8a5e0b8b4e0b89be0b89be0b8b4e0b899.pdf>

In addition, middle class existed for the first time in this period which mainly consisted of merchants, landlords and mixed-race persons. Spain prohibited foreigners to possess land, therefore, some Spanish married indigenous persons who was wealthy or was a landlord. These middle-class groups became a mainspring of Philippine bureaucratic system reform in later period because they were wealthy enough to have an opportunity to study and live aboard. So, when they came back, they could not tolerate inequality and corruption occurred in their country.⁴⁰⁰

American Colonization Period (1898-1946)

The arrival of United States changed Philippine society in many aspects especially in terms of politics and administration. United States had policy on granting more freedom and liberty to Filipinos, modernized educational system, supported industry by establishing joint-venture company between the Philippines and United States, including granted tax privilege to Philippine goods exported to United States and to United States goods exported to the Philippines in order to generate more income to the country.⁴⁰¹ United States applied such policies in order to induce Filipinos to have positive attitude toward United States as a new colonial ruler, in addition, United States also applied affirmative action program to disadvantaged groups such as child labor, women and disabled persons by setting up social welfare system to support their living.⁴⁰²

Additionally, United States laid the foundation for bureaucratic and civil service system of the Philippines by promulgating “Public Law No. 5: An Act for the Establishment and Maintenance of Our Efficient and Honest Civil Service in the Philippine Island” in 1990. The law for the first time established Civil Service Board (later, the name was changed to Civil Service Bureau) in order to build system of civil service with professionalism,

(last visited March 20, 2019).

⁴⁰⁰ Institute of Civil Service Development, Office of the Civil Service Commission, Bureaucratic System of Republic of the Philippines, pp. 44-45, *available at* <http://www.ocsc.go.th/sites/default/files/document/philippines.pdf> (last visited March 20, 2019).

⁴⁰¹ *Supra* note 399, at 29.

⁴⁰² *Supra* note 400, at 56.

administrative culture and protection of meritocracy. This Board had duties to monitor and balance public administration and set up standards for appointment of civil servants in any positions.⁴⁰³

Adaptation of American Concepts

Philippines has been influenced by United States in founding principles of public office and operating bureaucratic system because Philippines was ruled by United States during 1898-1946 (intervened by short period of Japanese conquer during wartime in 1941-1945). The founding 1935 Constitution could be considered a duplicate from the Constitution, including provisions on fundamental rights of people, of United States. Later, 1987 Constitution of the Philippines was promulgated based on amendment from 1935 and 1973 Constitution which contains the following principles regarding public office:

(1) Public office is created by the Constitution or by some body or agency to which the power to create office has been delegated;

(2) Public office must be invested with an authority to exercise some portion of the sovereign power of the State to be exercised for public interest;

(3) Powers and Functions of public office are defined by the Constitution, or by law, or through legislative authority;

(4) The duties pertaining thereto are performed independently without control of a superior power other than law, unless they are those of an inferior or subordinate officer, created or authorized by the legislature and placed by it under the general control of a superior officer or body; and

(5) It is continuing and permanent in nature and not occasional or intermittent.⁴⁰⁴

⁴⁰³ Corazon Alma et.al, Reform in the Civil Service: The Philippine Experience, p. 2, *available at* <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN007437.pdf> (last visited March 20, 2019).

⁴⁰⁴ Hector S. De Leon and Hector M. De Leon Jr. (2000), The Law on Public Officers and Election Law, p. 9, and State v. Taylor, 144 N.W. 2d. 289.

Period of Freedom and Independence (1956-present)

When the Philippines got independence from United States once World War II ended, Philippines enforced Republic Act 2260 or Civil Service Law which was deemed the first law that integrated the whole bureaucracy of the Philippines. This law replaced many scattered and separated administrative orders that had been applied since 1900, which related to public human resource management. Such act also transformed the status of Civil Service Bureau into Civil Service Commission (CSC) which its status equals a department.⁴⁰⁵

During 1972, a significant change in Philippine bureaucracy occurred again when the government promulgated Integrated Reorganization Plan which its main idea concerned bureaucratic reform in strengthening organizational structure of Office of the President by dissolving some agencies. In addition, the law prescribed that any agencies belonged to Office of the President shall have duties to deliver consultancy to the President on substantial matters, directly provide academic or managerial assistance to executives, shall relate their work with various bureaucratic sectors and shall be closely monitored. Any agencies that do not possess such aforementioned qualification shall be dissolved.

Moreover, such plan also formed bureaucratic administration for departments of ministerial level. It defined that each department shall have 4 sectors for managerial and academic purpose which were Planning Service, Financial Management, Administrative Service and Technical Service.⁴⁰⁶

In present, civil service of the Philippines can be categorized into two major types which are “career service” and “non-career service”. Career growth of career service type is based on merit and fitness, qualified by competitive examination with opportunity to advance in career path and they enjoy security of tenure. Most positions of this public service type are those that requires examination and qualification test such as specialists or Career Executive Service which requires appointment from the President. In addition, positions of Commissioned officers and enlisted men of the Armed Forces of the

⁴⁰⁵ *Supra* note 403, at 2.

⁴⁰⁶ *Supra* note 400, at 58-59.

Philippines are also considered career service, but with different merit system. Civil service of career service type can be categorized into three levels.⁴⁰⁷

The first level shall include clerical, trades, crafts and custodial service positions, which involve non-professional or sub-professional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies;⁴⁰⁸

The second level shall include professional, technical, and scientific positions which involve professional, technical, or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level;⁴⁰⁹ and

The third level shall cover positions in the Career Executive Service.⁴¹⁰

For Non-Career Service, which is in contrast with Career Service, it shall be characterized by (1) entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and (2) tenure which is limited to a period specified by law.

The Non-Career Service shall include:

- Elective officials and their personal or confidential staff;
- Secretaries and other officials of Cabinet rank who hold their positions at the pleasure of the President and their personal or confidential staff(s);
- Chairman and members of commissions and boards with fixed terms of office and their personal or confidential staff;⁴¹¹

⁴⁰⁷ Section 8, Chapter 2 of Executive Order No. 292), *available at* <http://www.officialgazette.gov.ph/1987/07/25/executive-order-no-292-book-vtitle-isubtitle-achapter-2-coverage-of-the-civil-service/> (last visited March 20, 2019).

⁴⁰⁸ Section 8, Chapter 2 of Executive Order No. 292).

⁴⁰⁹ Section 8, Chapter 2 of Executive Order No. 292).

⁴¹⁰ Section 8, Chapter 2 of Executive Order No. 292).

⁴¹¹ A confidential staff is one entrusted with confidence on delicate, or with the custody, handling or care and protection of the employers' property. See *San Miguel Foods, Incorporated v.s. San Miguel Corporation Supervisors and Exempt Union*, G.R. No. 146206, *available at* <http://sc.judiciary.gov.ph/jurisprudence/2011/august2011/146206.htm> (last visited March 20, 2019).

- Contractual personnel or those whose employment in the government is in accordance with a special contract to undertake a specific work or job, requiring special or technical skills not available in the employing agency, to be accomplished within a specific period, which in no case shall exceed one year, and performs or accomplishes the specific work or job, under his own responsibility with a minimum of direction and supervision from the hiring agency; and
- Emergency and seasonal personnel.⁴¹²

Civil Service Commission (CSC)

Civil Service Commission used to have equivalent status as a department which was in accordance with Republic Act No. 2260 as amended. Its status was later upscaled to a constitutional organization by virtue of 1973 Constitution and then it was reformed again by Presidential Decree No. 181 dated September 24, 1972 and was reformed again by power of Executive Order No. 181 dated November 21, 1986.⁴¹³ In present, Civil Service Commission is an independent constitutional organization under 1987 Philippine Constitution⁴¹⁴ and under 1987 Administrative Code or Executive Order 292.

The Constitution states that the Civil Service Commission shall be composed of a Chairman and two Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment. The Chairman and the Commissioners shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment.⁴¹⁵

⁴¹² *Supra* note 403, at 3. For example, watchers during the election time or hired contractors for road rehabilitation.

⁴¹³ Republic of the Philippines Civil Service Commission, Mandate, *available at* <http://www.csc.gov.ph/2014-02-20-02-22-48/2014-02-20-02-29-25.html> (last visited March 20, 2019).

⁴¹⁴ Article IX (A), Section 1 and (B) of 1987 Philippine Constitution.

⁴¹⁵ Article IX (A), Section 1(2) of 1987 Philippine Constitution.

Civil Service Commission “is responsible for adopting measures designed to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service. It is also mandated to strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks and institutionalize a management climate conducive to public accountability.”⁴¹⁶

Under Administrative Code or Executive Order No. 292, Section 12, Civil Service Commission has the following mandates:⁴¹⁷

- to promulgate policies, standards, and guidelines for the civil service and adopt plans and programs to promote economical, efficient, and effective personnel administration in the government;
- to formulate policies and regulations for the administration, maintenance and implementation of position classification and compensation and set standards for the establishment, allocation and reallocation of pay scales, classes and positions;
- to control, supervise and coordinate civil service examinations and prescribe all forms for civil service examinations, appointments, reports and such other forms required by law;
- to formulate, administer and evaluate programs relative to the development and retention of qualified and competent workforce in the public service;
- to hear and decide administrative cases instituted or brought before it;
- to take appropriate action on all appointments and other personnel matters; and
- to inspect and audit the personnel actions and programs of the departments, agencies, bureaus, offices, local government units and other government instrumentalities.

⁴¹⁶ Corazon Alma et.al, Reform in the Civil Service: The Philippine Experience, p. 4, *available at* <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN007437.pdf> (last visited March 20, 2019).

⁴¹⁷ *Ibid.*, 4.

Public Office

Public office is defined as “the right, authority and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the appointing power, an individual is invested with some portion of the sovereign functions of government, to be exercised by him for the benefit of the public.”⁴¹⁸

Republic Act No. 3019 or the Anti-Graft and Corrupt Practice Act states, in Section 2(b), prescribes that public officer includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government...⁴¹⁹

In addition, Section 1, Article XII of the 1987 Constitution defines public office as a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.⁴²⁰

Rights of Public Officers

A public officer is entitled to the rights incident to the public office that he or she is holding. A public officer is also entitled to “the protection accorded to citizens by the Constitutions and the laws.” This, however, is a qualified statement. Known Philippine law scholars, Hector S. De Leon and his son, Hector M. De Leon, Jr. wrote: “However, by reason of the public character of his employment or office, a public officer is, in general, held not entitled to the same protection from publications commenting on his fitness, and the like, as is accorded to the ordinary citizen.”⁴²¹

In terms of system of incentives and rewards for public officers, there is a system of annual incentives and rewards in order to motivate and inspire public servants to uphold the highest standards of ethics. For this purpose, a Committee on Awards to

⁴¹⁸ Hector De Leon and Hector De Leon Jr. (2000), *The Law on Public Officers and Election Law*, p. 234.

⁴¹⁹ Available at https://www.lawphil.net/statutes/repacts/ra1960/ra_3019_1960.html (last visited March 20, 2019).

⁴²⁰ Section 1, Article XII of the 1987 Philippine Constitution.

⁴²¹ Hector De Leon and Hector De Leon Jr. (2000), *The Law on Public Officers and Election Law*, p. 155.

Outstanding Public Officials and Employees is hereby created composed of the Ombudsman and Chairman of the Civil Service Commission as Co-Chairmen, and the Chairman of the Commission on Audit, and two government employees to be appointed by the President, as members.⁴²²

It shall be the task of this Committee to conduct a periodic, continuing review of the performance of public officials and employees, in all the branches and agencies of Government and establish a system of annual incentives and rewards to the end that due recognition is given to public officials and employees of outstanding merit on the basis of the standards. The conferment of awards shall take into account, among other things, the following: the years of service and the quality and consistency of performance, the status of the position, the level of salary, the unique and exemplary quality of a certain achievement, and the risks or temptations inherent in the work.

Incentives and rewards to government officials and employees of the year to be announced in public ceremonies honoring them may take the form of bonuses, citations, directorships in government-owned or controlled corporations, local and foreign scholarship grants, paid vacations and the like. They shall likewise be automatically promoted to the next higher position with the commensurate salary suitable to their qualifications. In case there is no next higher position or it is not vacant, said position shall be included in the budget of the office in the next General Appropriations Act. The Committee on Awards shall adopt its own rules to govern the conduct of its activities.

In addition, in order to maintain good quality and high level of performance as the government aims, public officers shall refrain from or avoid participation in some political activities even though it is fundamental rights under the Constitution, especially when such activities are inconsistent with their status of being public officers. However, in order to legitimize such limitation of constitutional rights, the government has to reasonably show how that the limitation will increase effectiveness of performance of public officers.⁴²³ The

⁴²² Republic Act No. 6713 (Code of Conduct and Ethical Standards for public Officials and Employees), Section 6, *available at* https://www.lawphil.net/statutes/repacts/ra1989/ra_6713_1989.html (last visited March 20, 2019).

⁴²³ *Supra* note 404, at 179-180.

problem of this is to arrive at a balance between the interest of the public employee, as a citizen, and the interest of the State, as an employer.⁴²⁴ According to Article 244 of Labor Code of the Philippines, public officers have a right to establish labor union to bargain collectively with employers as long as not contrary to law.⁴²⁵

Educational Benefit for Public Officers to Enhance Potentiality

A perceived advantage to being a public official or a government employee in the Philippines is the access to scholarships that are normally not accessible to those from the private sector. An example is Japan's Young Leaders Program (YLP). The YLP program, with collaboration between Government of Japan and Government of the Philippines, aims to contribute to the fostering of future national leaders in Asian and other countries. In addition, while deepening the participants' understanding about Japan, it should help form a network among national leaders, contributing to the establishment of friendly relationships and improved policy planning activities among Asian and other countries, including Japan.⁴²⁶ Applicants must have status of public officer or government employee with at least 3 years of working experience who tend to be "future national leaders". The recommending body in such cases will be the department in the branch of government the applicants work for.

In addition, TESDA or Technical Education and Skills Development Authority perform its duty to seek for scholarship in foreign country such as Japan, under sponsorship of Japan International Cooperation Agency (JICA) for public officers to enhance skill, technical and management capability.⁴²⁷ There is also scholarship of

⁴²⁴ *Supra* note 404, at 180.

⁴²⁵ Article 244. Right of employees in the public service. Employees of government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law.

⁴²⁶ Young Leaders' Program *available at* <http://www.mext.go.jp/english/highered/1304786.htm> (last visited March 20, 2019).

⁴²⁷ Japan International Cooperation Agency, Activities in the Philippines, *available at* https://www.jica.go.jp/philippine/english/activities/activity02_03_01.html (last visited March 20, 2019).

technical training in Singapore for public officers under Singapore Cooperation Programme.⁴²⁸

However, Civil Service Commission (CSC) is still the main organization that supervise and responsible for providing educational scholarship for public officers to study abroad or in the Philippines since it is one of the mandates of CSC to enhance potentiality of public officers and government employees under Code of Conduct and Ethical Standards for Public Officials and Employees or Republic Act No. 6713 Section 6 paragraph 3, which prescribes that providing educational scholarship is one of the tools of the government for giving incentives and rewards to public officers under merit system.⁴²⁹

Regarding to the form of scholarship contract between scholarship grantee and government department, Executive Order No. 129 dated May 6, 1968 and Executive Order No. 367, s. 1989 prescribe the standard form of educational scholarship contract made between scholarship grantee and government department which is a grantor. It prescribes that a public officer who graduates shall be bound by service obligation to come back and work for the government department for specific duration which varies in line with duration of his or her study as described in the following:⁴³⁰

Nature	Training Duration of Scholarship	Service Obligation
For academic and non-academic programs including extensions	For every year or a fraction thereof not less than 6 months	2 years
	A fraction of a year less than 6 months but not less than 2 months	1 year
	A fraction of a year less than 2 months	6 months

⁴²⁸ Embassy of the Republic of Singapore (in) Manila, Singapore Cooperation Programme, *available at* https://www.mfa.gov.sg/content/mfa/overseasmission/manila/singapore_cooperationprogramme.html (last visited March 20, 2019).

⁴²⁹ Section 6 para 3 of Republic Act 6713.

⁴³⁰ Section 2 of Executive Order No. 367, *available at* <http://www.officialgazette.gov.ph/1989/08/21/executive-order-no-367-s-1989/> (last visited March 20, 2019).

Hence, for example, a person who study her masters abroad for 1 year will have to render 2 years of service upon completion of her degree to the government department that will recommend her and serve as her guarantor for a scholarship. On the other hand, a person who complete a degree in two years will have to render four years of service, in accordance with Executive Order No. 129 and No. 367.

3.6 Laws Concerning Social Welfare Protection and Quality of Life Promotion

In the Philippines it was only after World War II that social welfare as a basic function of the state was a concept that materialized, for example, child protection, women career, financial support for indigenous people by way of modified conditional cash transfer (MCCT), handicap training and domestic relationship of elderly.⁴³¹ However, even before World War II, different groups were undertaking pockets of social work in the first decade of the American occupation in the country. The Philippine government took over the major responsibility for social welfare after the Second World War.

Brief History of Social Welfare in the Philippines

There have been steps to promote social welfare as early as 1915 when the Philippines was still an American colony. The Public Welfare Board (PWB) was created that year with the function to study, coordinate and regulate all government and private entities engaged in social services.⁴³²

Six years later in 1921 the PWB was abolished. In its place came the Bureau of Public Welfare under the Department of Public Instruction. More changes took place almost two decades later when the Philippines was already a Commonwealth of the United States. In 1939 a law called Commonwealth Act No. 439 created the Department of Health and Public Welfare. Shortly before the outbreak of World War II in 1941 the Bureau of Public Welfare officially became a part of the Department of Health and Public Welfare. The Bureau of Public Welfare had duties to coordinate services of all public and private

⁴³¹ History of DSWD available at <http://www.dswd.gov.ph/about-us/history-of-dswd/> (last visited March 20, 2019)

⁴³² *Ibid.*

social welfare institutions and manage all public child-caring institutions and the provision of child welfare services.

Further changes transpired after World War II and after the Philippines independence in 1946. In 1947 President Manuel A. Roxas abolished the Bureau of Public Welfare. In its place the Social Welfare Commission (SWC) under the Office of the President was created. The following year in 1948 President Elpidio Quirino created the President's Action Committee on Social Amelioration (PACSA). The purpose was "to effect socio-economic reforms in the countryside to counteract social unrest."⁴³³

In 1951, the SWC and PACSA were merged into the Social Welfare Administration (SWA) which marked the beginning of an integrated public welfare program. In 1968, Republic Act 5416 was enacted. The said law is otherwise known as the Social Welfare Act of 1968. The said law elevated the SWA into a Department, placing it under the executive branch of government in equal status with other social agencies like health and education.

It was in the year 1976 that the Department of Social Welfare was renamed Department of Social Services and Development (DSSD). President Ferdinand E. Marcos did it with the signing of Presidential Decree No. 994. Presidential Decree No. 994 "gave the Department a more accurate institutional identity, in keeping with its productivity and developmental thrusts".

In 1978, the DSSD was renamed Ministry of Social Services and Development (MSSD). This was "in line with the change in the form of government, from presidential to parliamentary". Things would remain unchanged until President Marcos was deposed and President Corazon Aquino became the head of state. In 1987, the MSSD was reorganized and became the Department of Social Welfare and Development (DSWD) when Executive Order No. 123 was put into law. The name, organizational structure and functional areas of responsibility of the DSWD along with its statutory authority was defined by Executive Order No. 292 which is also known as the Revised Administrative Code of 1987.

⁴³³ *Ibid.*

A few years later in 1991 the basic services of DSWD, such as health center and day-care center and programs and projects on child and youth welfare, welfare of the elderly and disabled persons, beggars and street children, etc., devolved to local government units when the Local Government Code of 1991⁴³⁴ was passed into law as Republic Act No. 7160. In 1998, President Joseph Ejercito Estrada was elected. President Estrada issued Executive Order No. 15. The said law was aimed at strengthening the DSWD's repositioning efforts that started after the Local Government Code was enacted in 1991.

In 2003, Executive Order No. 15 was amended by Executive Order No. 221 upon the issuance of President Gloria Macapagal Arroyo. Executive Order No. 221 defined the mandate, roles, powers and functions of the DSWD. In 2005 the Department of Budget and Management (DBM) approved the DSWD's Rationalization and Streamlining Plan (RSP). The RSP emphasized the Department's shift in policy, functions and programs in line with its steering role.⁴³⁵

Present Time

The DSWD remains to be an executive branch of the government. It is the institution primarily tasked with handling the social welfare needs of the Filipino people. The DSWD states that it envisions "a society where the poor, vulnerable and disadvantaged are empowered for an improved quality of life. Towards this end, DSWD will be the world's standard for the delivery of coordinated social services and social protection for poverty reduction by 2030."⁴³⁶ As apparent from the declared vision of the DSWD the goal is to reduce poverty by the year 2030.

The DSWD has the following mission: "to develop, implement and coordinate social protection and poverty reduction solutions for and with the poor, vulnerable and

⁴³⁴ Section 17 (a)(b) of Local Government code of 1991, *available at* https://www.lawphil.net/statutes/repacts/ra1991/ra_7160:1991.html.html (last visited March 20, 2019)

⁴³⁵ Section 17 of Local Government Code of 1991.

⁴³⁶ Department of Social Welfare and Development, Vision/Mission/Values, *available at* <http://www.dswd.gov.ph/about-us/visionmissionvalues/> (last visited March 20, 2019)

disadvantaged.” The three values espoused by the DSWD are: “respect for human dignity, integrity and service excellence.”⁴³⁷ The said values are seen as the ones most needed for the DSWD to effectively do its task for promoting and improving social welfare in the Philippines.

Laws Relating to Social Protection

Laws relating to social protection consists of four social protection components, Labor Market intervention, Social Insurance, Social welfare and social Safety Nets.⁴³⁸ These social Welfare are laws and important measure that the Philippines government has to set up in accordance with the social protection framework, according to the Administrative Order No. 232, 232-A, which has been signed by President Gloria Macapagal Arroyo in the year 2008, it was aimed at providing social services to the public, whether health, nutrition, demographic management, education, and welfare support housing, and training plans through these projects. Some of the projects⁴³⁹ have already taken part, for example:

1) A conditional financial support project or Conditional Cash Transfer (CCT) is a project that provides support and social assistance for certain groups of people such as children who shall obtain financial support, parents, the mother of the child or pregnant woman to relieve life’s hardship and cut the cycle of poverty, which covers health, nutrition, and education, such as money for health and nutritional support to each family at the amount of 6,000 Pesos per year or 500 Pesos per month per family, academic support at the amount of 3,000 Pesos per year per child or 300 peso per month. Each family can receive these financial support for a maximum of 3 children. The conditions for receiving such support vary case by case.⁴⁴⁰

⁴³⁷ *Ibid.*

⁴³⁸ NEDA-SDC Cabinet Resolution No. 1, Series 2007.

⁴³⁹ Cabral, E.I. (2008), Social protection programs of the government [Presentation] pp. 3-6, *available at* <http://www.pdf.ph/downloads/Others/DSWDPDFPresentationSEICSocialVfinal.pdf> (last visited March 20, 2019).

⁴⁴⁰ *Ibid.*, 16-18.

2) The project provides comprehensive social services and integrated “KALAHICIDSS” (Comprehensive and integrated Delivery of Social Services), which is a project for prevention of financial difficulty in the community and empowering the local community to develop self-care provide by the Ministry of Social Welfare and development. It is now complete in many parts, such as building roads connecting agriculture community to village market, building drinking water systems in the local community, building schools and classrooms in a variety of areas, installation of sanitary stations and many electrical projects.⁴⁴¹

3) The project to assist in the independent profession or “SEA-K” (self-employment Assistance Kaunlaran, which is a project that provides assistance in the creation of capabilities and training of operational skills for poor families in order to achieve local sustainability and self-employment. These are divided into 2 levels, SEA-K Level 1 and SEA-K level 2.⁴⁴²

4) Family card project for accession or family access cards (FAC) is a project that the government provide the card to the poor families in the use to purchase goods from stores or outlets sponsored by government such as rice, etc. These are primarily used in city of Manila as a prototype project.⁴⁴³

5) Food for school programs, or FSP is a government-sponsored program for schools on food, such as rice with iron vitamin supplement in pre-schools and small children's day-care center, as an incentive or motivation for parents to take their kids to go to school and receive education. The project has also expanded its coverage to elementary school under the supervision of the Ministry of Education.⁴⁴⁴

⁴⁴¹ *Ibid.*, 27, 29.

⁴⁴² *Ibid.*, 31-33.

⁴⁴³ *Ibid.*, 38.

⁴⁴⁴ *Ibid.*, 40.

Laws Relating to Social Welfare Promotion

There are numerous laws pertaining to social welfare. Their essentials are to promote and enhance rights and benefit of the marginalized. Majority aims to protect women and render equality between men and women.

1987 Philippine Constitution

Social justice is an aim of the Constitution, in which people shall be equally treated. The provision related to social welfare is prescribed in Article XIII Section 1 which states that “The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.”⁴⁴⁵

Republic Act 7277: Magna Carta for Disabled Persons⁴⁴⁶

Republic Act No. 7277 or Magna Carta for Disabled Persons which was promulgated in 1992 aims to provide rights and privileges to disabled persons and integrate them into the society. The law prescribes that the State recognizes that the disabled persons are a part of the society and that their potentiality shall be developed and promoted until they can be independent, live the quality life and be able to contribute to the society. Therefore, this Magna Carta for the Disabled Persons has been promulgated in order to ensure and promote rehabilitation, self-development and self-reliance for the disabled persons to acquire necessary skills and capabilities to have significant roles in the community.

The law also states that every citizen should participate in granting equal rights to the disabled persons. They shall live freely and independently like others as much as possible without discrimination from the society they live on. Rehabilitation plans of the disabled persons shall be conducted by community-based programs so that they can be

⁴⁴⁵ Article XIII Sec. 13 of 1987 Philippine Constitution.

⁴⁴⁶ National Council on Disability Affairs, Republic Act No. 7277, available at <http://www.ncda.gov.ph/disability-laws/republic-acts/republic-act-7277/> (last visited March 20, 2019).

fully supported and each part of the community can thoroughly participate. In addition, the law encourages private sectors to extend their roles to become partnership with the State in the society with the purpose to establish a welfare system for disabled persons to fulfil specific needs of the disabled persons. Thus, they can optimize their capabilities and have productive and fulfilling life.

The law provides that the State shall encourage everyone to respect the disabled persons so that they can live in the society and the State shall, with its best effort, eradicate all obstacles that discriminate capabilities and potentialities of the disabled persons.⁴⁴⁷ The content of the Declaration of Rights for Disability protection can be divided into five main parts are 1) employment or work rights 2) education rights 3) health rights 4) communication rights 5) civil and other political rights.

For employment or working rights, the law determines that the disabled persons has the right to access to work, as well as the normal, and prohibits discrimination against people with disabilities in employment (Section 5 and Section 32). The law also encourages private sectors and governmental organizations to hire disabled persons to work through tax incentives, which may be more than 25 percent deductible to the wages paid to employees with disabilities or more than 50% of the expenses that have been spent to provide facilities for disabled persons to work in case that private employer has provided facilities for disabled persons (Section 8). It is the duty of public sector organizations such as Ministry of Social Welfare, Ministry of Public Health, Ministry of Education, Ministry of Culture and Sports, and other government agencies to employ disabled persons to a proportion of not less than 5% of all employees working in the organization (Section 5). In addition, disabled shall be eligible for 1) the apprenticeship before the work (Section 7) 2) receiving vocational rehabilitation to be able to compete in the society (Section 9) and 3) receiving vocational guidance and counselling (Section 10) in the same way that normal people do.

For educational rights, Section 12 of Chapter 2 designates the duty to the State to deliver disabled persons the right to gain education and skill development as equal as normal persons by providing special assistance such as financial support for students

⁴⁴⁷ Section 2 of Republic Act No. 7277.

with disabilities (Section 13) or provide special education in the event of a disability with hearing or psychological disorders (Section 14). The State also provides funding or training courses such as vocational or technical and other training programs for disabled persons (Section 15).

In addition, Chapter 3, which covers health rights, prescribed that the Ministry of Public Health, in collaboration with, the National Council for the Welfare of Disabled Person shall establish a national health program (Section 18) and the medical rehabilitation center in the state hospital with the allocation of funds to support (Section 19) and provide protection and promote health rights of disabled persons through other development projects (Section 20).

In respect of telecommunication rights, Section 22 has designated the state to encourage the TV channel to perform sign language or subtitle caption for convenience of viewing (Section 22). The phone company shall provide extra accessories on the phone, such as hearing aids or Braille (Section 23), and disabled persons shall have the right to receive postal privileges by making free delivery in some cases set out in the law (Section 24).

For Political and Civil Rights, Section 29 to Section 31 enable disabled persons to receive assistance from a person of his choice to vote in election of national and local level at ballot. They also enjoy rights to participate in public assembly and to set up an organization or association.

3.6.1 Laws Concerning Protection of Children, Women and Seniors

To provide legal protections to children, women and seniors, the Philippines has prescribed and enacted laws to protect these group of people in different aspects and in various laws such as 1) Constitution of the Philippines; 2) Republic Act No. 9208 or Anti Trafficking in Persons Act; 3) Republic Act No. 7192 or Women Development and Nation Building Act; 4) Republic Act No. 8353 or the Anti-Rape Law; 5) Republic Act No. 7610 or Special Protection of Children Against Abuse, Exploitation and Discrimination Act; 6) Republic Act No. 9262 or Anti-Violence Against Women and Their Children Act of 2004; 7) Republic Act No. 8972 or Solo Parent's Welfare Act of 2000; 8) Republic Act No. 9710 or the Magna Carta of Women; 9) Presidential Decree No. 603 or the Child and Youth

Welfare Code; 10) Republic Act No. 7877 or Anti-Sexual Harassment Act of 1995; 11) Republic Act No. 6972 or Barangay-Level Total Development and Protection of Children Act; 12) Republic Act No. 10028 or Expanded Breastfeeding Promotion Act of 2009; 13) Law of Criminal Procedure 14) An Act Granting Additional Benefits and Privileges to Senior Citizens 15) An Act Providing for the Mandatory Philhealth Coverage for All Senior Citizens. These laws will be briefly discussed in the aspect of protection as follow:

1) Article 13 of Constitution of the Philippines which concern the women's rights in Section 14 prescribes that the State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation⁴⁴⁸

2) Anti-trafficking in Persons Act 2003 or Republic Act 9208 has been enacted in 2003 to prevent human trafficking, especially children and women. It prohibits human trafficking, children and women, provide various measures necessary to protect children and women against victimization through operations in various organizations, including imposes criminal penalties on those who violate the provisions of this law.⁴⁴⁹ This law makes the Philippines become one of the a few Asian countries that legally banned trafficking laws at that time.⁴⁵⁰ Act of human trafficking denotes moving people out of area where they live by harassment or violence, using deceptive or intimidating methods to exploit from their labor by threat of force, slavery or sexual exploit.⁴⁵¹

The Senator, Loren Legarda, discussed this issue in her speech to the Senate in 2008 that “trafficking is a high-profit big business, generating an estimated 7-12 billion US

⁴⁴⁸ Family and Community Healing Center, Philippine Laws that Protect Women and Children, *available at* <https://fchc.wordpress.com/resources/philippine-laws-that-protect-women-and-children/> (last visited March 20, 2019).

⁴⁴⁹ *Ibid.*

⁴⁵⁰ Senator Loren Legarda (2008). THE FIGHT AGAINST TRAFFICKING IN PERSONS, *available at* http://www.senate.gov.ph/press_release/2008/1210_legarda3.asp (last visited November 10, 2018).

⁴⁵¹ *Ibid.*

dollars a year in profits. Trafficking in persons is now considered the third largest source of profits for organized transnational crime, next to drug trafficking and terrorism.” She pointed out about Republic Act No. 9208 or the Anti-Trafficking in Persons Act of 2003 that the law “mandates policies to eliminate and punish trafficking in persons, especially women and children, and establishes the necessary institutional mechanisms for the protection and support of trafficked persons. It also aims to promote human dignity, protect the people from any threat of violence and exploitation, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.”⁴⁵²

3) The Republic Act No. 7192 or Women Development and Nation Building Act is a republic act that promotes collaboration and integration between women and men of the nation as women and men have equal ability to develop and build the nation. In addition, women shall be given equal opportunities to participate in nation development through organizations (Section 4), and have the right to attend the military preparatory school to perform duty equally (Section 7).⁴⁵³

4) Republic Act No. 8353 or the Anti-Rape Law of 1997 is the law that defines "rape" as crime against person which shall be prosecuted. A rapist shall deserve death penalty if he committed the rape by knowing that he is infected with HIV or other sexually-related diseases and the victim has infected from such rape.⁴⁵⁴

5) Republic Act No. 7610 or Special Protection of Children Against Abuse, Exploitation and Discrimination Act is the law that empowers the deterrence and special protection for children from being taken advantage of, abused, discriminated or other cases (Section 10), including sexual harassment (Section 5), child trafficking (Section 7)

⁴⁵² *Ibid.*

⁴⁵³ Philippine Commission on Women, Republic Act No. 7192, *available at* <https://pcw.gov.ph/law/republic-act-7192> (last visited March 20, 2019).

⁴⁵⁴ Section 2 of the Anti-Rape Law of 1997, *available at* https://www.lawphil.net/statutes/repacts/ra1997/ra_8353_1997.html (last visited March 20, 2019).

and child pornography and indecent (Section 9), child labor (Section 12) and protection, development and non-discrimination against indigenous children (Section 17-20).⁴⁵⁵

6) Republic Act No. 9262 or Anti-Violence Against Women and Their Children Act of 2004 prescribes that violence against women and their children shall be considered a public offense which may be prosecuted upon the filing of a complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime⁴⁵⁶ Section 3 (a) has defined violence against children and women as any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.⁴⁵⁷

In brief, use of violence as prescribed in the provisions of the law can be caused by the following persons.

- 1) Husband or ex-husband
- 2) Live-in partner or ex-live in partner
- 3) Boyfriend/girlfriend or ex-boyfriend/ex-girlfriend
- 4) Dating partner or ex-dating partner

For use of any physical violence, the law defines it as "acts that include bodily or physical harm"⁴⁵⁸, while sexual violence⁴⁵⁹ refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

⁴⁵⁵ Republic Act No. 7610 (Special Protection of Children Against Abuse, Exploitation and Discrimination Act), *available at* https://www.lawphil.net/statutes/repacts/ra1992/ra_7610_1992.html (last visited March 20, 2019)

⁴⁵⁶ Section 25 of Republic Act No. 9262, *available at* https://www.lawphil.net/statutes/repacts/ra2004/ra_9262_2004.html (last visited March 20, 2019).

⁴⁵⁷ Section 3 of Republic Act No. 9262.

⁴⁵⁸ Section 3(a) A of Republic Act No. 9262.

⁴⁵⁹ Section 3(a) B of Republic Act No. 9262.

a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;

c) Prostituting the woman or child.

This act also defines "Psychological violence" as acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.⁴⁶⁰

"Economic abuse"⁴⁶¹ refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;

2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;

3. destroying household property;

⁴⁶⁰ Section 3(a) C of Republic Act No. 9262.

⁴⁶¹ Section 3(a) D of Republic Act No. 9262.

4. controlling the victims' own money or properties or solely controlling the conjugal money or properties.

The effects of violence can cause “battered woman syndrome” or a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.⁴⁶² Section 26 also prescribes that victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability⁴⁶³

Besides, this Republic act contains the following key rules:

1. Protection orders may be set to protect a woman or her child from violence and for relief. Such order may be issued in form of prohibition such as prohibition of the respondent from causing or threatening to cause physical harm to the woman or her child; prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly. The order may focus on rights and duty of the petitioner. For example, the court may grant the petitioner the rights to use personal property necessary for living or automobile regardless of ownership and the court may direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties; restitution for actual damages; or ordering any appropriate agency to provide what petitioner may need (Section 8).

2) The law establishes the Board of Directors on Inter-Agency Council on Violence Against Women and Their Children (IAC-VAWC) for programing and projecting to eliminate violence against women and children which composed of 12 members from various related organizations such as the Ministry of Justice, Civil Service Commission, Commission on Human Rights, Ministry of Education, Ministry of Public Health, the National Bureau of Investigation (Section 39).

3) The law grant rights to receive damages to any victim of violence. They are entitled to receive actual damages, mental damages, and other compensation (Section 36) and the rights to be treated with respect and dignity; to avail of legal assistance; to be entitled to support services form Department of Social Welfare and Development and local

⁴⁶² Section 3 (c) of Republic Act No. 9262.

⁴⁶³ Section 27 of Republic Act No. 9262.

government units; to be entitled to all legal remedies and support as provided for under the Family Code; and to be informed of their rights and the services available to them including their right to apply for a protection order (Section 35).

Case Studies

The case of *Rustan Ang v. Court of Appeals* alleged the “commission of the crime of violence against women when a former boyfriend sent to the girl the picture of a naked woman, not her, but with her face on it”. Ang was found guilty of the violation of Section 5(h) of Republic Act No. 9262 for having sent Irish Sagud, a woman he had a dating relationship with, through multimedia message service (MMS) a picture of a naked woman with spread legs and with Ms. Sagud’s face superimposed on the figure. Even though Ang claimed that the one act of sending an offensive picture should not be considered a form of harassment, the court held that: “The object of the law is to protect women and children. Punishing only violence that is repeatedly committed would license isolated ones”.⁴⁶⁴

In another case titled *NORMA A. DEL SOCORRO v. ERNST JOHAN BRINKMAN VAN WILSEM*. It was held that under R.A. 9262 that “the deprivation or denial of financial support to the child is considered an act of violence against women and children” even when the parent withholding financial support is a foreign national⁴⁶⁵ because under Philippine law, the foreign national parent has the obligation to support his or her minor child.

7) Republic Act No. 8927 or Solo Parent’s Welfare Act of 2000 is the act that defines the benefits or privileges in accordance with the law to a single father or a single mother who needs to take care of his or her child alone. These include but not limited to, the rights to receive financial support for child care.⁴⁶⁶

⁴⁶⁴ G.R. No. 182835 (2010), *available at* <http://sc.judiciary.gov.ph/jurisprudence/2010/april2010/182835.htm> (last visited March 20, 2019).

⁴⁶⁵ G.R. No. 193707, *available at* <http://www.chanrobles.com/cralaw/2014decemberdecisions.php?id=1048> (last visited March 20, 2019).

⁴⁶⁶ Republic Act No. 8972, *available at* https://www.lawphil.net/statutes/repacts/ra2000/ra_8972_2000.htm (last visited March 20, 2019).

8) Magna Carta of Women or Republic Act No. 9710 is the law that commandments the human rights of women who should be treated equally without discrimination. Acceptance, protection and promotion of various rights of Philippine women shall be adopted⁴⁶⁷

9) Presidential Decree No. 603 or the Child and Youth Welfare Code states that children shall be entitled to the rights without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors and should be adopted in accordance with human right. They should be taken care of without affecting their physical and mental, be provided with opportunity to study, be developed, grow, with proper care and good health (Article 3, 11 and 12). They shall have responsibilities to themselves, family and society (Article 4) The law also stipulates Parental Authority in Section A (Article 17- 20); care of the abandoned child in Section 21 Adoption in Section B, Article 27 to 42; admission to Children's School (Article 71 to 75) and children's work (Article 107 to 110), etc.⁴⁶⁸

10) Republic Act No. 7877 also known as "Anti-Sexual Harassment Act of 1995" was enacted to uphold the value of the dignity of each human person by penalizing sexual harassment, either verbally or physically, occurred by abuse of power in education institutions, workplaces or related training centers to obtain sexual favors. The said law can be applied to both men and women. Criminal penalties are specifically prescribed.⁴⁶⁹

By the way, in 2000, the Supreme Court held that: "Sexual harassment is an imposition of misplaced superiority which is enough to dampen an employee's spirit and her capacity for advancement. It affects her sense of judgment; it changes her life"⁴⁷⁰.

⁴⁶⁷ The Magna Carta of Women (Republic Act No. 9710), *available at* https://www.lawphil.net/statutes/repacts/ra2009/ra_9710_2009.html (last visited March 20, 2019).

⁴⁶⁸ The Child and Youth Welfare Code (Presidential Decree No. 603), *available at* https://www.lawphil.net/statutes/presdecs/pd1974/pd_603_1974.html (last visited March 20, 2019).

⁴⁶⁹ Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877, *available at* https://www.lawphil.net/statutes/repacts/ra1995/ra_7877_1995.html (last visited March 20, 2019).

⁴⁷⁰ G.R. No. 124617 (2000) *available at* <http://sc.judiciary.gov.ph/jurisprudence/2000/apr2000/124617.html> (last visited March 20, 2019).

Aquino v. Acosta⁴⁷¹

One case where the respondent was exonerated from allegations of sexual harassment is the case of Aquino v. Acosta. The facts are as follows: “Atty. Susan Aquino, Chief of the Legal and Technical Staff of the Court of Tax Appeals (CTA), charged then CTA Presiding Judge Ernesto Acosta of sexual harassment. She complained of several incidents when Judge Acosta allegedly kissed her, embraced her, and put his arm around her shoulder”.⁴⁷²

The Supreme Court however agreed with the findings of Court of Appeals Justice Josefine G. Salonga which concluded:

“In all the incidents complained of, the respondent's pecks on the cheeks of the complainant should be understood in the context of having been done on the occasion of some festivities, and not the assertion of the latter that she was singled out by Judge Acosta in his kissing escapades. The busses on her cheeks were simply friendly and innocent, bereft of malice and lewd design. The fact that respondent judge kisses other people on the cheeks in the 'beso-beso' fashion, without malice, was corroborated by Atty. Florecita P. Flores, Ms. Josephine Adalem and Ms. Ma. Fides Balili, who stated that they usually practice 'beso-beso' or kissing on the cheeks, as a form of greeting on occasions when they meet each other, like birthdays, Christmas, New Year's Day and even Valentine's Day, and it does not matter whether it is Judge Acosta's birthday or their birthdays. Theresa Cinco Bactat, a lawyer who belongs to complainant's department, further attested that on occasions like birthdays, respondent judge would likewise greet her with a peck on the cheek in a 'beso-beso' manner. Interestingly, in one of several festive occasions, female employees of the CTA pecked respondent judge on the cheek where Atty. Aquino was one of Judge Acosta's well wishers.

In sum, no sexual harassment had indeed transpired on those six occasions. Judge Acosta's acts of bussing Atty. Aquino on her cheek were merely forms of

⁴⁷¹ A.M. No. CTA-01-1 (2002) *available at* http://sc.judiciary.gov.ph/jurisprudence/2002/apr2002/am_cta_01_1.htm (last visited March 20, 2019).

⁴⁷² G.R. No. 155831 (2008) *available at* <http://sc.judiciary.gov.ph/jurisprudence/2008/feb2008/155831.htm> (last visited March 20, 2019).

greetings, casual and customary in nature. No evidence of intent to sexually harass complainant was apparent, only that the innocent acts of 'beso- beso' were given malicious connotations by the complainant. In fact, she did not even relate to anyone what happened to her. Undeniably, there is no manifest sexual undertone in all those incidents.”⁴⁷³ As a result, Judge Acosta was exonerated from the sexual harassment charge.

11) Republic Act No. 6972 or Barangay-Level Total Development and Protection of Children Act⁴⁷⁴ is the law that encourages and develop local women to conduct more various career and activities other than child caring. The said law establishes day care centers to help women with children have more free time to work or to pursue their studies.

12) Republic Act No. 10028⁴⁷⁵ or the Expanded Breastfeeding Promotion Act of 2009 is the law that amend Republic Act No. 7600 or Rooming-in and Breastfeeding Act of 1992 (The non-amended provisions of Republic Act No. 6700 are still enforceable). The 2009 law aims to creates “an environment where basic physical, emotional, and psychological needs of mothers and infants are fulfilled through the practice of rooming-in and breastfeeding”.⁴⁷⁶

Section 3 (v) defines rooming-in as “the practice of placing the new-born in the same room as the mother right after delivery up to discharge to facilitate mother-infant bonding and to initiate breastfeeding. The infant may either share the mother's bed or be placed in a crib beside the mother.”⁴⁷⁷ The practice of rooming-in and breastfeeding are continuously promoted by Philippine government and private health institutions and have been assisted for implementation.

⁴⁷³ *Ibid.*

⁴⁷⁴ Republic Act No. 6972 (1990), *available at* http://www.lawphil.net/statutes/repacts/ra1990/ra_6972_1990.html (last visited March 20, 2019).

⁴⁷⁵ Republic Act No. 10028 (2009) *available at* http://www.lawphil.net/statutes/repacts/ra2010/ra_10028_2010.html (last visited March 20, 2019)

⁴⁷⁶ Section 2 of Republic Act No. 10028.

⁴⁷⁷ Section 3 of Republic Act No. 10028.

In addition, Section 2 emphasizes intention of the law by stating that “Breastfeeding has distinct advantages which benefit the infant and the mother, including the hospital and the country that adopt its practice. It is the first preventive health measure that can be given to the child at birth. It also enhances mother-infant relationship. Furthermore, the practice of breastfeeding could save the country valuable foreign exchange that may otherwise be used for milk importation.”⁴⁷⁸ As evident from the law, the intention is not only to promote the well-being of the mother and the infant but also to save the Philippines from spending more for milk importation.

For implementation, Section 9 of the Implementing Rules & Regulation of Republic Act No. 10028 requires every workplace to develop a clear set of guidelines that protects, promotes and supports breastfeeding program.⁴⁷⁹ Section 12 requires that nursing employees be given break intervals in addition to the regular time-off for meals to breastfeed or express milk. The law further requires that in no case shall such intervals be less than 40 minutes for every eight-hour working period.⁴⁸⁰

Therefore, it is clear that the law intends to benefit nursing mothers and to facilitate going back to work after giving birth. The law may be considered another triumph for women as the same makes working conditions more conducive for women who are nursing.

13) Law of Criminal Procedure

Regarding criminal procedure with respect to woman protection, the Revised Rules of Criminal Procedure states that all criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to

⁴⁷⁸ Section 2 of Republic Act No. 10028.

⁴⁷⁹ The Implementing Rules and Regulations of Republic Act No. 10028 (2011), *available at* <https://extranet.who.int/nutrition/gina/sites/default/files/PHL%202011%20The%20Implementing%20Rules%20and%20Regulation%20of%20Republic%20Act%20No.%2010028.pdf> (last visited March 20, 2019)

⁴⁸⁰ Section 12 of The Implementing Rules and Regulations of Republic Act No. 10028 (2011).

the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.⁴⁸¹

The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. The offended party cannot institute criminal prosecution without including the guilty parties, if both alive, nor, in any case, if the offended party has consented to the offense or pardoned the offenders.⁴⁸²

The offenses of seduction, abduction and acts of lasciviousness shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents or guardian, nor, in any case, if the offender has been expressly pardoned by any of them. If the offended party dies or becomes incapacitated before she can file the complaint, and she has no known parents, grandparents or guardian, the State shall initiate the criminal action in her behalf.⁴⁸³

The offended party, even if a minor, has the right to initiate the prosecution of the offenses of seduction, abduction and acts of lasciviousness independently of her parents, grandparents, or guardian, unless she is incompetent or incapable of doing so. Where the offended party, who is a minor, fails to file the complaint, her parents, grandparents, or guardian may file the same. The right to file the action granted to parents, grandparents or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the preceding paragraph.

No criminal action for defamation which consists in the imputation of the offenses mentioned above shall be brought except at the instance of and upon complaint filed by the offended party.

⁴⁸¹ A.M. No. 02-2-07-SC, *available at* http://www.lawphil.net/courts/supreme/am/am_02-2-07-sc_2002.html (last visited March 20, 2019).

⁴⁸² Section 5 of Rule 110 of the Revised Rules of Criminal Procedure, *available at* https://www.lawphil.net/courts/rules/rc_110-127_crim.html (last visited March 20, 2019).

⁴⁸³ Section 5 of Rule 110 of the Revised Rules of Criminal Procedure.

The prosecution for violation of special laws shall be governed by the provisions thereof.⁴⁸⁴

14) Expanded Senior Citizens Act of 2010

Republic Act No. 9994 or Expanded Senior Citizens Act or, in full, an Act to Maximize the Contribution of Senior Citizens to National Building, Grant Benefits and Special Privileges and for other Purposes⁴⁸⁵ is the law that concern senior citizens. This law not only defines “Senior Citizens” as anyone who is over 60 years old and grants senior citizens the right to receive pension (as mentioned in 3.3.2) but also prescribes that senior citizens shall hold I.D. card specialized for senior citizens so that they are eligible for various rights and privileges. For example, the right to receive VAT exemption; 20% discount for purchasing some essential drugs and grocery shopping, medical service or admission to senior healthcare centers; discount for public transportation such as buses, jeepneys, domestic airplanes and vessels, including for visiting some recreation facilities, etc.⁴⁸⁶

15) An Act Providing for the Mandatory Philhealth Coverage for All Senior Citizens

Republic Act No. 10645 or an Act Providing for the Mandatory Philhealth Coverage for All Senior Citizens is a mandatory law that requires all senior citizens to be eligible for health protection from the National Health Insurance Program (PhilHealth).⁴⁸⁷ The law has been prescribed to amend the original Republic Act No. 7432. Republic Act No. 10645 contains only three main sections with the key principle in Section 1 which grants the right to receive healthcare service under this law to all senior citizens who have not yet been granted the right to receive healthcare service under the previous law. They shall also have the right to receive financial aid for healthcare from National Health Insurance Fund

⁴⁸⁴ Section 5 of Rule 110 of the Revised Rules of Criminal Procedure.

⁴⁸⁵ Expanded Senior Citizens Act of 2010 (Republic Act No. 9994), *available at* https://www.lawphil.net/statutes/repacts/ra2010/ra_9994_2010.html (last visited March 20, 2019).

⁴⁸⁶ Biron Law Firm, expanded senior citizens act of 2010 (ra9994), *available at* <http://www.jamesbiron.com/2010/02/expanded-senior-citizens-act-of-2010-ra-9994-provides-evat-exemption/> (last visited March 20, 2019)

⁴⁸⁷ Section 5, Republic Act No. 10645, *available at* https://www.lawphil.net/statutes/repacts/ra2014/ra_10645_2014.html (last visited March 20, 2019) See 3.3.2.

of PhilHealth. This Law received good feedback from elderly people in Philippines, especially from those who are in lower to middle classes because elderly rely on medical services more than other generations and they receives benefit from this compulsory health insurance. Later in the year 2010, the Republic Act No. 10645 was amended by Republic Act No. 9994 as mentioned above.

3.6.2 Laws Concerning Prevention and Suppression against Human Trafficking

Protection for Fishery Labor

The POEA (the Philippines Overseas Employment Administration) has issued Rules and Regulations Governing the Recruitment and Employment of Seafarers which is reviewed and has been enforced until present. Such regulations are the law that regulate and supervise recruitment and employment process of Filipino migrant fisher which mostly mirror from Republic Act No. 8042 or Migrant Workers and Oversea Filipinos Act of 1995⁴⁸⁸ which is the main law that protects almost three million of oversea Filipino labor. This law contains 42 sections of legal provisions that stipulate standard on welfare of migrant workers and oversea Filipinos. These provisions cover illegal recruitment (Section 6-13); deployment (Section 4-5); services and the legal assistance for migrant workers affairs (Section 14-22 and Section 24-26); and role of government agencies (Section 23). While POEA's law contains many key provisions, for example, "imposition of joint and solidary liability on Philippines manning agencies; a prohibition on charging recruitment fees to Filipino seafarers; verification by the Philippines Overseas Labor Office (POLO) of the suitability of foreign employers and the existence of working conditions that meet the minimum standards required by the POEA; the establishment of standard employment contracts for Filipino seafarers; measures to combat illegal recruitment practices; free legal assistance to victims of illegal recruitment; grounds for the POEA to take disciplinary action and/or conduct proceedings against foreign principals/employers ; and exempting

⁴⁸⁸ Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 8042), *available at* [http://www.poea.gov.ph/laws&rules/files/Migrant%20Workers%20Act%20of%201995%20\(RA%208042\).html](http://www.poea.gov.ph/laws&rules/files/Migrant%20Workers%20Act%20of%201995%20(RA%208042).html) (last visited March 20, 2019).

circumstances which allow Filipino seafarers to refuse to depart for the worksite or to abandon/withdraw from employment.”⁴⁸⁹

Law Prohibiting Filipino Mail-Order Brides

Republic Act No. 6955⁴⁹⁰ has the title "An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on Mail-Order Basis and other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefor". As the title indicates, the law aims to protect Filipino women by declaring as unlawful the practice of matching Filipino women with foreign nationals on mail-order basis or other similar practices which include advertisement, publication, printing or distribution of any brochure, flier, or any propaganda material. This law aims to specifically protect Filipino women, in other words, to prevent human trafficking through mail-order brides for marriage with foreign men they have never previously met may be subjected to physical and/or emotional and/or financial violence once they arrive abroad.

Inter-marriage between foreign nationals and Filipino women is not prohibited. What the law prohibits is “the practice of profiteering from match-making—including the practice of newspapers and magazines to publish columns of ads of foreigners seeking Filipino wives.”⁴⁹¹

Brief History

The law came about due to the growing number of Filipino women leaving to become “mail-order brides” in the 1980s. A newspaper article defined that the practice was becoming a national embarrassment at that time. The main sponsor of the House bill

⁴⁸⁹ International Labour Organization, Work in fishing in the ASEAN region: Protecting the rights of migrant fishers, p. 9-10, *available at* http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_306645.pdf (last visited March 20, 2019).

⁴⁹⁰ Republic Act No. 6955 (1990), *available at* http://www.lawphil.net/statutes/repacts/ra1990/ra_6955_1990.html (last visited March 20, 2019).

⁴⁹¹ Section 2 of Republic Act No. 6955.

that eventually became the law prohibiting mail-order brides was Pasay Representative (Congresswoman) Lorna Verano Yap. According to Yap: "Operated by unscrupulous and heartless individuals, the practice has not only cast shame on our women in the international community, but have also exposed thousands of impoverished Filipinas into further misery in the hands of their foreign spouses." Yap further said that the mail-order business can be compared to prostitution where Filipino women are treated as "mere commodities to be packaged and mailed for the right price."⁴⁹²

Problem with the Law

Despite the existence of the law the practice of sending overseas mail order Filipina brides have not been eradicated. Two decades after the law was enacted the law prohibiting mail-order brides hardly helped in stopping Filipino women from allowing themselves—even praying—to be peddled as mail-order brides. According to the president of the Philippine Migrants' Rights Watch (PMRW), Carmelita Nuqui: "The move simply drove the mail order business underground without significantly affecting the international trade."⁴⁹³

One view is that "the Anti-Mail Order Bride Act remains an unenforced piece of well-intentioned legislation, together with Republic Act 9208 (the 2003 Anti-Trafficking in Persons Act), especially due to a slow and inefficient Philippine judicial system."⁴⁹⁴

The Commission on Filipino Overseas (CFO) reported that "from 1989 to 2013, a total of 455,458 Filipino spouses were sponsored for visas and travel by foreign nationals." The CFO further provided that 193,661 Filipino spouses went to the US and 117,362 to Japan. Filipino spouses also migrated to, in descending order: Australia, Canada, Germany, South Korea, UK, Taiwan, Norway, Sweden and others.

⁴⁹² Carmela Fonbuena (2009). Out-Sourcing the Wife: Dreams turned Sour, *available at* <http://news.abs-cbn.com/special-report/09/17/09/out-sourcing-wife-dreams-turned-sour> (last visited March 20, 2019).

⁴⁹³ *Ibid.*

⁴⁹⁴ Crispin R. Arnada (2015). Male Order Brides *available at* <http://www.manilatimes.net/male-order-brides/158083/> (last visited March 20, 2019)

The exact number of how many of the hundreds of thousands of Filipinos who married foreigners are mail-order brides remains undetermined. What is known is that some of the mail-order brides “have complained of domestic violence or false information regarding their partner’s background.”⁴⁹⁵ In turn, “Philippine embassies issued warnings regarding interracial matchmaking agencies that violate local laws in their own country and use deceptive advertising”.

However, on July 2016, Republic Act No. 10906 or Anti-Mail Order Spouse Act was promulgated. It was focused on suppressing mail matchmaking for both men and women and include internet matchmaking into the realm of punishable offences.⁴⁹⁶

3.7 Laws Concerning Environmental Promotion, Preservation, Use of Natural Resources and Effect on Natural Resources and Environment

1987 Philippine Constitution

Article II Section 16 states: “The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.” On the other hand, Article XII Sec. 2 provides that wildlife, flora and fauna, among others, are owned by the State and the disposition, development and utilization thereof are under its full control and supervision.”

Plant Variety Protection Act

Plant Variety Protection Act of 2002 or Republic Act No. 9168 is the law that defines measures to protect diversity of new plants as an important protection system in intellectual property. The law consists of 12 Titles 80 Sections⁴⁹⁷ which engulf rights and protection of plant breeders in the breeding of newly renovated crops; the right to allow others to produce, reproduce, wholesale, marketing, import and quarantine for the sake of the aforementioned. The Plant Variety Protection Office (PVPO) and the National Plant

⁴⁹⁵ *Ibid.*

⁴⁹⁶ Anti-Mail Order Spouse Act (Republic Act No. 10906), *available at* https://www.senate.gov.ph/republic_acts/ra%2010906.pdf (last visited March 20, 2019).

⁴⁹⁷ Plant Variety Protection Act of 2002 (Republic Act No. 9168), *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=225015 (last visited March 20, 2019)

Variety Protection Board have been established under supervision of Department of Agriculture-bureau of Plant Industry to carry out registration and conduct inspection on requests for protection on diversity of plants as well as to arrange and preserve database of new plants protected by the office by gathering from domestic and international authorities. The terms and conditions of request for protection shall be in accordance with Section 5 to Section 8 of Title III. Variety denomination is in accordance with criteria of Title IV and the contents of requests must meet the requirements in Title VI which is the main idea of this Act.⁴⁹⁸

Ecological Solid Waste Management Act

Ecological Solid Waste Management Act of 2000 or Republic Act No. 9003 is the law that has been formed as a consequence of environmental problems arising from improper waste management. It is considered to be one of significant environmental laws of the Philippines to tackle the increasing amount of domestic waste. This republic act has mentioned the state policy on systematic and comprehensive waste management that will affect the country's ecosystem to maintain good hygiene of the people. The law prescribes legal measures for storage, screening, separation, conveying, and handling of garbage in the system through environmental measures including encourages reduction of waste by pointing out importance and benefit of re-use and recycle process. The National Solid Waste Management Commission (NSWMC), which consists of representatives from agencies of public and private sectors, is established. NSWMC will coordinate, develop and approve projects of waste management. In addition, Local Government Unit: LGU on the Solid Waste Management Board (SWMB) is also established to operate ecological waste management under 10 year- plan timeframe for sustainable waste management, focusing on re-use and recycle process.⁴⁹⁹

⁴⁹⁸ ECOLEX, Philippine Plant Variety Protection Act of 2002 (Republic Act No. 9168), *available at* <https://www.ecolex.org/details/legislation/philippine-plant-variety-protection-act-of-2002-republic-act-no-9168-lex-faoc050701/> (last visited March 20, 2019)

⁴⁹⁹ Food and Fertilizer Technology Center for the Asian and Pacific Region, Ecological Solid Waste Management Act: Environmental Protection Through Proper Solid Waste, *available at* http://ap.ffa.agnet.org/ap_db.php?id=153&print=1 (last visited March 20, 2019).

For the operational efficiency, the Ecological Solid Waste Management Act also establishes tax incentives for reduction and exemption of tax for a period of up to 10 years for importation of equipment, tools, vehicles, donations, and others used for waste management. In addition, non-tax incentives such as facilitating the reduction of import procedures for equipment, spare parts, new materials, and supplies, and for the export of processed products. Moreover, in the event of violations of the law, there are penalties in Chapter 6, for example: (1) littering, throwing, dumping of waste matters in public places; (2) open burning of solid waste; (3) causing non-segregated waste; (4) manufacturing, distributing, using, and importing consumer products that are non-environmentally-friendly materials; (5) open dumping, burying of biodegradable or non-biodegradable materials in flood prone areas, etc.⁵⁰⁰

The Republic Act No. 9003 was enacted by resolution of Congress of the Philippines on December 20, 2000 and was approved by the Presidential office on January 26, 2001, consisting of 66 sections which are divided into 7 Chapters. It was considered an enactment that directly followed the policy of the government to efficiently tackle waste problem.⁵⁰¹

Clean Air Act

Since the State has burden to implement the policy on balancing between developing the nation and maintain the environment, Republic Act No. 8749 also known as The Philippine Clean Air Act of 1999 was then enacted to establish structure and measures for sustainable development of the nation as follows:⁵⁰²

(1) Formulate a holistic national program of air pollution management that shall be implemented by the government through proper delegation and effective coordination of functions and activities;

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

⁵⁰² The Philippine Clean Air Act of 1999 (Republic No. 8749), *available at* https://lawphil.net/statutes/repacts/ra1999/ra_8749_1999.html (last visited March 20, 2019).

(2) Encourage cooperation and self-regulation among citizens and industries through the application of market-based instruments;

(3) Focus primarily on pollution prevention rather than on control and provide for a comprehensive management program for air pollution;

(4) Promote public information and education and to encourage the participation of an informed and active public in air quality planning and monitoring; and

(5) Formulate and enforce a system of accountability for short and long-term adverse environmental impact of a project, program or activity. This shall include the setting up of a funding or guarantee mechanism for clean-up and environmental rehabilitation and compensation for personal damages.⁵⁰³

Republic Act No. 8749 has assigned to the relevant government agencies, including but not limited to, the following:

1) Department of Environment and Natural Resources or DENR is a competent authority to provide a country's air quality status summary report which will be the basis for formulation of Integrated Air Quality Improvement Framework with authority to issue rules and regulation for implementation of this law. (Section 6)

2) Department of Environment and Natural Resources, in case of industrial dischargers, and the Department of Transportation and Communication (DOTC), in case of motor vehicle dischargers, shall, based on environmental techniques, design, impose on and collect regular emission fees from said dischargers as part of the emission permitting system or vehicle registration renewal system, as the case may be. (Section 13).

3) Department of Environment and Natural Resources, in coordination with the Department of Science and Technology (DOST), other agencies, the private sector, the academe, NGO's and PO's (people's organization), shall establish a National Research and Development Program for the prevention and control of air pollution. (Section 15).

4) Department of Trade and Industry (DTI), in coordination with the Department of Science and technology, and the Department of Resources and Environment, develops

⁵⁰³ Section 3 of Republic Act No. 8749.

an operational plan to manage and control air pollution from vehicles consisting of motor parts by providing the Integrated Air Quality Management Framework (Section 21 (b)).

5) The Department of Transportation, Department of Trade and Industry, and Department of Environment and Natural Resources shall establish the procedures for the inspection of motor vehicles and the testing of their emissions for the purpose of determining the concentration and/or rate of pollutants discharged by said sources (Section 21(c)).

6) Department of Energy (DOE) in coordination with the Department of Environment and Natural Resources and the Department of Science and Technology in collaboration with the Bureau of Product Standards of the Ministry of Trade and Industry, the representatives of the fuel and automotive industries, academe and the consumers shall set the specifications for all types of fuel and fuel-related products, to improve fuel composition for increased efficiency and reduced emissions (Section 26).

Perceived Effectivity

In 2009, it was opined that: “A decade after the passage of the Clean Air Act, the fight to improve the quality of air for Filipinos has little progressed.”⁵⁰⁴ The perceived lack of effectivity of the law as perceived by many Filipinos was aptly summarized as follows: “Metro Manila continues to experience concentrations of particulate matter that routinely exceed acceptable levels. Carbon monoxide and nitrogen oxide levels have also been monitored to occasionally exceed standards.”

Despite Section 45 to Section 48 of the law provide penalty fine up to 100,000 Peso for every day of violation or 10 years imprisonment, the main objectives of the legislation under Section 3 which are to protect the environment and to balance development seem to be unsuccessful due to lack of enforcement and poor monitoring system. Center area of Manila is still covered by polluted air with high pollution rate.⁵⁰⁵

⁵⁰⁴ Rey Gamboa (2009). An Imperiled Clean Air Act, *available at* <http://www.philstar.com/business/482841/imperiled-clean-air-act> (last visited March 20, 2019).

⁵⁰⁵ Jhesset O. Enao (2019). Clean Air Act 20 years later: Edsa still ‘worst place to be’, *available at* <https://newsinfo.inquirer.net/1135618/clean-air-act-20-years-later-edsa-still-worst-place-to-be> (last visited July 20, 2019).

National Caves and Cave Resources Management and Protection Act

National Caves and Cave Resources Management and Protection Act or Republic Act No. 9072⁵⁰⁶ declared the policy of the State to conserve, protect and manage caves and cave resources as part of the country's natural wealth. The law defines "cave" as any naturally occurring void, cavity, recess or system of interconnected passages beneath the surface of the earth or within a cliff or ledge and which is large enough to permit an individual to enter, whether or not the entrance, located either in private or public land, is naturally formed or manmade. It shall include any natural pit, sinkhole or other feature which is an extension of the entrance.

Republic Act No. 9072 consists of 15 sections. Beside the definition of "cave", the law also requires that the Department of Environment and Natural Resources shall be the main unit of this act, in collaboration with the Department of Tourism, the National Historical Institute, and the local authorities, to coordinate. The State shall have direct duty to encourage cooperation and exchange of information between government agencies and local citizens who take benefit from natural caves no matter for education, scientific interest, recreation or tourism. Therefore, the Department of Environment and Natural Resources shall have power to 1) formulate, develop and implement a national program for the management, protection and conservation of caves and cave resources; 2) disseminate information and conduct educational campaign on the need to conserve, protect and manage our caves and cave resources; 3) issue permits for the collection and removal of guano and other cave resources with regard to specific caves taking into consideration bio-diversity as well as the aesthetic and archaeological value of the cave with power to prescribe terms and conditions for the permittee to follow ,etc.

In addition, the Republic Act No. 9072 prohibits any person from knowingly destroying, disturbing, defacing, marring, altering, removing, or harming the speleogen or speleothem of any cave or altering the free movement of any animal or plant life into or out of any cave, including gathering, collecting, possessing, consuming, selling, bartering

⁵⁰⁶ National Caves and Cave Resources Management and Protection Act (Republic Act No. 9072), available at https://www.lawphil.net/statutes/repacts/ra2001/ra_9072_2001.html (last visited March 20, 2019).

or exchanging or offering for sale without authority any, cave resource. Violators shall be criminally penalized.

National Water Crisis Act

National Water Crisis Act of 1995 or the Republic Act No. 8041⁵⁰⁷ was enacted from recognition of importance of problem and necessity of crisis of water resource of the country which affect health, well-being, production of food and industrial operations which drive government to carry out a quick set of measures to manage and deal with.

Although such republic act consists of only 17 sections, the law prescribes measures which are necessary for managing water resources, such as supply, distribution, finance, privatization of state-run water facilities, the protection and conservation of watersheds and the waste and pilferage of water, including the serious matter of graft and corruption in all the water agencies. Water Crisis Commission shall be established within 30 days the effectivity of this act, from Department of Public Works and Highways, Department of Environment and Natural Resources, Congress and Senate. The Commission has authority to carry out necessary actions to provide consultation, in depth studies on management structure and supply of water resources, to encourage integration of works among various government agencies to set up the policies and strategies for water management, to prescribe necessary measures for management, supply and distribute water efficiently, etc. These are purposes of the law set out in Section 4, including the power to obtain report, technical information and recommendations for water management from relevant government agencies and power to suspend the use of certain water sources for rehabilitation.

In addition, the law also assigns the state to enter into the contracts in various projects for construction, repair, restoration, rehabilitation and improvement of water facilities to public within 1 year after the effectivity of this Act to resolve fraud in 1) Metropolitan Waterworks and Sewerage system (MWSS) and 2) Local Waterworks and Utilities Administration (LWUA). The president, within 6 months from the approval of this

⁵⁰⁷ National Water Crisis Act of 1995 (Republic Act No. 8041), *available at* <http://www.chanrobles.com/republicactno8041.htm#.WyKzpKczbGg> (last visited March 20, 2019).

act, shall have power to issue orders to reorganize administrative structures of such agencies, including privatization of the segments to make them more effective and innovative.

Section 8 of Republic Act No. 8041 has declared that it is unlawful for any person to 1) destroy, damage or interfere with any canal, raceway etc., which is related to water facility; 2) conduct any malicious act which shall injuriously affect the quantity or quality of the water or damage to the wastewater management system; 3) conduct illegal use of water without permission; and 4) interfere in the construction or delivery of water etc. Any person who violates Section 8 shall be punished by criminal penalties (Section 11).

Toxic Substances and Hazardous and Nuclear Wastes Control Act

Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 or Republic Act No. 6969⁵⁰⁸ is the law that governs the restrictions and contraindications on import, production, disposal of toxic substances, which result in risk or danger to health of human, animal or environment. It prohibits importation or transit of nuclear or hazardous waste through the Philippines or prohibits disposal in the Philippines' territory. The law mentions disadvantages arising from such hazardous substances which shall be controlled and managed throughout proper importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal. The Department of Environment and Resources is assigned to be the responsible agency to implement and issue necessary regulations which include but not limited to registration of hazardous wastes generators, hazardous wastes treater⁵⁰⁹ to optimize national economic growth without affecting environment and to decrease risk and health hazard that citizen may encounter. Inter-Agency Advisory Council is established to provide assistance for operation. In addition, Section 14 of Republic Act No. 6969 also provides criminal

⁵⁰⁸ Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 (Republic Act No. 6969), available at https://www.lawphil.net/statutes/repacts/ra1990/ra_6969_1990.html (last visited March 20, 2019).

⁵⁰⁹ Section 6 of Implementing Rules and Regulations of Republic Act 6969, available at https://www.env.go.jp/en/recycle/asian_net/Country_Information/Law_N_Regulation/Philippines/DAO%201992-29.pdf (last visited March 20, 2019).

penalties for a normal person and a government official or employee which include imprisonment, fine, dismiss, confiscation and forfeiture or transport and sending back of hazardous substance or deportation of a foreign violator.

Republic Act No. 6969 contains 20 sections and is effective throughout the Philippines.

The Coral Resources Development and Conservation Decree

Presidential Decree No. 1219 as amended by Presidential Decree No. 1698 or the Coral Resources Development and Conservation Decree⁵¹⁰ as is a decree of the Philippines that deems encouraging, supporting, regulating on exploration, exploitation, use and conservation of coral resources a state policy, whether the coral resources exist beneath territorial waters or in the marine economic zone of the Philippines, and to ensure the protection of these resources as provided for under other existing laws. The law assigns Secretary of National Resources as a regulator and imposes responsibility of implementation and optimization of exploration, exploitation, use and conservation of coral resources on Bureau of Fisheries and Aquatic Resources. The Secretary has power to issue a gratuitous permit to duly established and recognized research and educational institutions to gather in limited quantities any coral for scientific or educational purposes only (Section 6) and to issue a special permit to only one person/corporation for a limited issue to conduct experimental collection of corals (Section 7) and to promulgate the rules and regulations to implement effectively the provisions of this Decree (Section 10). In addition, the applicant for a special permit must be a Filipino citizen, or a corporation, at least 70 per cent of the capital stock of which is owned or controlled by Filipinos (Section 7). The Secretary also have power to prohibit exportation of precious and semi-precious coral. Criminal penalties for violators are prescribed in Section 11.

⁵¹⁰ The Coral Resources Development and Conservation Decree (Presidential Decree No. 1219 as amended by Presidential Decree No. 1698), *available at* <https://savethephilippinecoralreefs.files.wordpress.com/2012/12/presidential-decree-no-1219.pdf> (last visited March 20, 2019).

Philippine Environment Code

Presidential Decree No. 1152 or Philippine Environment Code is a decree issued with purposes to achieve and maintain such levels of air quality as to protect public health; and to prevent to the greatest extent practicable, injury and/or damage to plant and animal life and property, and promote the social and economic development of the country. The law contains 64 sections of legal provisions, separated in 7 titles and covers regulations and measures on management and conservation of natural resources which include but not limited to fisheries and aquatic resources, wildlife, forestry and soil conservation, flood control and natural calamities, energy development, conservation and utilization of surface and ground waters and mineral resources. The National government, through the Department of Natural Resources, shall establish a system of rational exploitation of fisheries and aquatic resources within the Philippine territory and shall encourage citizen participation therein to maintain and/or enhance the optimum and continuous productivity of the same (Section 26).⁵¹¹

Measures for the rational exploitation of fisheries and other aquatic resources may include, but shall not be limited to, the following:

1. regulating the marketing of threatened species of fish or other aquatic resources;
2. reviewing all existing rules and regulations on the exploitation of fisheries and aquatic resources with a view of formulating guidelines for the systematic and effective enforcement thereof; and
3. conserving the vanishing species of fish and aquatic resources such as turtles, sea snakes, crocodiles, corals, as well as maintaining the mangrove areas, marshes and inland waters, coral reef-areas and islands serving as sanctuaries for fish and other aquatic life.⁵¹²

In addition, in order to establish comprehensive environment protection and management programs under a policy framework that concretely mentions measures on

⁵¹¹ Philippine Environment Code (Presidential Decree No. 1152), *available at* https://www.lawphil.net/statutes/presdecs/pd1977/pd_1152_1977.html (last visited March 20, 2019).

⁵¹² Section 27 of Presidential Decree 1152.

quality of environment, the decree hereby prescribes management guideline on water quality management through “classification of Philippine waters, establishment of water quality standards, protection and improvement of the quality of the Philippine water resources, and responsibilities for surveillance and mitigation of pollution incidents.” It also “sets guidelines for waste management with a view to ensuring its effectiveness, encourage, promote and stimulate technological, educational, economic and social efforts to prevent environmental damage and unnecessary loss of valuable resources of the nation through recovery, recycling and re-use of wastes and wastes products, and provide measures to guide and encourage appropriate government agencies in establishing sound, efficient, comprehensive and effective wastes management covering both solid and liquid wastes.”⁵¹³

Presidential Decree on Establishing the Philippine Environmental Policy

Presidential Decree No. 1151 or Presidential Decree on Establishing the Philippine Environmental Policy⁵¹⁴ is the law that regards environment which has been enacted for 40 years since June 6th, 1977 in order to tackle with problems of imbalanced population growth, extension of urbanization and industrialization that are invasive for nature and increasing needs for use of natural resources. These lead to necessity for environment protection that both human and nature can live together with balance and sound environment and without harming public health. Therefore, this decree was enacted for conducting of intensive and integrated program of environmental protection through 1) cooperation between the State, private agencies and other related organizations for setting up guidelines which are in consistent with national policies of other aspects; and 2) system of assessment on environmental impact which (a) recognize, discharge and fulfill the responsibilities of each generation as trustee and guardian of the environment for succeeding generations, (b) assure the people of a safe, decent, healthful, productive

⁵¹³ Water Environment Partnership in Asia (WEPA), Philippine Environmental Code, *available at* <http://www.wepa-db.net/policies/law/philippines/pd1152.htm> (last visited March 20, 2019).

⁵¹⁴ Philippine Environmental Policy (Presidential Decree No. 1151), *available at* https://www.lawphil.net/statutes/presdecs/pd1977/pd_1151_1977.html (last visited March 20, 2019).

and aesthetic environment, (c) encourage the widest exploitation of the environment without degrading it, or endangering human life, health and safety or creating conditions adverse to agriculture, commerce and industry, (d) preserve important historic and cultural aspects of the Philippine heritage, (e) attain a rational and orderly balance between population and resource use, and (f) improve the utilization of renewable and non-renewable resources.⁵¹⁵

In addition, pursuant to the above enunciated policies and goals, all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations' entities shall prepare, file and include affects the quality of the environment a detail statement on 1) the environmental impact of the proposed action, project or undertaking; 2) any adverse environmental effect which cannot be avoided should the proposal be implemented; 3) alternative to the proposed action; 4) a determination that the short-term uses of the resources of the environment are consistent with the maintenance and enhancement of the long-term productivity of the same and whenever a proposal involves the use of depletable or non-renewable resources, a finding must be made that such use and commitment are warranted.⁵¹⁶

The Water Code of the Philippines

The Water Code of the Philippines or Presidential Decree No. 1067 is the law of the Philippines that codifies legal provisions on “water” of the country together, enacted by executive power (decree).⁵¹⁷ It features amendments and collection of laws governing ownership, appropriation, utilization, exploitation, development, conservation, and protection of water resources with objectives to:

⁵¹⁵ Section 2 of Presidential Decree No. 1151, *available at* https://www.lawphil.net/statutes/presdecs/pd1977/pd_1151_1977.html (last visited March 20, 2019).

⁵¹⁶ Section 4 of Presidential Decree No. 1151.

⁵¹⁷ The Water Code of the Philippines (Presidential Decree No. 1067), *available at* https://www.lawphil.net/statutes/presdecs/pd1976/pd_1067_1976.html (last visited March 20, 2019).

1. Establish the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and rational utilization of these resources;
2. Define the extent of the rights and obligations of water users and owners including the protection and regulation of such rights;
3. Adopt a basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and rights to land related thereto; and
4. Identify the administrative agencies which will enforce this Code.

Additionally, this decree underlines the following principles:

1. All waters belong to the State.
2. All waters that belong to the State cannot be the subject to acquisitive prescription.
3. The State may allow the use or development of waters by administrative concession.
4. The utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through the National Water Resources Council, hereinafter referred to as the Council.
5. Preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country.

“Water” that belongs to the State under 1. in accordance with this decree means rivers and their natural beds; continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves; natural lakes and lagoons; all other categories of surface waters such as water flowing over lands, water from rainfall whether natural, or artificial, and water from agriculture runoff, seepage and drainage; atmospheric water; subterranean or ground waters; and, seawater. It also means waters found on private lands which are continuous or intermittent rising on such lands; lakes and lagoons naturally occurring on such lands; rain water falling on such lands; subterranean or ground waters; and, water in swamps and marshes. The owner of the land where the water is found may use the same for domestic purposes without securing a permit, (permission

is required for other cases under Article 6) provided that such use shall be registered, when required by the National Water Resources Council who may regulate such when there is wastage, or in times of emergency.⁵¹⁸

Marine Pollution Decree of 1976

Presidential Decree No. 979 or Marine Pollution Decree of 1976⁵¹⁹ is a set of legal provisions enacted for the objectives to prevent, reduce and eradicate problems on marine pollution arising from discharge of waste from various sources to the sea which is enforced within the territorial jurisdiction of the Philippines. It is evident that marine resources and environment are vital for human and animal living which share mutual benefit, therefore, quality protection and management are required. In addition, it is inevitable for public and private entities to make use of such resources, therefore, activities that may harm marine ecosystem shall be controlled through improved disposal processes to minimize its impact on ecosystem.

Consequently, to achieve such objectives, the law prescribes that:

1. National Pollution Control Commission shall be responsible for regulating and enacting rules and policies which are necessary for national enforcement with the Philippine Coast Guard as a consultant.
2. The Philippine Coast Guard shall have the primary responsibility of enforcing the laws, rules and regulations governing marine pollution.
3. The following acts shall be deemed unlawful:
 - a. discharge, dump or suffer, permit the discharge of oil, noxious gaseous and liquid substances and other harmful substances from or out of any ship, vessel, barge, or any other floating craft, or other man-made structures at sea, by any method, means or manner, into or upon the territorial and inland navigable waters of the Philippines;

⁵¹⁸ Summary of the Water Code of the Philippines (P.D. No. 1067), *available at* <https://zh.scribd.com/doc/71400930/Summary-of-the-Water-Code-of-the-Philippines> (last visited March 20, 2019).

⁵¹⁹ Marine Pollution Decree of 1976 (Presidential Decree No. 979), *available at* https://www.lawphil.net/statutes/presdecs/pd1976/pd_979_1976.html (last visited March 20, 2019).

- b. throw, discharge or deposit, dump, or cause suffer or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of vessel of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into tributary of any navigable water from which the same shall float or be washed into such navigable water; and
- c. deposit or cause, suffer or procure to be deposited material of any kind in any place on the bank of any navigable water or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed or increased the level of pollution of such water.

Any person who violates the aforementioned provision shall be criminally liable for a fine or imprisonment, without prejudice to the civil liability to remedy any pollution emitted or conducted to the sea. In addition, the Philippine Coast Guard shall be responsible for developing an adequate capability for containment and recovery of spilled oil for inland waters and high seas use to maintain the quality of the environment under this decree.⁵²⁰

In addition, on December 10th, 1984, the Philippines ratified United Nations Convention on the Law of the Sea (UNCLOS) which obliged members to follow Article 192 to Article 196 that concerns protection and preservation of the sea. It prevents members from using their national laws as an excuse from not implementing the convention, moreover, if there are any disputes concerning the sea among members, they shall be brought to International Tribunal of the Law of the Sea.⁵²¹

⁵²⁰ Section 8 of Presidential Decree No. 979, *available at* https://www.lawphil.net/statutes/presdecs/pd1976/pd_979_1976.html (last visited March 20, 2019).

⁵²¹ Department of Environment and Natural Resources, International Agreements on Environment and Natural Resources, United Nations Convention on the Law of the Sea (UNCLOS), *available at* <http://intl.denr.gov.ph/index.php/database-un-conventions/article/14> (last visited March 20, 2019).

Presidential Decree Providing Penalty for Improper Disposal of Garbage

Presidential Decree No. 825 Providing Penalty for Improper Disposal of Garbage and Other Forms of Uncleanliness and for Other Purposes⁵²² is a legal decree that criminally penalizes any person, including directors or legal representatives or organizations who improperly dispose of garbage such as, littering or throwing garbage, filth, or other waste matters in public places, such as roads, canals esteros or parks. Violators shall suffer an imprisonment of not less than 5 days nor more than one year (Section 2). This law prescribes that it is a duty of all citizens who reside in the Philippines to maintain cleanliness of the surroundings (Section 1) with hygienic to prevent them from becoming the breeding places of mosquitos, flies, mice, rats and other scavengers (Section 3) for a healthy citizenry under supervision of the Secretary of Public Works, Transportation and Communications (Section 4). This decree contains only 6 sections of legal provisions.

Philippine Mining Act of 1995

Republic Act 7942⁵²³ also known as Philippine Mining Act of 1995 declares in Section 2: “All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State.”⁵²⁴ Section 2 further says the State is responsible for the promotion of the rational exploration, development, utilization and conservation of the mineral resources.⁵²⁵

In addition, Section 4 provides: “Mineral resources are owned by the State and the exploration, development, utilization, and processing thereof shall be under its full control and supervision.”⁵²⁶ The law further defines what areas are open and close for

⁵²² Presidential Decree No. 825, *available at* https://www.lawphil.net/statutes/presdecs/pd1975/pd_825_1975.html (last visited March 20, 2019).

⁵²³ Philippine Mining Act of 1995 (Republic Act No. 7924), *available at* <http://www.chanrobles.com/RA7942.htm#.VmtmtusxH3A> (last visited March 20, 2019).

⁵²⁴ Section 2 of Republic Act No. 7924.

⁵²⁵ Section 2 of Republic Act No. 7924.

⁵²⁶ Section 4 of Republic Act No. 7924.

mining operations. The law also provides that prior consent of the concerned indigenous cultural community shall be obtained before ancestral land is opened for mining-operations.⁵²⁷

Importance of Mining in the Philippines

According to Dr. B. Raymundo of the De La Salle University School of Economics: “Mining in the Philippines plays a crucial role in the pursuit of industrial development because of its ability to provide mineral resources that serve as raw materials for the manufacturing, construction, utilities as well as the services sub-sectors. It is also a major contributor of foreign currency through the exports of mineral ore and other processed and semi-processed mineral products and provides employment to communities in far flung areas where the only source of economic activity is mining operations.”⁵²⁸

At the same time, the negative effects of mining on the environment cannot be denied. The way the researcher sees it is that the Mining Act aims to balance between protecting the environment and utilizing mining operations in the pursuit of industrial and economic success.

Impact from the Law Enforcement

Since all mining operation after the date that this Republic Act was promulgated shall be approved and regulated by the State, it increases domestic demand of application for license, together with the campaign launched by the government to take mining business into the regulation system for the sake of supervision. In 2002, applications under process covered around 2.16 million hectares which the government had approved almost 200 licenses.⁵²⁹ However, in practice, the Philippines have to

⁵²⁷ Section 16 of Republic Act No. 7924.

⁵²⁸ Dr. Roberto B. Raymundo (2014). The Philippine Mining Act of 1995: Is the law sufficient in achieving the goals of output growth, attracting foreign investment, environmental protection and preserving sovereignty?, p. 1, *available at* https://xsite.dlsu.edu.ph/conferences/dlsu_research_congress/2014/_pdf/proceedings/SEE-III-026-FT.pdf (last visited March 20, 2019).

⁵²⁹ Raymundo D. Rovillos et. al. (2004), When ‘Isles of Gold’ turn into Isels of Dissent: A Case Study on the Philippine Mining Act of 1995, p. 8, *available at* <http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/eirinternatwshopphilippinecaseeng.pdf> (last visited March 20, 2019).

encounter problems on law enforcement which can be seen from the studies negatively showing that Free and Prior Informed Consent (FPIC)⁵³⁰ from indigenous communities was falsified by private companies and more indigenous people had been displaced from their ancestral domains.⁵³¹ These lead to problems of violence and conflict in many effected areas of the country which changed way of life of local citizens, for example, they need to find water sources for living which are remote from their residence because the original ones dried up due to mining.⁵³² These lead to law enforcement that does not meet the objectives, this is to say, cannot develop mining industries to fully and effectively suit local way.

Chain Saw Act of 2002

Republic Act No. 9175⁵³³ also known as “Chain Saw Act of 2002” is geared towards conserving, devolving and protecting forest resources under sustainable management.⁵³⁴ The law goes on to say who are authorized to manufacture, sell, import, use and possess chain saws.⁵³⁵ The law further requires that chain saws be registered with the Department of Environment and Natural Resources and to obtain a permit to possess the chain saw.⁵³⁶

Unregistered Chainsaws

In 2014 the Department of Environment and Natural Resources office in Region VIII (DENR-8) urged chainsaw owners or holders to avoid penalties by registering and

⁵³⁰ *Ibid.*, 9.

⁵³¹ *Ibid.*, 10.

⁵³² *Ibid.*, 12.

⁵³³ Chain Saw Act 2002 (Republic Act No. 9175), *available at*, <http://www.chanrobles.com/republicactno9175.html#.Vmttk-sxH3A> (last visited March 20, 2019).

⁵³⁴ Section 2 of Republic Act No. 9175.

⁵³⁵ Section 4 and Section 5 of Republic Act No. 9175.

⁵³⁶ Section 6 of Republic Act No. 9175.

securing permits for their chainsaws.⁵³⁷ This was in the aftermath of major Typhoon Yolanda which struck the Philippines in November 2013. The government recognized the importance of chainsaws in the rehabilitation of the many homes destroyed but at the same time realized the need to register the chainsaws to be used.

Impact from the Law Enforcement

Although the law has been enacted and enforced since 2003, the data on licensing actually appeared in 2005 and there was no numerical certainty until 2008. If counting the total number of licenses issued by virtue of the Chain Saw Act, there are only 616 licenses issued in Palawan area, but if considering the overall number, the approved licenses are increasing more than 37.66 percent or 1,464 licenses as of 2015. Such number shows the increasing need for use of wood or cutting of wood in the country that may be predictable that the number of illegal logging (or without permission) is likely to increase together with the number of authorized chain saws as well.⁵³⁸

In addition, from the statistical data during the year 2013 to 2015, it is found that in Balabac area, there is the highest amount of tree cutting in the country which is accounted for 13.81 percent of the total forest volume in the province. However, it is interesting that there are only 1.226 percent of numbers of chainsaws that are licensed in the area, while in Palawan area, statistical data in the year 2005 shows that the number of forests has decreased by more than 46 percent or more than 666,338 acres and the number has increased slightly for additional 2 percent or 40,760 acres in 2010. This shows that even though the law has been enacted in the country, the quantity of wood cutting has not been significantly reduced as it should be, especially in Palawan area that has been studied.⁵³⁹

⁵³⁷ Restituto A. Cayubit (2014). Chainsaw owners urged to secure permit, *available at* <http://www.mb.com.ph/chainsaw-owners-urged-to-secure-permit/> (last visited March 20, 2019).

⁵³⁸ Maria Luz A. Martinez, A Review of the Chainsaw Policy Implemented by the Palawan Council for Sustainable Development of Palawan, p. 9, *available at* <http://pcsd.gov.ph/wp-content/uploads/2016/03/11-A-Review-of-the-Chainsaw-Policy-implemented-by-the-Palawan-Council-for-Sustainable-Development-for-Palawan.pdf> (last visited March 20, 2019).

⁵³⁹ *Ibid.*, 10-11.

Wildlife Resources Conservation and Protection Act

Republic Act No. 9147⁵⁴⁰ also known as Wildlife Resources Conservation and Protection Act aims to conserve the country's wildlife resources and their habitats for sustainability to promote ecological balance and enhance biological diversity by prescribing that the policy of the State is to conserve the country's wildlife resources and their habitats for sustainability.⁵⁴¹ The law contains 41 sections, separated into three major parts which are 1) Conservation and Protection of Wildlife Resources; in the part of General Provision; 2) Protection of Threatened Species; and 3) Registration of Threatened and Exotic Species. Section 3 of General Provisions defines the scope of enforcement that it is enforceable for all wildlife species found in all areas of the country, including protected areas under Republic Act No. 7586⁵⁴² and critical habitats and shall also apply to exotic species which are subject to trade, are cultured, maintained and/or bred in captivity or propagated in the country.

In Section 4, the Department of Environment and Natural Resources is responsible for regulating plant and animal species such as terrestrial turtles and sea turtles, crocodiles, water birds and dugongs. The Department of Agriculture has authority to maintain aquatic animals and habitats for animals that are in crisis, natural water source, including but not limited to fish species, aquatic plants, invertebrates and marine animals (except dugongs). The Secretaries of Department of Natural Resources and Environment and Department of Agriculture have power to review the joint orders of both agencies, amendments and improvements concerning the list of plant and animal species as appropriate and have power to issue licenses for control of possession, accumulation, transportation, export, import, breeding and establishment of farms, etc., for total of 5

⁵⁴⁰ Wildlife Resources Conservation and Protection Act (Republic Act No. 9147), *available at* <http://www.chanrobles.com/republicactno9147.html#.Vmt9BusxH3A> (last visited March 20, 2019).

⁵⁴¹ Section 2 of Republic Act No. 9147.

⁵⁴² National Integrated Protected Areas System Act of 1992 (Republic Act 7586), *available at* https://www.lawphil.net/statutes/repacts/ra1992/ra_7586_1992.html (last visited March 20, 2019).

types of licenses according to Section 20 of this Act. The law also requires a security clearance method before the introduction of any exotic wildlife into the Philippines.⁵⁴³

3.8 Laws Concerning Cultural Promotion, Preservation and Ways of Life

1987 Philippine Constitution

Sections 14, 15, 16 and 17 of Article XIV of the Philippine Constitution are about arts and culture. Section 14 provides: “The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.”

Section 15 emphasizes that “arts and letters shall enjoy the patronage of the State”. Section 16 states that “All the country’s artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition.” Section 17 prescribes that “The State shall recognize, respects and protects the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions.” Lastly, Section 18 prescribes that the State shall 1) ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers, and other public venues; 2) encourage and support researches and studies on the arts and culture.⁵⁴⁴

The Indigenous Peoples Rights Act of 1997

Republic Act No. 8371⁵⁴⁵ also known as the Indigenous Peoples Rights Act of 1997 recognizes and promotes the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/ IPs) . Section 3 of this law defines “ancestral domains” as all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by

⁵⁴³ Section 13 of Republic Act No. 7586.

⁵⁴⁴ Section 15-17 of Article XIV of 1987 Philippine Constitution.

⁵⁴⁵ The Indigenous Peoples Rights Act of 1997 (Republic Act No. 8371), *available at* <http://www.chanrobles.com/republicactno8371.htm#.VmuDnOsxH3A> (last visited March 20, 2019).

ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present, which are necessary to ensure their economic, social and cultural welfare.

While “ancestral land” denotes land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs by themselves or through their predecessors-in-interest, continuously, to the present, including, but not limited to, residential lots, rice terraces or paddies, private forests, etc. “Indigenous Cultural Communities/Indigenous Peoples” refer to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits.

Section 13 of the law recognizes the ICCs/IPs’ “inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions.” Section 21 emphasizes the “equal protection and non-discrimination of ICCs/IPs” whereas Section 23 provides for the ICCs/IPs’ “freedom from discrimination and right to equal opportunity and treatment”.

The law goes to recognize the cultural integrity of ICCs/lps including the right to religious, cultural sites and ceremonies.⁵⁴⁶ The law makes the following unlawful:

- a. Explore, excavate or make diggings on archeological sites of the ICCs/ IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and
- b. Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.”⁵⁴⁷

The law recognizes the ICCs/IPs’ right to “Indigenous Knowledge Systems and Practices and to develop their own Sciences and Technologies”.⁵⁴⁸ The law creates the National Commission on ICCs/IPs (NCIP), “which shall be the primary government agency

⁵⁴⁶ Section 33 of Republic Act of 8371.

⁵⁴⁷ Section 33 of Republic Act No. 8371.

⁵⁴⁸ Section 34 of Republic Act No. 8371.

responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto”.⁵⁴⁹

Since the legal system of the Philippines receives juristic method of Common Law from United States which deem court decision a source of law, the Supreme Court of the Philippines has ruled, with respect to the interpretation of this act, that “When Congress enacted the Indigenous Peoples Rights Act (IPRA), it introduced radical concepts into the Philippine legal system which appear to collide with settled constitutional and jural precepts on state ownership of land and other natural resources.”⁵⁵⁰ The sense and subtleties of this law cannot be appreciated without considering its distinct sociology and the labyrinths of its history. This opinion attempts to interpret IPRA by discovering its soul shrouded by the mist of our history. After all, the IPRA was enacted by Congress not only to fulfill the constitutional mandate of protecting the indigenous cultural communities' right to their ancestral land but more importantly, to correct a grave historical injustice to our indigenous people.”⁵⁵¹

Currently, there are 110 tribes of indigenous people living in the interiors and mountains of Luzon, Mindanao, Mindoro, Negros, Samar, Leyte, Palawan and Sulu. Luzon, Mindanao, Mindoro, Negros, Samar, Leyte, and the Palawan and Sulu group of islands.⁵⁵²

National Cultural Heritage Act of 2009

Philippine Government enacted Republic Act No. 10066 also known as National Cultural Heritage Act of 2009 in 2009⁵⁵³ to 1) protect, preserve, conserve and promote the

⁵⁴⁹ Section 38 of Republic Act No. 8371.

⁵⁵⁰ Section 2 of Article XII of 1987 Philippine Constitution.

⁵⁵¹ G.R. No. 135385 (2000), *available at* http://sc.judiciary.gov.ph/jurisprudence/2000/dec2000/135385_puno.htm (last visited March 20, 2019).

⁵⁵² *Ibid.*

⁵⁵³ National Cultural Heritage Act of 2009 (Republic Act No. 10066), *available at* https://www.lawphil.net/statutes/repacts/ra2010/ra_10066_2010.html (last visited March 20, 2019).

nation's cultural heritage, its property and histories, and the ethnicity of local communities; and 2) establish and strengthen cultural institutions and protect cultural workers and ensure their professional development and well-being. The law assigns the State a duty to create a balanced atmosphere where the historic past coexists in harmony with modern society by prescribing that these following works: 1) works by a Manlilikhang Bayan; 2) works by a National Artist; 3) archaeological and traditional ethnographic materials; 4) works of national heroes; 5) marked structure; 6) Structures dating at least fifty (50) years old; and 7) archival material/document dating at least fifty (50) years old; which are collectively called "important cultural property", shall be protected and promoted in accordance with the law especially in terms of funding for protection, conservation and restoration. An official heritage marker shall be placed on an immovable cultural property to identify the same as important cultural property.

In addition, the National Cultural Heritage Act of 2009 (Republic Act No. 10066) protects cultural property against exportation, modification or demolition.⁵⁵⁴ Section 4 of Article III categorizes cultural properties of the Philippines into the following:

- (a) National cultural treasures;
- (b) Important cultural property;
- (c) World heritage sites;
- (d) National historical shrine;
- (e) National historical monument; and
- (f) National historical landmark.

The law further provides that close collaboration shall be conducted with the "United Nations Educational Scientific and Cultural Organization (UNESCO) National Commission of the Philippines in ensuring the conservation and management of world heritage sites, of cultural and mixed sites category, in the Philippines".⁵⁵⁵ Section 7 grants privileges to cultural properties including "priority government funding for the protection, conservation and restoration" of the same.

⁵⁵⁴ Section 5 of Republic Act No. 10066.

⁵⁵⁵ Section 6 of Republic Act No. 10066.

Sections 12 and 13 of Article III designates heritage zones and provides for the maintenance of the same. Section 14 of Article V of the law provides for the registration and conservation of cultural properties whereas Section 23 and 24 of Article VI provide for the regulation of the export, transit, import and repatriation of cultural property.

In addition, the law requires the establishment of Philippine Registry Cultural Property (PRECUP) and assigns the local authorities the duty to collect and/or preserve antiques or historic sites by using standardized storage work system that is internationally recognized. They shall also prepare documentation for modern and ancient art (including crafts) as well as for all of the processes and keep the original of the artworks in good condition by promoting them more economically, that is, to focus on creative work that may create value or income for local communities.⁵⁵⁶

Moreover, to promote the role of the National Commission for Culture and the Arts (NCCA) in accordance with this act, the law designates the National Commission for Culture and the Arts (NCCA) and its subordinates to have the following power:

1. to issue a cease and desist order when the physical integrity of the national cultural treasures or important cultural properties are found to be in danger of destruction or significant alteration from its original state;
2. to issue compulsory repair order when a privately-owned heritage site cannot be maintained by the owner or has fallen into disrepair through neglect to such an extent that it will lose its potential for conservation;
3. to inspect national cultural treasures, important cultural properties, and national historical landmarks, sites or monuments at any time to ensure the protection and integrity of such;
4. to deputize other government agencies to enforce the provisions of this act and its implementing rules and regulations; and
5. to recover or retrieve cultural properties which are under the custody of foreign nationals or entities⁵⁵⁷

⁵⁵⁶ Section 14 of Republic Act No. 10066.

⁵⁵⁷ Section 25-30 of Republic Act No. 10066.

The Department of the Interior and Local Government which shall coordinate with related agencies to prevent and criminally punish any person who 1) Destroys, demolishes, mutilates or damages any world heritage site, national cultural treasures, important cultural property and archaeological and anthropological sites; 2) Modifies, alters, or destroys the original features of or undertakes construction or real estate development in any national shrine, monument, landmark and other historic edifices and structures.⁵⁵⁸

Torre de Manila Case

On June 16, 2015 the Supreme Court issued a Temporary Restraining Order (TRO) “that stopped the continuation of the construction of the 46-story Torre de Manila condominium project that would allegedly ruin the sightline of the Rizal Monument in Rizal Park.”⁵⁵⁹ Jose Rizal is the national hero of the Philippines and was martyred in the same spot where his monument was erected. The National Cultural Heritage Act of 2009 was alleged as one of the main bases for preserving the sightline of the Rizal Monument. The petition before the Supreme Court was not only for a TRO but also for the demolition of the building under construction.

However, on April 25, 2017, the Supreme Court dismissed the temporary injunction and allowed the construction of the condominium to continue by reasoning that the court has no jurisdiction over the subject matter and the petitioners have no standing to sue; and they (petitioners) stand to suffer no injury.⁵⁶⁰

Strengthening Peoples' Nationalism Through Philippine History Act

Republic Act No. 10086 or Strengthening Peoples' Nationalism Through Philippine

⁵⁵⁸ Section 32 of Republic Act No. 10066.

⁵⁵⁹ Rey G. Panaligan (2015). Supreme Court issues TRO on Torre de Manila construction *available at* <http://www.mb.com.ph/supreme-court-issues-tro-on-torre-de-manila-construction/> (Visited March 6, 2016)

⁵⁶⁰ Ina Reformina, SC allows Torre de Manila construction, *available at* <https://news.abs-cbn.com/news/04/25/17/sc-allows-torre-de-manila-construction> (last visited March 20, 2019) and Knight of Rizal v. DMCI HOMES, INC. (GR. No. 213948), *available at* https://www.lawphil.net/judjuris/juri2017/apr2017/pdf/gr_213948_2017.pdf (last visited March 20, 2019).

History Act⁵⁶¹ is the law enacted for changing the nomenclature of the National Historical Institution (NHI) into the National Historical Commission of the Philippines (NHCP) with an effective purpose to conserve, promote and popularize the nation's historical and cultural heritage and resources. Pursuant to the Constitution, all the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition (Section 2). The State shall provide the means to strengthen people's nationalism, love of country, respect for its heroes and pride for the people's accomplishments by reinforcing the importance of Philippine national and local history in daily life with the end in view of raising social consciousness; reinvigorating government support for historical research; and sustaining and enhancing programs for the protection, preservation and conservation of historical relics and memorabilia, monuments, sites and other historical resources.

Republic Act No. 10086 contains 30 sections of legal provisions. Section 5 mandates the NHCP to be the primary government agency responsible for history and has the authority to determine all factual matters relating to official Philippine history for purposes to:

1. conduct and support all kinds of research relating to Philippine national and local history;
2. develop educational materials in various media, implement historical educational activities for the popularization of Philippine history, and disseminate, information regarding Philippine historical events, dates, places and personages;
3. undertake and prescribe the manner of restoration, conservation and protection of the country's historical movable and immovable objects;
4. manage, maintain and administer national shrines, monuments, historical sites, edifices and landmarks of significant historic-cultural value; and
5. actively engage in the settlement or resolution of controversies or issues relative to historical personages, places, dates and events.

⁵⁶¹ Strengthening Peoples' Nationalism Through Philippine History Act (Republic Act No. 10086), available at https://www.lawphil.net/statutes/repacts/ra2010/ra_10086_2010.html (last visited March 20, 2019).

The NHCP shall be governed by a nine-member Board, which shall be created to formulate and implement NHCP policies relating to the agency's mandate (Section 6). The Board shall have the authority to reorganize the structure of the NHI pattern in order to carry out its functions pursuant to its expanded mandate as the NHCP (Section 19). A Historic Sites and Structures Documentation Center (HSSDC) shall be established within the NHCP, replacing the existing Survey and Documentation Section (Section 20). The existing work of the agency on historical society affiliations shall constitute the Local Historical Committees Network (LHCN) to coordinate and integrate the work as a whole (Section 21). Materials Research Conservation Division (MRCD) shall also be established (Section 22) with funding provision under Section 25.

National Museum Act

Republic Act No. 8492 also known as National Museum Act of 1998⁵⁶² concerns the State policies on art and culture in accordance with the provision in Section 2 which assigns the State to be responsible for pursuing and supporting the cultural development of the Filipino people, through the preservation, enrichment and dynamic evolution of Filipino national culture, based on the principle of unity in diversity in a climate of free artistic and intellectual expression. The law converts the National Museum into a trust of the government, being detached from 1) the Department of Education, Culture and Sports and from 2) the National Commission of Culture and the Arts and shall be placed solely for budgetary purposes under the Office of the President. The National Museum shall be a permanent institution in the service of the community and its development, accessible to the public, and not intended for profit. It shall obtain, keep, study and present material evidence of man and his environment and conduct related activities for the sake of study, education and entertainment (Section 3) under the following objectives stated in Section 6:

1. As an educational institution, the National Museum shall take the lead in disseminating knowledge of Filipino cultural and historical heritage and developing a corps of professional knowledgeable about the preservation,

⁵⁶² National Museum Act of 1998 (Republic Act No. 8492), *available at* https://www.lawphil.net/statutes/repacts/ra1998/ra_8492_1998.html (last visited March 20, 2019).

enrichment and dynamic evaluation of the Filipino national culture.

2. As a scientific institution, the Museum shall continue to conduct basic and systematic research programs combining integrated laboratory and field work in anthropology and archaeology, geology and paleontology, botany, and zoology. It shall maintain reference collections on these disciplines and promote scientific development in the Philippines.
3. As a cultural center, the Museum shall take the lead in the study and preservation of the nation's rich artistic, and cultural heritage.

In addition, the National Museum Act also contains the provisions that impose responsibility to the National Museum under Section 7 (1) to (23) for conducting the followings duties and functions which include but not limited to:

1. Acquire documents, collect, preserve, maintain, administer and exhibit to the public, cultural materials, objects of art, archaeological artifacts, ecofacts, relics and other materials embodying the cultural and natural heritage of the Filipino nation, as well as those of foreign origin.
2. Conduct researches, archaeological and scientific, on Philippine flora and fauna; collect, preserve, identify and exhibit to the public systematically all types of plants and animals found in the Philippines, prepare for publication manuscripts and scientific papers on them and maintain a reference collection on such subjects;
3. Document all objects held by the National Museum in its collections or borrowed by the Museum by registering them in an inventory and cataloguing them, and manage any movement of the collections both within the Museum and elsewhere in such a way that the Museum is able to locate any object in the collections at any time, initially on paper records, but to be converted to computerized records.

Moreover, the National Museum Act also establishes Board of Trustees which shall appoint the Director of the Museum and two Assistant Directors who shall be in charge of the over-all operations of the Museum and implement the policies set by the Board of Trustees (Section 11). The Museum shall undertake training and development programs, in domestic or abroad, to upgrade the capabilities of the Museum personnel (Section 14).

Law Creating the National Commission for Culture and the Arts

Law Creating the National Commission for Culture and the Arts or Republic Act No. 7356⁵⁶³ is enacted for establishment of National Commission for Culture and the Arts (Section 1) and National Endowment Fund (Title II) containing 27 sections of legal provisions. It recognizes that culture is a manifestation of the freedom of belief and of expression and is human right to be accorded due respect and allowed to flourish (Section 2), including the vitality of culture as national value and national identity (Section 3). The law prescribes that the National Commission for Culture and the Arts, which is composed of members from various cultural organizations (Section 9), shall formulate policies for the development of culture and arts, implement these policies in coordination with affiliated cultural agencies under Title II of the act (Section 8 and Section 12) by:

1) To encourage the continuing and balanced development of a pluralistic culture by the people themselves, it shall;

- a) encourage and ensure the exercise of the freedom of expression by eliminating all forms of censorships inimical to cultural and artistic growth and development;
- b) extend financial and economic assistance such as subsidies, artist funds and social security to promote cultural development;
- c) ensure the decentralization of opportunities for creative expression through the establishment of local culture and art centers in various regions;
- d) encourage and support research into Philippine artistic traditions which may be adopted for the creation of contemporary forms;
- e) adopt measures and recommend legislations to protect the intellectual and artistic rights and properties of Filipino artists and cultural workers.

2) To conserve and promote the nation's historical and cultural heritage, it shall;

- a) support, monitor and systematize the retrieval and conservation of artifacts of Filipino culture and history;

⁵⁶³ Law Creating the National Commission for Culture and the Arts (Republic Act 7356), *available at* <http://www.chanrobles.com/republicacts/republicactno7356.html#.XlpeVygzbDc> (last visited March 20, 2019).

- b) encourage and support the study, recognition and preservation of endangered human cultural resources such as weavers, chanters, dancers, and other craftsmen;
- c) support and promote the establishment and preservation of cultural and historical monuments, markers, names and sites;
- d) encourage and support the establishment and/or maintenance all over the country of museums, libraries, archives, private or public, as repositories;
- e) encourage and support scholarly research into and documentation of Philippine cultural traditions, arts and crafts.

3) To ensure the widest dissemination of artistic and cultural products among the greatest number across the country and overseas for their appreciation and enjoyment, it shall, with the cooperation of the Departments of Education, Culture and Sports, Tourism, Interior and Local Government, Foreign Affairs and all other concerned agencies, etc.

National Endowment for Culture and Arts (NEFCA) shall be established in accordance with Section 8 and Section 13 h.

The Commission shall exercise the following powers and functions: 1) encourage and facilitate the organization of a network of regional and local councils for programs/projects and law enforcement; 2) establish a secretariat under an Executive Director for the administrative and day-to-day operations of the Commission (Section 14); 3) set up a system of networking and coordination with and among all existing government cultural agencies for the effective implementation of programs and activities; 4) create committees and call upon and coordinate with other government and non-government art and cultural institutions and agencies for assistance; 5) receive and accept donations and other conveyances including funds, materials, and services for the sake of any conduct under this law; 6) prepare an annual budget and advise the President on matters pertaining to culture and the arts; 7) promulgate rules, regulations and undertake any and all measures as may be necessary to implement this Act (Section 13).

Philippine Design Competitiveness Act

Republic Act No. 10557⁵⁶⁴ or Philippine Design Competitiveness Act was enacted in 2013 under the context of design competitiveness in present age. It contains 15 sections of legal provisions stating principal and reason of this legislation are to enhance the competitiveness and innovation of Philippine products, create market-responsive design services, while advocating for economic and environmental sustainability. The State shall also endeavor to promote an economy and society driven by design and creativity responsive to our fast-changing times and reflective of the Filipino culture and identity, while concurrently advocating the protection of intellectual property rights to these ideas and innovations (Section 2).

In addition, Section 3 prescribes the objectives of the enactment as follows:

1. Create integrated, forward-thinking and long-range direction and strategy for the design industry;
2. Provide long-term guidance to promote national awareness on the use of design as a strategic tool for economic competitiveness and social innovation;
3. Integrate design into other industries and aspects of society in order to create a demand for good design, and to extend its impact economically, socially and environmentally;
4. Incorporate design as a priority component in national planning and development; and
5. Ultimately, encourage and drive innovation so that the Philippines may use as leverage our raw materials, natural resources and creativity to stay ahead of the curve.

In order to achieve such objectives, the law remodels the administrative structure by reengineering the Product Development and Design Center of the Philippines (PDDCP) and renamed it into the Design Center of the Philippines (the Design Center). It shall be attached to the Department of Trade and Industry (DTI). It has duties to promote design as a creative tool for improving the quality and competitiveness and branding of Filipino

⁵⁶⁴ Philippine Design Competitiveness Act of 2013 (Republic Act No. 10557), *available at* https://www.lawphil.net/statutes/repacts/ra2013/irr_10557_2013.html (last visited March 20, 2019).

products in the global market; as a strategic tool of value creation for sustainable economic growth and development; and as an innovative tool for enhancing the quality of human life. Such duties include 1) conducting product research studies and new product design trends and technological process; 2) creating, developing and enhancing the design capabilities of products and services of the Philippines including the use in small and medium sized businesses (SMEs); 3) conducting seminars and workshops on product design and development; 4) setting up design exhibitions; 5) promoting design education throughout the country to meet the needs of Philippine industries (Section 5). In addition, the Design Center shall have the following powers and functions:

1. Formulate the National Design Policy, herein referred to as the NDP, aligning it with the government's economic agenda;
2. Continuously formulate five (5)-year plans that are in line with the general NDP, but reflective of the changing conditions in both the domestic and international environments;
3. Coordinate, monitor and assess the implementation of the NDP, and, when necessary, update the NDP in the light of changing market conditions in both the domestic and international environments;
4. Establish an evaluation system through which the results of the NDP (as well as singular projects and programs) could be assessed and improved;
5. Collaborate internationally with similar design policy advisory bodies of other countries and gain insights and investigate on how successful design practices in other countries can be transferred and adapted in the context of Filipino creative and knowledge-based industries;
6. Establish dialogue with designers to encourage them to actively engage in the implementation of design policy;
7. Provide a forum for design stakeholders on current and emerging issues in the design profession;
8. Promote the design profession and the value of design, etc.

The law also establishes the Creation of the Design Advisory Council (DAC) which is comprised of 15 members from public and private sectors, responsible as an Advisory Council to the Design Center. The DAC shall advise the Design Center in the formulation

and implementation of policies that will enhance the quality of competitiveness of Philippine products and services (Section 5 and Section 7). DAC also has power to advocate and promote the strategic role of design in strengthening sustainability of Philippine socioeconomic growth and competitiveness which includes 1) providing advice and insights by representing the views of both the public and the private sectors; 2) advocating for full consideration of design's contribution to program effectiveness and innovation in government policy decisions; 3) reviewing and promoting policies where design is a key component; 4) acting as a liaison among the professional design, design education and government design stakeholders (Section 6).

Local Government Code

Republic Act No. 7160 or Local Government Code of 1991⁵⁶⁵ is the law that grants local governments the power to manage general welfare under Section 16 which prescribes that every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

General Appropriations Act 2016

Republic Act No. 10717 or General Appropriation Act 2016⁵⁶⁶ was enacted in

⁵⁶⁵ Local Government Code of 1991 (Republic Act No. 7160), *available at* https://www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html (last visited March 20, 2019).

⁵⁶⁶ General Appropriations Act of 2016 (Republic Act No. 10717), *available at* <https://data.gov.ph/sites/default/files/GAA%20General%20Provisions%202016.pdf> (last visited March 20, 2019).

relation with National Cultural Heritage Act of 2009. Its main essence is prescribed in Section 43 that alteration, renovation or demolition of government buildings and open spaces declared by government cultural agencies or presumed to be cultural properties, including but not limited to provincial capital buildings, city halls, municipal halls, monuments, fountains, parks and plazas, school, state colleges and universities, fortifications, lighthouses, bridges, public hospitals, train stations, museums, public libraries, stadiums, prisons and government offices, shall be undertaken only upon prior approval of the government cultural agencies and proper consultation with stakeholders and cultural groups to be administered by the state (Section 43 paragraph 1). In addition, the concerned department/agency shall be responsible specifically in the planning, design, construction, and maintenance of national roads and bridges as they impact on heritage structures or aspects of heritage conservation pursuant to Republic Act No. 10066 or the National Cultural Heritage Act of 2009 (Section 43 paragraph 2).

General Appropriation Act 2017

Republic Act No. 10924 or General Appropriation Act 2017⁵⁶⁷ was enacted for 1) implementation of programs, activities and projects authorized in this Act by prescribing that agencies identified under Republic Act No. 10066, the National Cultural Heritage Act of 2009 shall consult, coordinate and work closely with the National Commission for Culture and the Arts to ensure that their respective responsibilities embodied under Republic Act No. 10066 are implemented; 2) prescribing that alteration, renovation or demolition of (a) government buildings and open spaces declared by government cultural agencies or (b) presumed to be cultural properties, including but not limited to provincial capital buildings, city halls, municipal halls, monuments, fountains, parks and plazas, school, state colleges and universities, fortifications, lighthouses, bridges, public hospitals, train stations, museums, public libraries, stadiums, prisons and government offices, shall be undertaken only upon prior approval of the government cultural agencies

⁵⁶⁷ Republic Act No. 10924, *available at* <https://www.dbm.gov.ph/wp-content/uploads/GAA/GAA2017/Volumel/GENPRO.pdf> (last visited March 20, 2019).

and proper consultation with stakeholders and cultural groups to be administered by the state (Section 34 paragraph 1).

In addition, the concerned department/agency shall be responsible specifically in the planning, design, construction, and maintenance of national roads and bridges as they impact on heritage structures or aspects of heritage conservation pursuant to Republic Act No. 10066 or the National Cultural Heritage Act of 2009 (Section 34 paragraph 2).

Chapter 4

Laws Concerning Politics and National Security

4.1 Laws Concerning Administrative Procedure, Official Information, and Tortious Liabilities of Officials

Overview

The rule of law of the Philippines has always been upheld that public officials shall demonstrate integrity and devotion to their duties at all times. Honor and discipline are considered important requirements for public service. Public office is public trust which is the main principle behind the laws governing public officials by taking public interest as a priority above all. Therefore, strict inspection with public officials and with the performance of public officials is considered the norm for ensuring that public officials are dedicated to honest duties.

4.1.1 *The Code of Conduct and Ethical Standards for Public Officials and Employees*

Republic Act No. 6753 or an Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations thereof and for Other Purposes⁵⁶⁸ is a provision that describes the code of ethics and standards for officials and employees of the government. It consists of content about the officials' prestigious conduct on policy, norms, incentive and reward system, prohibited actions and transactions, financial disclosure, conflicts of interest, inspection and review process and law enforcement in order to maintain public trust. It consists of 17 provisions as follows.

1) *Policy and Norms*

Section 2 of Republic Act 6713 prescribes that "It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead

⁵⁶⁸ Republic Act No. 6713 (1989), *available at* https://www.lawphil.net/statutes/repacts/ra1989/ra_6713_1989.html (last visited January 4, 2016).

modest lives, and uphold public interest over personal interest.”⁵⁶⁹ They shall also consider (1) commitment to public interest; (2) professionalism; (3) justness and sincerity; (4) political neutrality; (5) responsiveness to the public; (6) nationalism and patriotism; (7) commitment to democracy; and (8) living a simple life always when conduct a duty to serve people, which is considered a task that the public has high expectations for the state in accordance with Section 4 of the said Act.⁵⁷⁰

2) Duties

Public officials and employees are under obligation to (1) act promptly on letters and requests (within 15 working days from receipt); (2) submit annual performance reports (within 45 working days from the end of the year); (3) process documents and papers expeditiously; (4) act immediately on the public's personal transactions; and (5) make documents accessible to the public, according to Section 5 of Republic Act No. 6713.⁵⁷¹

3) System of Incentives and Rewards

In addition, in order to create morale at work, Republic Act No. 6733 establishes a system of incentives and rewards in Section 6 for officials and employees performing their duties with high standards of ethics. A special committee is created to consider the award each year. It is a task of the committee to consider and review the operations of various government agencies and create a mechanism for the system to be well-known for public officials and employees and to the public as well. The award will be considered in terms of length of work, work efficiency, consistency, salary base, outstanding performance which is especially evident in the work and the risk level of work and stimuli which will lead to misconduct. The names of the laureate will be announced to the public. The reward may be in the form of bonuses, citations, directorships in government-owned or controlled corporations, local and foreign scholarship grants, paid vacations and the like or being promoted to the next higher position with the commensurate salary suitable to their qualifications.

⁵⁶⁹ Section 2 of Republic Act No. 6713.

⁵⁷⁰ Section 4 of Republic Act No. 6713.

⁵⁷¹ Section 5 of Republic Act No. 6713.

4) Prohibited Acts and Transactions.

A provision concerning prohibited acts is Section 7 of Republic Act No. 6713 which prescribes in summary the principles of prohibition for public officials and employees which are (1) having financial and material interest; (2) having outside employment and other activities related thereto; (3) disclosure and/or misuse of confidential information; (4) solicitation or acceptance of gifts, which is considered an important provision relating to ethics and standards on ethical conduct of public officials and employees.

Section 7 prescribes that “Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.”⁵⁷² It further prohibits public official or employees from (1) getting involved in any work outside scope of work or authority or activity outside the said scope⁵⁷³; or (2) engaging in the private practice of their profession unless authorized by law, provided that such practice will not conflict or tend to conflict with their official function; (3) recommending any person to any position in a private enterprise which has a regular or pending official transaction with their office.

However, the above prohibitions shall not apply to persons who have resigned, retired, or separated from their job or government agency for more than 1 year, except the prohibition under (2) which applies to the case of work that has connection with any matter before the office that such person used to be with.⁵⁷⁴

These prohibitions of public officials include disclosure and/or misuse of confidential information which is obtained from the performance of duties as a public official or employee. In addition, they are prohibited to take any action that will cause the public to access such information.⁵⁷⁵

For the part of solicitation or acceptance of gifts, the law prescribes that public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity,

⁵⁷² Section 7(a) of Republic Act No. 6713.

⁵⁷³ Section 7(b) of Republic Act No. 6713.

⁵⁷⁴ Section 7(b) of Republic Act No. 6713.

⁵⁷⁵ Section 7(c) of Republic Act 6713.

favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office. However, the law allows the acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy, including a gift in the nature of a scholarship or fellowship grant or medical treatment, travel grants or expenses for travel.⁵⁷⁶

5) Statements and Disclosure

The provision concerning statements and disclosure is Section 8 of Republic Act No. 6713 which prescribes that public officials or employees have to declare their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under 18 years of age living in their households.⁵⁷⁷ Some legal experts opine that the legal provision intended to give the public confidence in the work of the government of the country as well as trust in public officials and employees. It also preventing conflicts of interest or corruption that may occur. It is a way for the public to be informed of financial status information after public officials or employees took office in order to show sincerity. Such disclosure is an information for the public to consideration of deciding the suitability and qualifications of those public officials whether they are suitable to perform which duties in future. Section 28 of Article 2 of the Philippine Constitution also stipulates that government personnel must disclose financial information as well.⁵⁷⁸

6) Conflicts of Interest

In addition, Section 9 prescribes that a public official or employee shall avoid conflicts of interest at all times.⁵⁷⁹ In such case, the law stipulates that a public official or employee shall resign from his position in any private business enterprise within 30 days

⁵⁷⁶ Section 7(d) of Republic Act No. 6713.

⁵⁷⁷ Section 8 of Republic Act No. 6713.

⁵⁷⁸ Hector S. De Leon and Hector M. De Leon Jr. (2000), *The Law on Public Officers and Election Law* p. 160, and *State v. Taylor*, 144 N.W. 2d. 289.

⁵⁷⁹ Section 9 of Republic Act No. 6713.

from his assumption of office and/or divest himself of his shareholdings or interest within 60 days from such assumption, as the case may be.⁵⁸⁰

Case Study: Immoral/Unethical Behavior of Former Chief Justice Renato Corona

The case of former Chief Justice Renato Corona is the first case of a judge removed from office and was proven guilty of misconduct/immorality of government officials.⁵⁸¹ The fact was revealed that Mr. Corona, former chief Justice of the Supreme Court deliberately failed to declare Statement of Assets, Liabilities and Net Worth (SALN) consisting of Philippine pesos and US dollars as required by law when he took office.⁵⁸²

During the trial, the Senate, acted as Impeachment Court, after considering the charge of committing immorality/ethics, after the trial over 43 days and throughout hundreds of hours of evidence examination, it ruled that Mr. Renato Corona was guilty with a resolution of 20 to 3 votes.⁵⁸³ In addition, a resolution to dismiss the former Chief Justice of the Supreme Court from office was issued due to the fact that Corona declared financial documents, including cash deposited in the bank and investments in the amount of 3.5 million pesos which was less than the truth, whereas according to the facts from the investigation, managers of Bank of Philippine Islands and Philippine Savings Bank testified that Corona had more than 31 million pesos deposited with the banks.⁵⁸⁴

7) Review and Compliance Procedure.

Section 10 of Republic Act No. 6713 prescribes review and compliance procedure by designating the Committees comprised of delegates from the Senate and House of Representatives to establish procedures for the review on completion and accuracy of statements. If any improperness or incorrect preparation, the Committees shall promptly inform the related public official or employee and direct him to take the necessary

⁵⁸⁰ Section 9 of Republic Act No. 6713.

⁵⁸¹ Shiello Mendoza (2012), 'Chief Justice Renato Corona: Guilty as charged', available at <https://sg.news.yahoo.com/verdict-is-out.html> (last visited March 24, 2016).

⁵⁸² *Ibid.*, See Corona found guilty, removed from office (May 29, 2012), available at <http://www.rappler.com/nation/special-coverage/corona-trial/6099-corona-found-guilty> (last visited January 4, 2016).

⁵⁸³ *Supra* note 581.

⁵⁸⁴ *Supra* note 581.

corrective action.⁵⁸⁵ The designated Committees also have the power to render any opinion interpreting this Act, in writing, to related public officials or employees subject in each instance to the approval by affirmative vote of the majority of the Committees.⁵⁸⁶

8) *Enforcement*

Regarding law enforcement, Section 12 of Republic Act 6713 prescribes that the Civil Service Commission shall have the primary duty for the administration and enforcement of this Act. It shall transmit all cases for prosecution arising from violations of this Act to the proper authorities for appropriate action. It may institute such administrative actions or disciplinary measures in accordance with law without depriving the right of each House of Congress to discipline for disorderly behavior.⁵⁸⁷

9) *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713)*

In order to ensure effective implementation of the objectives under Republic Act No. 6713 in accordance with Section 12, the Republic of the Philippines promulgated the Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees. Rule III concerning Reforms on Public Administrative Systems prescribes that every department, office and agency shall, as soon as practicable and in no case later than 90 days from the effectivity of these Rules, start conducting value development programs for its officials and employees in order to strengthen their commitment to public service and help promote the primacy of public interest in the performance of their duties. Such programs shall include the subject that focus on development of (1) ethical and moral values; (2) rights, duties and responsibilities of public servants; (3) nationalism and patriotism; (4) justice and human rights; (5) democracy in a free and just society; (6) Philippine history, culture and tradition; and (7) socio-economic conditions prevailing in the country and the need for a Code of Conduct and Ethical Standards. There shall be continuing conducts of refresher courses and seminars and/or workshops to promote

⁵⁸⁵ Section 10 (a) of Republic Act No. 6713.

⁵⁸⁶ Section 10 (b) of Republic Act No. 6713.

⁵⁸⁷ Section 12 of Republic Act No. 6713.

such high standard of ethics⁵⁸⁸ and it is the responsibility of departments, offices and agencies to ensure that their officials and employees participate in the programs.⁵⁸⁹

In addition, every department office and agency shall conduct continuing studies and analyses of their work systems and procedures to improve delivery of public services. Such studies and analyses shall be able to identify systems and procedures that lead or contribute to negative bureaucratic behavior; simplify rules and procedures to avoid red tape; and devise or adopt systems and procedures that promote official and employee morale and satisfaction which can be developed in form of a service guide or a workflow chart showing procedures or flow of documents, departments and related agencies. The Department of Budget and Management shall be an agency that support the aforementioned operation in accordance with final paragraph of Section 4 upon request.⁵⁹⁰ Related agencies shall consult the public for the purpose of gathering feedback and suggestions for efficiency and further development of operation system.⁵⁹¹

4.1.2 The Administrative Code of 1987

The Administrative Code of 1987 is a statute that recognize Section 1 of Article XI of 1987 Philippine Constitution⁵⁹² which states that “Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and

⁵⁸⁸ Rule III, Section 1 of Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713), *available at* https://www.ombudsman.gov.ph/docs/republicacts/Implementing_Rules_of_RA_6713.pdf (last visited March 24, 2016).

⁵⁸⁹ Rule III, Section 3 of Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713).

⁵⁹⁰ Rule III, Section 4 of Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713).

⁵⁹¹ Rule III, Section 5 of Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713).

⁵⁹² Administrative Code of 1987, *available at* <http://www.chanrobles.com/administrativecodeofthephilippinesfulltext.html#.VoT-AhFYI8c> (last visited January 4, 2016).

lead modest lives.”⁵⁹³ which is consistent with definition of nature of public office under Section 32 of the Administrative Code of 1987.

Administrative law and administrative procedure of the Philippines are similar to those of United States. This law is considered one of the primary structures for reformation of administrative procedure of the government and it was designed to fit the need of people. Each Books consist of the following contents.

Book I: Sovereignty and General Administration

Book I concern territorial sovereignty and nationality, state immunity from suit and the state's responsibility for act of agents, national symbols, official languages, operation and effect of laws, Official Gazette, regular holidays and nationwide special days, legal weights measures and period, general principles governing public officers, official oaths, official reports, public contracts and conveyances. The part that directly concerns the principle of administrative procedure is Chapter 9: General Principles Governing Public Officers; Section 32 to Section 39 which prescribes that public office is a public trust and must be accountable to the people, serve them with the utmost efficiency with integrity, loyalty and act with justice.⁵⁹⁴ Therefore, a public officer or employee shall submit a declaration under oath of his assets, liabilities, and net worth, upon assumption of office and as often thereafter as may be required by law.⁵⁹⁵ Public officers and employees shall also be bound by a Code of Ethics to be promulgated by the Civil Service Commission.⁵⁹⁶ In addition, they shall not purchase any property sold by the government for the non-payment of any tax, fee or other public charge. In case of violation, such purchase shall be void.⁵⁹⁷

Interestingly, Section 38 of the part of general principles governing public officers prescribes the principle on liability of superior officers. It stipulates that a public officer shall not be civilly liable for acts done in the performance of his official duties, unless they

⁵⁹³ Book I, Section 32 of the Administrative Code of 1987.

⁵⁹⁴ Book I, Section 32 of the Administrative Code of 1987.

⁵⁹⁵ Book I, Section 34 of the Administrative Code of 1987.

⁵⁹⁶ Book I, Section 35 of the Administrative Code of 1987.

⁵⁹⁷ Book I, Section 36 of the Administrative Code of 1987.

performed with bad faith, malice or gross negligence.⁵⁹⁸ Any public officer who, without just cause, neglects to perform a duty within a period fixed by law or within a reasonable period shall be liable for damages to the private party concerned, including liability under other laws (if any).⁵⁹⁹ Additionally, head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of.⁶⁰⁰

Section 39 prescribes that subordinate officer or employee shall not be civilly liable for acts done by him in good faith in the performance of his duties unless such acts are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of his superiors.⁶⁰¹

Book II: Distribution of Powers of the Government

Book II mentions principles and policies, legislative power, executive power, judicial power, constitutional commissions⁶⁰² and other bodies. It prescribes that governmental power shall be exercised in accordance with the following basic principles and policies: (1) The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them. (2) The State values the dignity of every human person and guarantees full respect for human rights. (3) Civilian authority is, at all times, supreme over the military. (4) The State shall ensure the autonomy of local governments. (5) The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions, in accordance with the Constitution, in Muslim Mindanao and the Cordilleras as may be provided by law. (6) The separation of Church and State shall be inviolable. (7) The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making

⁵⁹⁸ Book I, Section 38 (1) of the Administrative Code of 1987.

⁵⁹⁹ Book I, Section 38 (2) of the Administrative Code of 1987.

⁶⁰⁰ Book I, Section 38 (3) of the Administrative Code of 1987.

⁶⁰¹ Book I, Section 39 of the Administrative Code of 1987.

⁶⁰² viz; Civil Service Commission, Commission on Election and Commission on Audit

shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms. (8) The powers expressly vested in any branch of the Government shall not be exercised by, nor delegated to, any other branch of the Government, except to the extent authorized by the Constitution.⁶⁰³

Book III: Office of the President

Title I of this Book prescribes power of control of the President, ordinance power, power over aliens (such as power to deport, power to change non-immigrant status of aliens, etc.), power of eminent domain, escheat, power to reserve lands of the public domain and power of appointment.

Title II denotes positions in organization and Office of the President Proper.

Title III prescribes functions of the President, the Executive Office, staff support and presidential assistant and advisors.

Book IV: The Executive Branch

Book IV is an important part because it comprises of the provisions that categorize public administration of the Philippines. It denotes various agencies including details of each which are related to executive branch, starting with executive departments, secretaries, assistant secretaries, department services, power and duties of heads of bureaus or offices, administrative relationship and relationship between government agencies including appointments and qualifications. There are 18 primary executive Departments (Title I to XVIII) which are (1) Department of Foreign Affairs; (2) Department of Finance; (3) Department of Justice; (4) Department of Agriculture; (5) Department of Public Works and Highways; (6) Department of Education, Culture and Sports; (7) Department of Labor and Employment; (8) Department of National Defense; (9) Department of Health; (10) Department of Trade and Industry; (11) Department of Agrarian Reform; (12) Department of Local Government; (13) Department of Tourism; (14) Department of Environment and Natural Resources; (15) Department of Transportation and Communications; (16) Department of Social Welfare and Development; (17) Department of Budget and Management; (18) Department of Science and Technology.

⁶⁰³ Book II, Section 1 of the Administrative Code of 1987.

However, some Departments have their own specific Republic Acts-level laws that are enforced as establishment laws which were promulgated after the Administrative Code. Therefore, organization of those departments shall abide by the latest and specific laws, whereas the provisions of the Administrative Code are still enforceable to the extent that is not contrary to the provisions of the establishment laws of each department.

Departments which have their own specific establishment laws that were promulgated after the Administrative Code was enforced (after July 25, 1987) are:

(1) Department of Education, which was former named Department of Education, Culture and Sport, is under Republic Act No. 9155, dated August 11, 2001. (see more detail in 5.1.2)

(2) Department of Health is under Executive Order No. 102, s. 1999 which was enforceable on May 24, 1999. (see more detail in 5.1.3)

(3) Department of Interior and Local Government, which was former named Department of Local Government, is under Republic Act No. 6975, dated December 13, 1990. (see more detail in 5.1.7)

(4) Department of Tourism is under Republic Act No. 9593, dated May 13, 2009.

(5) Department of Transportation was former named Department of Transportation and Communications because work section of communications was later transferred to Department of Information and Communications Technology which was established by virtue of Republic Act No. 10844, enforceable on June 9, 2016, after the enforcement of the Administrative Code. (see more detail in 5.1.4)

(6) Department of Energy, which was established after the enforcement of the Administrative Code, is under Republic Act No. 7638. It was signed and promulgated on December 9, 1992. (see more detail in 5.1.8)

In addition, there are some Departments that have their establishment laws before the Administrative Code was enforced. Although the Administrative Code has been enforced, the former establishment laws are still enforceable to the extent that is not contrary to the Administrative Code, viz:

(1) Department of Finance is under Executive Order No. 127, 127-A, s. 1987, which was enforceable on January 30, 1987.

(2) Department of Agriculture is under Executive Order No. 116, which was enforceable on January 30, 1987.

(3) Department of Public Works and Highways is under Executive Order No. 124, s. 1987, which was enforceable on January 30, 1987.

(4) Department of Labor and Employment is under Executive Order No. 126, which was enforceable on January 31, 1987.

(5) Department of National Defense is under Executive Order No. 230, s. 1939, which was enforceable on October 31, 1939. It implemented National Defense Act or known as Commonwealth Act No. 1.

(6) Department of Trade and Industry is under Executive Order No. 133, s. 1987, which was enforceable on February 27, 1987.

(7) Department of Agrarian Reform is under Republic Act No. 6389, which was enforceable on September 10, 1970.

(8) Department of Environment and Natural Resource is under Executive Order No. 192, s. 1987, which was enforceable on June 10, 1987.

(9) Department of Science and Technology is under Executive Order No. 128, s. 1987, which was enforceable on January 30, 1987.

Title I on Department of Foreign Affairs prescribes that the Department has duty to pursue foreign policy and relations with other states⁶⁰⁴ including to plan, organize and evaluate the and evaluating the effort in the policy of foreign relations.⁶⁰⁵ It shall maintain good relationship and representation in other countries or international organizations that have international relation with the Philippines such as United Nations, ASEAN, etc. The Department also has duty to negotiate international treaties, promote trade, investment, tourism, economic relation with other countries, foster cultural relations, assist Philippine nationals abroad, carry out documentation functions abroad, etc.⁶⁰⁶ Its organizational structure is comprised of Department Proper which is composed of the Offices of the Secretary, the Offices of the Undersecretaries, the Offices of the Assistant Secretaries

⁶⁰⁴ Book IV, Title I, Section 1 of the Administrative Act of 1987.

⁶⁰⁵ Book IV, Title I, Section 2 of the Administrative Act of 1987.

⁶⁰⁶ Book IV, Title I, Section 3 of the Administrative Code of 1987.

and the Home Offices,⁶⁰⁷ including the Philippine Embassies, Consulates, Legations and Permanent Missions,⁶⁰⁸ Department Services⁶⁰⁹ and related Board of Foreign Service⁶¹⁰ as processing units.

Section 29 to Section 34 of Chapter 9 cover positioning and personnel administration. Section 35 to Section 38 of Chapter 10 cover appointments, compensation and benefits. Section 39 to Section 42 of Chapter 11 cover promotions, while assignments and transfer are covered by Section 43 to Section 47 of Chapter 12.

Provisions regarding passport is specifically prescribed in Section 48 to Section 54 of Chapter 13 (see more detail in 5.7.2).

Title II on Department of Finance prescribes that the Department of Finance shall be responsible for (1) sound and efficient management of the financial resources of the Government, its subdivisions, agencies and instrumentalities;⁶¹¹ (2) the formulation, institutionalization and administration of fiscal policies in coordination with other concerned subdivisions, agencies and instrumentalities of government; (3) generation and management of the financial resources, ensuring their sufficiency for implementation of policy and development objectives; (4) the review, approval and management of all public sector debt, whether foreign or domestic, with the end in view of ensuring that all borrowed funds are effectively utilized;⁶¹² (5) formulation of long-range, medium-term and annual plans covering the government's resources mobilization efforts, in coordination with other concerned government agencies; (6) formulation, institutionalization and administration of fiscal and tax policies; (7) supervision, direction and control the collection of government revenues; (8) undertaking and supervision on activities related to the negotiation, servicing and restructuring of domestic and foreign debt which affect the country's financial capacity; (9) coordination with other government agencies on

⁶⁰⁷ The detail is in Section 5 to Section 9 of Chapter 2.

⁶⁰⁸ Book IV, Title I, Section 4 of the Administrative Code of 1987.

⁶⁰⁹ The detail is in Section 10 to Section 14 of Chapter 3.

⁶¹⁰ The detail is in Section 10 to Section 14 of Chapter 4 and 5.

⁶¹¹ Book IV, Title II, Section 1 of the Administrative Code of 1987.

⁶¹² Book IV, Title II, Section 2 of the Administrative Code of 1987.

matters concerning fiscal and monetary policies, credit, economic development, international finance, trade and investment, etc.⁶¹³ Its organizational structure is comprised of Department Proper which is composed of the Offices of the Secretary, the Offices of the Undersecretaries, the Offices of the Assistant Secretaries, Economic Intelligence and Investigation Bureau, including Operation Groups and Regional Office,⁶¹⁴ Department Services⁶¹⁵ and Attached Agencies⁶¹⁶ as processing units.

Title III on Department of Justice prescribes that the Department of Justice shall provide the government with a principal law agency which shall be both its legal counsel and prosecution arm; administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system; implement the laws on the admission and stay of aliens, citizenship, land titling system, and settlement of land problems involving small landowners and members of indigenous cultural minorities; and provide free legal services to indigent members of the society.⁶¹⁷

Organizational Structure of the Department is composed of Department Proper, Office of the Government Corporate Counsel, National Bureau of Investigation, Public Attorney's Office, Bureau of Corrections, Land Registration Authority, Commission on the Settlement of Land Problems, etc.⁶¹⁸ The detail on structure, powers and functions of each agencies is in Chapter 2 to 12 which are composed of 33 provisions, from Section 5 to Section 37 (see more detail in 5.1.6).

Title IV on Department of Agriculture prescribes that the Department has duty to promote the well-being of farmers, including share tenants, leaseholders, settlers, fishermen, and other rural workers by providing an environment in which they can increase their income, improve their living conditions, and maximize their contributions to

⁶¹³ Book IV, Title II, Section 3 of the Administrative Code of 1987.

⁶¹⁴ Book IV, Title II, Section 4 of the Administrative Code of 1987.

⁶¹⁵ The detail is in Section 8 to Section 15 of Title II, Chapter 3.

⁶¹⁶ The detail is in Section 42 to Section 43 of Title II, Chapter 6.

⁶¹⁷ Book IV, Title III, Section 1 and Section 3 of the Administrative Act of 1987.

⁶¹⁸ Book IV, Title III, Section 1 and Section 4 of the Administrative Act of 1987.

the national economy. Toward this end, the State shall accelerate agricultural development and enhance the production of agricultural crops, fisheries, and livestock by optimizing the use of resources and by applying modern farming systems and technology in order to attain food security for domestic use and expand and diversify agricultural production for export. It shall also encourage private initiative in agri-business ventures both in the production and in the exportation and importation of food and other allied commodities.⁶¹⁹

Section 2 prescribes that the Department is the government agency responsible for the promotion of agricultural development by providing (1) the policy framework; (2) public investments; and (3) support services needed for domestic and export-oriented business enterprises.⁶²⁰

Beside the aforementioned duties, the Department also has duty to integrally manage agriculture of the country on production, utilization, conservation, and disposition of agricultural and fishery resources. It is responsible for the planning, formulation, execution, regulation, and monitoring of programs and activities relating to agriculture, food production and supply; conservation and proper utilization of agricultural and fishery resources. It has power to establish central and regional information systems to serve the production, marketing, and financing data requirements of the farmers as well as investors in agribusiness ventures by conducting research studies on appropriate technologies for the improvement and development of agricultural crops, fisheries, and other allied commodities; or coordinate with other related agencies for successful and holistic work.⁶²¹

Organizational structure of the Department of Agriculture is composed of (1) Department Proper which consists of Office of the Secretary, the Offices of the Undersecretaries and Assistant Secretaries; (2) Regional Office; (3) Provincial, Municipal and Barangay Offices; and (4) Bureaus, which are divided by their responsible task such as the Production Group, Research, Training and Extension Group, Planning and

⁶¹⁹ Book IV, Title IV, Section 1 of the Administrative Code of 1987.

⁶²⁰ Book IV, Title IV, Section 2 of the Administrative Code of 1987.

⁶²¹ Book IV, Title IV, Section 3 of the Administrative Code of 1987.

Monitoring Group.⁶²² The detail on structure framework, powers and functions of each agencies are in Section 5 to Section 49 of Chapter 2 to Chapter 6.

Title V on Department of Public Works and Highways prescribes that the Department shall be the State's engineering and construction arm which has duty to (1) develop its technology, for the purposes of ensuring the safety of all infrastructure facilities and securing for all public works and highways; (2) plan, design, construct and maintain infrastructure facilities, especially national highways, flood control and water resources development systems, and other public works.⁶²³ Accordance to Section , the Department has power to (1) develop and implement effective codes, standards, and reasonable guidelines to ensure the safety, quality and efficiency of all public and private structures in the country; (2) ascertain that all public works plans and project implementation designs are consistent with current standards and guidelines; (3) provide the works supervision function for all public works constructions and ensure that actual construction is done in accordance with approved government plans and specifications; (4) Maintain all highways, flood control, and other public works throughout the country except those that are the responsibility of other agencies as directed by the President of the Philippines; (5) provide an integrated planning for highways, flood control and water resource development systems; (6) classify road and highways into national, regional, provincial, city, municipal, and barangay roads and highways to achieve the goal of the objectives; (7) delegate powers and functions to any related agency.⁶²⁴

The Department of Public Works and Highways shall have organizational structure that is composed of (1) Department Proper which contains the Office of the Secretary, the Offices of the Undersecretaries and Assistant Secretaries, the Internal Audit Service, Monitoring and Information Service, Planning Service, Comptrollership and Financial Management Service, Legal Service, and the Administrative and Manpower Management Service; (2) other bureaus including the Bureau of Research and Standards, Bureau of Design, Bureau of Construction, Bureau of Maintenance, and Bureau of Equipment; and

⁶²² Book IV, Title IV, Section 4 of the Administrative Code of 1987.

⁶²³ Book IV, Title V, Section 1 of the Administrative Code of 1987.

⁶²⁴ Book IV, Title V, Section 3 of the Administrative Act of 1987.

(3) Field Offices which is composed of 14 Regional Offices, divided into 12 Regions and District Offices.⁶²⁵ The detail on structure framework, powers and functions of each agencies is in accordance with Section 5 to Section 25 of Chapter 2 to Chapter 6 (see more detail in 5.1.10).

Title VI on Department of Education, Culture and Sports prescribes that the Department shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all. It also has duty to (1) establish, maintain and support a complete, adequate, and integrated system of education relevant to the needs of the people and society; (2) establish and maintain a system of free public education in the elementary and high school levels, without limiting the natural right of parents to rear their children; (3) establish and maintain a system of scholarship grants, student loan programs, subsidies, and other incentives which shall be available to deserving students in both public and private schools, especially to the underprivileged; (4) encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs; and (5) provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills.⁶²⁶

Section 2 prescribes that the Department shall be responsible for the formulation, planning, implementation and coordination of the policies, plans, programs and projects in the areas of formal and non-formal education at all levels, supervise all educational institutions, both public and private, and provide for the establishment and maintenance of a complete, adequate and integrated system of education relevant to the goals of national development.⁶²⁷

In addition, the Department of Education, Culture and Sports also has power of formulating, planning, implementing and coordinating the policies, plans, programs and projects for elementary, secondary, physical and international education, non-formal and

⁶²⁵ Book IV, Title V, Section 4 of the Administrative Act of 1987.

⁶²⁶ Book IV, Title VI, Section 1 of the Administrative Act of 1987.

⁶²⁷ Book IV, Title VI, Section 2 of the Administrative Act of 1987.

vocational or technical education, higher education and development of culture in order to achieve the aforementioned objectives.⁶²⁸ Its organizational structure is composed of Department Proper in the department as core processing unit, including Bureaus and Regional Offices as support units.⁶²⁹

The detail on structure framework, powers and functions of each agencies is in accordance with Section 5 to Section 29 of Chapter 2 to Chapter 9. However, in present, the Department of Education, established by virtue of Republic Act No. 9155, is the principle agency that is responsible for education in the Philippines (see more detail in 5.1.2).

Title VII on Department of Labor and Employment prescribes that the Department has duty to (1) afford full protection to labor and promote full employment and equality of employment opportunities for all by protecting the right to work, collective bargaining negotiations, and peaceful concerted activities, including the right to strike in accordance with law; (2) promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes; and (3) regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.⁶³⁰

The Department shall also be responsible for (1) the promotion of employment opportunities and the optimization and utilization of the country's manpower resources; (2) the advancement of workers' welfare on working conditions and terms of employment; and (3) the maintenance of industrial peace by promoting harmonious, equitable, and stable employment relations between workers and employers.⁶³¹ The Department also has power to (1) enforce social and labor legislation to protect the working class; (2) regulate the relations between the worker and his employer; (3) regulate the employment of aliens, including the enforcement of a registration or work permit system; (4) formulate general

⁶²⁸ Book IV, Title VI, Section 3 of the Administrative Act of 1987.

⁶²⁹ Book IV, Title VI, Section 4 of the Administrative Act of 1987.

⁶³⁰ Book IV, Title VII, Section 1 of the Administrative Act of 1987.

⁶³¹ Book IV, Title VII, Section 2 of the Administrative Act of 1987.

guidelines concerning wage and income policy and recommend necessary adjustments in wage structures that is consistent with national economic and social development plans; and (5) perform such other functions to accomplish the aforementioned duties and objectives;⁶³² through the Office of the Secretary, the Office of Undersecretaries, the Office of Assistant Secretaries and Bureaus, including Regional Offices which are the main processing units.⁶³³

The detail on structure framework, powers and functions of each units is in accordance with Section 5 to Section 25 of Chapter 2 to Chapter 6.

Title VIII on Department of National Defense prescribes that the Department has the prime duty to (1) serve and protect the people in which the government may call upon the people to defend the State under conditions provided by law, with the principle stating that civilian authority is, at all times, supreme over the military and the Armed Forces of the Philippines is the protector of the people and the State to secure the sovereignty of the State and the integrity of the national territory;⁶³⁴ and (2) establish and maintain the military force to maximize its effectiveness for guarding against external and internal threats to national peace and provide support for social and economic development.⁶³⁵ National Security Council shall be established to serve as the lead agency of the government for coordinating the formulation of policies, relating to the national security.⁶³⁶ It has power to advise the President with respect to the integration of domestic, foreign, military, political, economic, social, and educational policies relating to the national security; (2) evaluate and analyze all information, events, and incidents in terms of the risks that may threaten the overall security the nation, for the purpose of recommending to the President appropriate action; (3) insure that policies on national security are efficiently implemented; and (4) make recommendations or advice as the President may

⁶³² Book IV, Title VII, Section 3 of the Administrative Act of 1987.

⁶³³ Book IV, Title VII, Section 4 of the Administrative Act of 1987.

⁶³⁴ Book IV, Title VIII, Section 1 of the Administrative Act of 1987.

⁶³⁵ Book IV, Title VIII, Section 15 of the Administrative Act of 1987.

⁶³⁶ Book IV, Title VIII, Section 3 of the Administrative Act of 1987.

from time to time require.⁶³⁷ General Military Council is established to advise and assist the Secretary of National Defense in the formulation of military policies and consider and report on such other matters as the Secretary may direct.⁶³⁸

The Organizational structure of the Department of National Defense is composed of the Office of the Secretary, the Office of the Undersecretary, the Office of the Assistant Secretary and other related personnel as prescribed by law.⁶³⁹

The detail on structure framework, powers and functions of each agencies is in accordance with Section 9 to Section 71 of Chapter 2 to Chapter 12 (see more detail in 5.7.1).

Title IX on Department of Health prescribes that the Department has principle duty to (1) protect and promote the right to health of the people; (2) adopt an integrated and comprehensive approach to health development, with priority for the underprivileged sick, elderly, disabled, women and children; (3) endeavor to make essential goods, health and other social services available to all the people at affordable cost; (4) establish and maintain an effective food and drug regulatory system; (5) undertake appropriate health manpower development and research, responsive to the country's health needs and problems;⁶⁴⁰ and (6) formulate, plan, implement, and coordinate on policies and programs in the field of health.⁶⁴¹

The Department of Health shall have power under Section 3 to (1) implement framework and present a national health plan that is consistent with the government's policies and plans; (2) provide for health programs as may be needed, subject to availability of funds and administrative rules and regulations; (3) coordinate with local communities, agencies and interested groups including international organizations in activities related to health; (4) administer all laws, rules and regulations in the field of health, including quarantine laws and food and drug safety laws; (5) collect and analyze

⁶³⁷ Book IV, Title VIII, Section 5 of the Administrative Act of 1987.

⁶³⁸ Book IV, Title VIII, Section 16 of the Administrative Act of 1987.

⁶³⁹ Book IV, Title VIII, Section 18 of the Administrative Act of 1987.

⁶⁴⁰ Book IV, Title IX, Section 1 of the Administrative Act of 1987.

⁶⁴¹ Book IV, Title IX, Section 2 of the Administrative Act of 1987.

relevant information on the country's health situation, propagate health information and educate the population on health; (6) undertake health and medical research and conduct training in support of its programs or activities; (7) regulate the operation of and issue licenses and permits to government and private hospitals, clinics and dispensaries, blood banks and such other establishments; and (8) issue orders and regulations concerning the implementation of established health policies.⁶⁴²

The Department of Health has organizational structure that composed of Department Proper in the Department as a core processing unit and National Health Facilities, Regional Offices, Provincial Health Offices, District Health Offices and Local Health Agencies as support units.⁶⁴³ The detail on structure framework, powers and functions of each agencies shall be in accordance with Section 5 to Section 25 of Chapter 2 to Chapter 6 (see more detail in 5.1.3).

Title X on Department of Trade and Industry prescribes that the Department has duty to (1) develop a self-reliant and independent national economy effectively controlled by Filipinos by recognizing the indispensable role of the private sector, encouraging private enterprise, and provides incentives to needed investments; (2) promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets and protect Filipino enterprises against unfair foreign competition and trade practices; (3) pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality; (4) regulate and prohibit monopolies and unfair trade practice when the public interest so requires and the state shall protect consumers from trade malpractices and from substandard or hazardous products.⁶⁴⁴

Section 2 prescribes that the Department shall be the primary coordinative, promotive, facilitative and regulatory arm of the Executive Branch of government in the area of trade, industry and investments and shall also promote and develop an

⁶⁴² Book IV, Title IX, Section 3 of the Administrative Code of 1987.

⁶⁴³ Book IV, Title IX, Section 4 of the Administrative Code of 1987.

⁶⁴⁴ Book IV, Title X, Section 1 of the Administrative Code of 1987.

industrialization program effectively controlled by Filipinos.⁶⁴⁵ The Department has power under Section 3 to (1) formulate and implement policies, plans and programs relative to the development, expansion, promotion and regulation of trade, industry, and investments; (2) consolidate and coordinate all functions and efforts pertaining to the promotion of exports, diversification and decentralization of industries, and development of foreign trade; (3) encourage and promote the growth and expansion of industries which make full use of human and natural resources and which are competitive in domestic and foreign markets; (4) adopt and implement measures to protect Filipino enterprises against unfair foreign competition and trade practices; (5) provide incentives to broaden the base of ownership of large-scale industrial enterprises and accelerate the formulation and growth of small and medium-scale enterprises; (6) regulate the importation of essential consumer and producer items to maintain their fair and competitive prices to end-users; (7) adopt and implement measures to prohibit combinations in restraint of trade and unfair competition; (8) develop the capabilities of domestic industry and upgrade the quality of products according to competitive international standards; (9) formulate the appropriate mechanics to guide and manage industrial technology in the country; (10) formulate country and product export strategies to promote Philippine exports in overseas markets; (11) negotiate and review existing international trade agreements; (12) administratively adjudicate and impose reasonable fines and penalties for violation of existing trade and industry laws.⁶⁴⁶

The Department of Trade and Industry has an organizational structure composing of the Office of the Secretary, Undersecretaries and Assistant Secretaries, national service centers, regional offices, and line corporate agencies and government entities.⁶⁴⁷ The detail on structure framework, powers and functions of each agencies shall be under Section 5 to Section 15 of Chapter 2 to Chapter 9.

Title XI on the Department of Agrarian Reform prescribes that the Department has duty to (1) undertake an agrarian reform program founded on the right of farmers and

⁶⁴⁵ Book IV, Title X, Section 2 of the Administrative Code of 1987.

⁶⁴⁶ Book IV, Title X, Section 3 of the Administrative Code of 1987.

⁶⁴⁷ Book IV, Title X, Section 4 of the Administrative Code of 1987.

regular farmworkers who are landless to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof, in which the State shall recognize the right of farmers, farmworkers, and landowners, as well as cooperatives, and other independent farmers' organizations to participate in the planning, organization and management of the land reform program; (2) provide support to farmers through appropriate technology and research, and through adequate financial, production, marketing, and other support services; (3) provide incentives for voluntary land-sharing to solve problem on shortage of land for farming;⁶⁴⁸ (4) provide central direction and coordination to the national agrarian reform program extended to transform farm lessees and farm tenants into owner-cultivators of economic family-size farms to improve their living conditions; (5) formulate and implement policies, plans and programs for the distribution and cultivation of all agricultural lands with the participation of farmers, farmworkers, landowners, cooperatives.⁶⁴⁹

The Department of Agrarian Reform shall have power under Section 3 to Implement laws, programs and policies to fulfil the aforementioned duties which include power to (1) assess land value, divide, develop , dispose of and distribute lands; (2) provide free legal assistance to farmers covered by agrarian reform and expedite the resolution of agrarian conflicts; (3) undertake land surveys on lands covered by agrarian reform, and issue patents to farmers covered by agrarian reform, both on private and public lands; (4) develop, implement and undertake alternative and innovative land development schemes and land tenure system (5) approve or disapprove conversion of agricultural lands to non-agricultural uses such as residential and industrial conversions in accordance with the existing provisions of law; (6) compensate the landowners covered by agrarian reform; (7) Integrate and synchronize program implementation of the Land Bank of the Philippines and other relevant civilian and military government and private entities to accomplish the agrarian reform objective.⁶⁵⁰

Organizational structure of the Department of Agrarian Reform is composed of the

⁶⁴⁸ Book IV, Title XI, Section 1 of the Administrative Code of 1987.

⁶⁴⁹ Book IV, Title XI, Section 2 of the Administrative Code of 1987.

⁶⁵⁰ Book IV, Title XI, Section 3 of the Administrative Act of 1987.

Office of the Secretary, Undersecretaries, Assistant Secretaries and the Services, the Regional Offices, the Provincial Offices, and the Team Offices.⁶⁵¹ The detail on structure framework, powers and functions of each units shall be in accordance with Section 5 to Section 21 of Chapter 2 to Chapter 5.

Title XII on the Department of Local Government prescribes that the Department has duty to (1) ensure the autonomy of local governments through a system of decentralization; (2) promote the allocation of powers and resources to local government units and encourage inter-local government grouping, consolidation and coordination of resources; (3) justly and sufficiently allocate budget from national taxes to local governments⁶⁵² and (4) advise the President on the general supervision of local government units⁶⁵³ on the promulgation of policies, rules, regulations and other issuances.

The Department of Local Government shall have power to proceed any tasks under the duty framework prescribed in previous paragraph, in addition, it also has power to (1) establish and prescribe plans, policies, programs and projects to strengthen the administrative, technical and fiscal capabilities of local government offices; and (2) formulate and implement policies, plans, programs and projects to meet national and local emergencies arising from natural and man-made disasters.⁶⁵⁴

The Department of Local Government has an organizational structure that is composed of the Office of the Secretary and Line Offices which are composed of (1) Bureau of Local Government Supervision; (2) Bureau of Local Government Development; (3) National Barangay Operations Office; (4) Project Development Services; (5) Department Services; (6) Office of Public Affairs; and (7) Regional and Field Offices.⁶⁵⁵ The detail on structure framework, powers and functions of each units shall be in accordance with Section 5 to Section 19 of Chapter 2 to Chapter 6. However, the

⁶⁵¹ Book IV, Title XI, Section 4 of the Administrative Act of 1987.

⁶⁵² Book IV, Title XII, Section 1 of the Administrative Act of 1987.

⁶⁵³ Book IV, Title XII, Section 2 of the Administrative Act of 1987.

⁶⁵⁴ Book IV, Title XII, Section 3 of the Administrative Act of 1987.

⁶⁵⁵ Book IV, Title XII, Section 4 of the Administrative Code of 1987.

Department of Local Government merged with the Department of Interior and became the Department of Interior and Local Government in 1990 (see more detail in 5.1.7).

Title XIII on the Department of Tourism prescribes that the Department has power to (1) promote, encourage and develop tourism as a major national activity in which private sector investment are fostered and supported, and through which socio-economic development may be accelerated which generate foreign currency from foreigners and Filipinos themselves and create employment and spread the benefits of tourism to a wider segment of the population;⁶⁵⁶ (2) formulate policies, plans, programs and projects for the development of the tourism industry; (3) administer, coordinate and supervise all activities of the Government concerning tourism; (4) Advise the President on the promulgation of laws relative to the policy, plans, programs and projects designed to promote and develop the tourism industry; (5) effect the removal of unnecessary barriers to travel, the integration and simplification of travel regulations as well as their efficient, fair and courteous enforcement to assure expeditious and hospitable reception of all tourists and travelers; (6) represent the government in all such conferences and meetings including making treaties, agreements and other commitments on tourism; (7) formulate standards for tourism-oriented establishments that will prescribe minimum levels of operating quality and efficiency in order to ensure that facilities, personnel and services are maintained in accordance with acceptable local and international norms in the operations of tourism-oriented establishments; (8) approve the construction standards of accredited tourism-oriented establishments including hotels, resorts, inns, motels and other related facilities and services; (9) provide the protection, maintenance and preservation of historical, cultural and natural assets which are tourist attractions with the appropriate government agencies or with the private sector; (10) undertake research studies and surveys for the continuing analysis of economic conditions and trends relating to tourism; (11) maintain a statistical data bank on the tourism industry; (12) design programs to encourage private-sector investment and participation in tourism activities and projects; (13) set up and organize foreign field offices for the purpose of overseeing all marketing and promotional activities and implementing programs on tourism; (14) arrange, whenever deemed

⁶⁵⁶ Book IV, Title XIII, Section 1 and Section 2 of the Administrative Code of 1987.

appropriate, for the reclamation of any land adjacent to or adjoining a tourist zone in coordination with appropriate government agencies.⁶⁵⁷

The Organizational structure of the Department of Tourism is composed of Department Proper, consisting of the Office of the Secretary, Undersecretaries and Assistant Secretaries as core units, undertaking plan and development on policies and projects of the Department, while Department Services, Bureaus and Offices, Regional and Foreign Offices function as support units.⁶⁵⁸

The detail on structure framework, powers and functions of the aforementioned units is in accordance with Section 5 to Section 21 of Chapter 2 to Chapter 6.

Title XIV on the Department of Environment and National Resources prescribes that the Department has duty to (1) explore and develop as well as dispose of, utilize, manage, renew and conserve the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources, consistent with the necessity of maintaining a sound ecological balance and protecting and enhancing the quality of the environment for the benefit of the Filipino people; (2) recognize and apply a true value system that takes into account social and environmental cost implications relative to the utilization, development and conservation of our natural resources;⁶⁵⁹ (3) control and supervise the exploration, development, utilization, and conservation of the country's natural resources;⁶⁶⁰ (4) assure the availability and sustainability of the country's natural resources through judicious use and systematic restoration or replacement; (5) increase the productivity of natural resources in order to meet the demands for the products from forest, mineral, land and water resources of a growing population; (6) enhance the contribution of natural resources for achieving national economic and social development; (7) promote equitable access to natural resources by the different sectors of the population; and (8) conserve specific terrestrial and marine areas representative of the

⁶⁵⁷ Book IV, Title XIII, Section 3 of the Administrative Code of 1987.

⁶⁵⁸ Book IV, Title XIII, Section 4 of the Administrative Code of 1987.

⁶⁵⁹ Book IV, Title XIV, Section 1 of the Administrative Code of 1987.

⁶⁶⁰ Book IV, Title XIV, Section 2 of the Administrative Code of 1987.

Philippine natural and cultural heritage for present and future generations.⁶⁶¹

The Department of Environment and Natural Resources shall have power under Section 4 to (1) advise the President and the Congress on the enactment of laws relative to the exploration, development, use, regulation and conservation of the country's natural resources and the control of pollution; (2) formulate, implement and supervise the implementation of the government's policies, plans and programs pertaining to the management, conservation, development, use and replenishment of the country's natural resources; (3) promulgate rules and regulations in accordance with law governing the exploration, development, conservation, extraction, disposition, use and such other commercial activities tending to cause the depletion and degradation of our natural resources; (4) exercise supervision and control over forest lands, alienable and disposable public lands, mineral resources and, in the process of exercising such control, impose appropriate taxes, fees, charges, rentals and any such form of levy; (5) promote proper and mutual consultation with the private sector on matters involving natural resources exploration, development, use and conservation; (6) undertake geological surveys of the whole country including its territorial waters; (7) issue licenses and permits for activities related to the use and development of aquatic resources, treasure hunting, salvaging of sunken vessels and other similar activities; (8) establish policies and implement programs for the promotion, development and expansion of natural resource-based industries and people participation and private initiative in rural resource management; (9) assess, review and provide direction to, in coordination with concerned government agencies, energy research and development programs; (10) promulgate rules and regulations for the control of water, air and land pollution; (11) promulgate ambient and effluent standards for water and air quality; (12) Promulgate policies, rules and regulations for the conservation of the country's genetic resources and endangered habitats; (13) Formulate an integrated National Conservation Strategy.⁶⁶²

The organizational structure of the Department of Environment and Natural Resource is composed of Department Proper, the Staff Offices, the Staff Bureaus, and the

⁶⁶¹ Book IV, Title XIV, Section 3 of the Administrative Code of 1987.

⁶⁶² Book IV, Title XIV, Section 4 of the Administrative Code of 1987.

Regional Offices, Provincial Offices and Community Offices as core units.⁶⁶³ The detail on structure framework, powers and functions of such units shall be in accordance with Section 6 to Section 23 of Chapter 2 to Chapter 5 (see more detail in 5.1.5).

Title XV on the Department of Transportation and Communications prescribes that the Department has duty to (1) maintain and expand viable, efficient, fast, safe and dependable transportation and communications systems for national economic progress, especially in those areas where private initiatives are inadequate or non-existent;⁶⁶⁴ (2) create policy, plan, program, coordinate, implement and regulate transportation and communications system as an administrative entity of the Executive Branch of the government;⁶⁶⁵ (3) formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional and local levels; (4) establish and administer comprehensive and integrated programs for transportation and communications by cooperating with public and private agencies and organizations; (5) assess, review and provide direction to transportation and communications research and development programs of the government in coordination with other institutions concerned; (6) administer and enforce all laws, rules and regulations in the field of transportation and communications; (7) coordinate with the Department of Public Works and Highways in the design, location, development, rehabilitation, improvement, construction, maintenance and repair of all infrastructure projects and facilities of the Department and may authorized government corporate entities attached to the Department to undertake specialized telecommunications, ports, airports and railways projects and facilities as directed by the President of the Philippines or as provided by law; (8) Establish, operate and maintain a nationwide postal system that shall include mail processing, delivery services and money order services; (9) issue certificates of public convenience for the operation of public land and rail transportation utilities and services; (10) establish and prescribe rules and regulations for identification of routes, zones or

⁶⁶³ Book IV, Title XIV, Section 5 of the Administrative Code of 1987.

⁶⁶⁴ Book IV, Title XV, Section 1 of the Administrative Code of 1987.

⁶⁶⁵ Book IV, Title XV, Section 2 of the Administrative Code of 1987.

areas of operation of particular operators of public land services; (11) establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle drivers, conductors and airmen; (12) Establish and prescribe the corresponding rules and regulations for enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof; (13) Determine, fix or prescribe charges or rates pertinent to postal services and to the operation of public air and land transportation utility facilities and services; and so on.⁶⁶⁶

The organizational structure of the Department of Transportation and Communications is composed of Department Proper, the Department Regional Offices, the Land Transportation Franchising and Regulatory Board, and the Attached Agencies.⁶⁶⁷ The detail on structure framework, powers and functions of each units shall be in accordance with Section 5 to Section 24 of Chapter 2 to Chapter 6. However, the name of the Department was changed to the Department of Transportation after communication unit was transferred to the Department of Information and Communications Technology in 2016 (see more detail in 5.1.4).

Title XVI on the Department of Social Welfare and Development prescribes that the Department shall have duty to (1) care, protect, and rehabilitate individuals, families and communities which have the least in life and need social welfare assistance and social work intervention to restore their normal functioning and enable them to participate in community affairs.⁶⁶⁸ (2) provide a balanced approach to welfare whereby the needs and interests of the population are addressed not only at the outbreak of crisis but more importantly at the stage which would inexorably lead to such crisis, including to care for, protect and rehabilitate the physically and mentally handicapped; provide an integrated welfare package to its constituents on the basis of their needs and coordinate the service facilities required from such departments or agencies, governmental and non-governmental; advocate for policies and measures addressing social welfare concerns;⁶⁶⁹

⁶⁶⁶ Book IV, Title XV, Section 3 of the Administrative Code of 1987.

⁶⁶⁷ Book IV, Title XV, Section 4 of the Administrative Code of 1987.

⁶⁶⁸ Book IV, Title XVI, Section 1 of the Administrative Code of 1987.

⁶⁶⁹ Book IV, Title XVI, Section 2 of the Administrative Code of 1987.

(3) Formulate, develop and implement plans, programs and projects in the field of social welfare and development; (4) Adopt policies to ensure effective implementation of programs for public and private social welfare services; (5) Promote, support and coordinate the establishment, expansion and maintenance of non-government social welfare facilities, projects and services; (6) Establish, operate, maintain and otherwise support institutional facilities, projects and services for its constituents; (7) Promote, build and strengthen people's organizations for a self-directing welfare system at the grassroots level; (8) Promote, support and coordinate networks and facilities for the identification and delivery of appropriate interventions to its welfare constituents; (9) Accredite institutions and organizations engaged in social welfare activities and provide consultative and information services to them; (10) Undertake researches and studies on matters pertaining to its constituency; (11) Initiate, promote and maintain bilateral and multi-lateral linkages for technical cooperation, in coordination with the Department of Foreign Affairs; (12) Provide advisory services and develop and implement training standard and programs for personnel, social workers and students and third-country participants for career and staff development in social welfare activities; (13) Disseminate information and publish technical bulletins on social welfare and development; (14) Deputize law enforcement agencies to assist in the implementation of laws, rules and regulations for the protection of the rights of the exploited, abused and disadvantaged; (15) Regulate fund drives, public solicitations and donations for charitable or welfare purposes; (16) Set standards, accredit and monitor performance of all social welfare activities in both public and private sectors; (17) Exercise functional and technical supervision over social workers in other government settings or agencies like courts, hospitals, schools and housing projects; (18) Deputize local government units and other agencies of government as are necessary in providing disaster relief; (19) Coordinate all activities pertaining to the implementation of programs and services for the disabled, the aging and other socially disadvantaged; and (20) Perform such other functions as may be provided by law.⁶⁷⁰

The organizational structure of the Department of Social Welfare and Development shall be composed of the Department Proper, the Office of the Secretary, the Offices of

⁶⁷⁰ Book IV, Title XVI, Section 2 of the Administrative Code of 1987.

the Undersecretaries and Assistant Secretaries as core units, while Bureaus, Regional Offices, Provincial/City Offices and Municipal/District Offices are support units.⁶⁷¹ The detail on structure framework, powers and functions of the aforementioned units shall be in accordance with Section 5 to Section 26 of Chapter 2 to Chapter 10 (see more details in 5.1.11).

Title XVII on the Department of Budget and Management prescribes that the Department shall have duty to (1) formulate and implement the national budget as an instrument of national development, reflective of national objectives and plans; supportive of and consistent with the socio-economic development plans within the context of a regionalized governmental structure; (2) efficiently and soundly utilize government funds and revenues to effectively achieve our country's development objectives.⁶⁷² The Department also has duty to assist the President in the preparation of a national resources and expenditures budget; and has power to prepare, execute and control the National Budget, prepare and maintain accounting systems essential to the budgetary process, assess organizational effectiveness and review and evaluate legislative proposals having budgetary implications.⁶⁷³

The organizational structure of the Department of Budget and Management is composed of the Department Proper, the Office of the Secretary, Undersecretaries and Assistant Secretaries as core units, while other Services and Bureaus function as support units. The detail on structure framework, powers and functions shall be in accordance with Section 4 to Section 12 of Chapter 2 to Chapter 4.

Title XVIII on the Department of Science and Technology prescribes that the Department has duty to (1) support and encourage local scientific and technological efforts that address national and local problems and positively contribute to national development; (2) promote the development of local capability in science and technology to achieve technological self-reliance; (3) support and encourage public and private sector partnership aimed at accelerating self-reliance; (4) encourage and support private

⁶⁷¹ Book IV, Title XVI, Section 2 of the Administrative Code of 1987.

⁶⁷² Book IV, Title XVII, Section 1 and Section 2 of the Administrative Code of 1987.

⁶⁷³ Book IV, Title XVII, Section 3 of the Administrative Code of 1987.

sector initiatives in science and technology and provide the necessary incentives and assistance to enable the private sector to take increasing responsibility and a greater role in the country's research and development efforts;⁶⁷⁴ (5) provide central direction, leadership and coordination of scientific and technological efforts for social and economic development; (6) formulate and implement policies, plans, programs and projects for the development of science and technology for both the public and private sectors; (7) review the state and needs of science and technology in the context of the country's developmental goals;⁶⁷⁵ (8) formulate and adopt a comprehensive National Science and Technology Plan including specific goals, policies, plans, programs and projects based on the recommendation of the Inter-Council Review Board and, upon approval by the President, monitor and coordinate its funding and implementation by all government agencies and instrumentalities; (9) promote the development of indigenous technology and adaptation and innovation of suitable imported technology and in this regard, undertake technology development up to the commercial state, preferably in joint venture with the private sector or with public agencies; (10) promote, assist and where appropriate undertake the transfer of the results of scientific and technological research and development, to their end-users; (11) promote, assist and where appropriate undertake technological services needed by agriculture, industry, transport and the general public; (12) develop and maintain an information system and data-bank on science and technology for use by both the public and private sectors; (13) develop and implement, together with other entities concerned, programs for strengthening scientific and technological capabilities in the relevant discipline through manpower training, in both the public and private sectors; (14) promote public consciousness of science and technology; and so on.⁶⁷⁶

An organizational structure of the Department of Science and Technology is composed of the Office of the Secretary, Undersecretaries and Assistant Secretaries as core units, while the Services, Inter-Council Review Board, Sectoral Planning Councils

⁶⁷⁴ Book IV, Title XVIII, Section 1 of the Administrative Code of 1987.

⁶⁷⁵ Book IV, Title XVIII, Section 2 of the Administrative Code of 1987.

⁶⁷⁶ Book IV, Title XVIII, Section 3 of the Administrative Code of 1987.

and Institutes and Regional Offices function as support units.⁶⁷⁷ The detail of structure framework, powers and functions of the aforementioned units shall be in accordance with Section 5 to Section 35 of Chapter 2 to Chapter 6 (see more detail in 5.1.9).

Book V: Constitutional Commissions and Other Bodies

This Book concerns Civil Service Commission, policies on rights of public officers and employees, the Commission on Audit, Commission on Elections, Commission on Human Rights, Office of the Ombudsman and the National Economic and Development Authority.

Book VI: National Government Budgeting

This Books concerns National budget only, especially the parts on budget preparation and appropriation and allotment of appropriated funds.

Book VII: Administrative Procedure

This Book concerns administrative rules and regulations, adjudication, arbitration, rules of evidence and administrative appeal.

Administrative power is considered a power that has relation with implementation of policy and is enforced by public office as appropriated. It helps the President be able to correct, verify optimize his administration, examine functions in agencies, including issue administrative orders, rules and regulations. This law is considered on of the core structure of administrative reform of the government. It was also designed to fit the need of people.

The Administrative Code of 1987 is the law which prescribes penalty for any public officer who is negligent during performance of duty. It states that any public officer who, (1) without just cause, neglects to perform a duty within a period fixed by law or regulation, or (2) within a reasonable period if none is fixed, shall be liable for damages to the private party concerned without prejudice to such other liability as may be prescribed by law.⁶⁷⁸

Entities which are under the Administrative Code are (1) department, bureau, office, commission, authority or officer of the National Government authorized by law or executive order to make rules, issue licenses, grant rights or privileges, and adjudicate

⁶⁷⁷ Book IV, Title XVIII, Section 4 of the Administrative Code of 1987.

⁶⁷⁸ Book I, Section 38 (2) of the Administrative Code of 1987.

cases; (2) research institutions with respect to licensing functions; (3) government corporations with respect to functions regulating private right, privileges; and (4) officials in the exercise of disciplinary power as provided by law.⁶⁷⁹ Section 3 prescribes that the aforementioned agencies has duty to file with the University of the Philippines Law Center copies of every rule adopted by it within three months from date of effectivity of this Codes. If not, such rules shall not thereafter be the basis of any sanction against any party or persons.⁶⁸⁰

To expedite administrative proceedings involving conflicting rights or claims and obviate expensive litigations, Section 10 prescribes that every agency shall, in the public interest, encourage amicable settlement, compromise and arbitration.⁶⁸¹

Regarding adjudication in administrative case, if final decision of the agency has been made, the party has a right to appeal such decision to the department head by virtue of Section 19. Such appeal shall be made within 15 days after receipt of the decision. The appellate agency shall review the records of the proceedings and may receive additional evidence.⁶⁸²

In addition, the party may exercise the right to appeal such decision to the court under conditions prescribed in Section 25 or the right granted by other laws.

4.1.3 The Official Gazette

“The Official Gazette is the official journal of the Republic of the Philippines.”⁶⁸³ It is used to proclaim contents of laws, executive orders, declarations, court decisions, speeches, reports, announcements, news and information of the Office of the President and government agencies to public which is always up-to-date. It was first used on September 2, 1902 by virtue of Republic Act No. 453 or an Act providing for the publication by the Insular Government of an Official Gazette and Commonwealth Act No.

⁶⁷⁹ Book VII, Section 2 of the Administrative Code of 1987.

⁶⁸⁰ Book VII, Section 3 of the Administrative Code of 1987.

⁶⁸¹ Book VII, Section 10 of the Administrative Code of 1987.

⁶⁸² Book VII, Section 19, Section 20 and Section 22 of the Administrative Code of 1987.

⁶⁸³ Official Gazette, *available at* <http://www.officialgazette.gov.ph/> (last visited January 4, 2016).

638. It was created by Insular Government under supervision of Department of Public Instruction. The Official Gazette was published online since July 26, 2010.⁶⁸⁴

4.1.4 Laws Concerning Information of the Government

On December 14, 2009, the Senate approved the bill of Freedom Information Act which was drafted for the people to be able to gain access to significant public information of any government agencies in accordance with Section 4, in whatever form or format, which may be: (1) knowledge; (2) record; (3) document; (4) paper; (5) report; (6) letter; (7) contract; (8) minutes; (9) transcripts of official meetings; (10) maps; (11) books; (12) photographs; (13) data; (14) research material; (15) film; (16) sound and video recording) (17) magnetic or other tapes; (18) electronic data; (19) computer stored data, etc., or any other like or similar data or material under the control and custody of any government agency pursuant to law, executive order, rules and regulations, or in connection with the performance or transaction of official business by any government agency.⁶⁸⁵

Government agencies under Section 4 have duty to disclose the information and make it accessible for general public so that people are able to (1) scrutinize government agencies and (2) copy and reproduce in the manner provided by this Act.⁶⁸⁶ Any person who wishes to obtain information shall submit a request under Section 9 to the government agency concerned personally by mail, or through electronic means. The request shall state the name and reasonably describe the information required, the reason for the request of the information. The requesting party shall also submit required documents such as a photocopy of identification card or community tax certificate. The government agency shall comply with such request within 7 calendar days from the receipt thereof but such time limit can be extended if it meets any conditions specified in Section 9. However, a government agency has the right to deny the access if it meets the conditions

⁶⁸⁴ *Ibid.*

⁶⁸⁵ Section 4 of Bill of Freedom Information Act, Senate Committee Report No. 534, p.5 (S.B. No. 3308), available at <https://senate.gov.ph/lisdata/1168610296!.pdf> (last visited January 4, 2016).

⁶⁸⁶ Section 6 of Bill of Freedom Information Act.

specified in Section 7, for example, (1) such revelation is unconstitutional; or (2) such revelation will impact public interest; and so on. This Freedom of Information Act is considered the law that will have major role in checking government agencies. If any public officer violates the law by failing to reveal information as prescribed by the law, he/she shall be imposed with the penalty of imprisonment of 1 month to 6 months.⁶⁸⁷ However, this bill is still under consideration at the congress and has not yet been enacted into law.⁶⁸⁸

Nevertheless, at present, the Philippines have enacted the law concerning information of the government which is Executive Order No.2⁶⁸⁹ or Freedom of Information Order which was promulgated on July 23, 2016. This order is considered the first law of the Philippines that was legislated concerning revelation of government information, which are considered public that all people is rightful to acknowledge, and was enforced upon all agencies belonged to executive branch. The order, as well, aims to protect personal information possessed or controlled by government agencies, except for information on national security that is not required to reveal to public.

This order aims for revelation government information which relates to public interest and maintenance of constitutional right of people on information which they concern.

Section 3 states that “Every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.”⁶⁹⁰

The word “information” is defined as any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs,

⁶⁸⁷ Section 16 of Bill of Freedom Information Act.

⁶⁸⁸ Official Gazette, Freedom of Information Bill, *available at* <http://www.officialgazette.gov.ph/foi/> (last visited June 20, 2018).

⁶⁸⁹ Executive Order No. 2, s. 2016, *available at* <http://www.officialgazette.gov.ph/2016/07/23/executive-order-no-02-s-2016/> (last visited June 20, 2018).

⁶⁹⁰ Section 3 of Executive Order No. 2, s. 2016.

data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.⁶⁹¹ This order has a structure or substance similar to the bill of Freedom of Information Act of 2009 drafted by the Senate. Comparatively, in Executive Order No. 2, the provision on (1) government agencies that are covered by the order is in Section 2; (2) right of people to access to information is in Section 3; (3) procedures for request is in Section 9; (4) exception and right to deny is in Section 4; and (5) liability of public officers is in accordance with Section 15.

4.2 Laws Concerning National Peace and Order

Overview

Republic of the Philippines has been focusing on maintaining peace for a long time. Since the Philippines' boundary is archipelagic, maintaining peace and order is significantly challenging. Section 5 of Article II of the 1987 Philippine Constitution prescribes that the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

4.2.1 *The Department of the Interior and Local Government Act of 1990: Republic Act No. 6975*

To implement policy of the country on promoting national peace and order, the Philippines hereby legislated a law which is the Department of the Interior and Local Government Act of 1990 or Republic Act No. 6975.⁶⁹² This Republic Act not only results in the establishment of the Department of Interior and Local Government (see more detail in 5.1.7) but it also intends to to promote peace and order, ensure public safety and further

⁶⁹¹ Section 1 (a) of Executive Order No. 2, s. 2016.

⁶⁹² Republic Act No. 6975, *available at* http://www.lawphil.net/statutes/repacts/ra1990/ra_6975_1990.html (last visited January 4, 2016).

strengthen local government capability aimed towards the effective delivery of the basic services to the citizenry through the establishment of a highly efficient and competent police force.⁶⁹³

Structurally, the Department of the Interior and Local Government Act prescribes that the Department of Local Government is reorganized into the Department of the Interior and Local Government⁶⁹⁴ which is composed of Department Proper, the existing bureaus and offices of the Department of Local Government, the National Police Commission, the Philippine Public Safety College, the Philippine National Police, the Bureau of Fire Protection, and the Bureau of Jail Management and Penology.⁶⁹⁵ The National Police Commission (NAPOLCOM) is established to exercise administrative control over the Philippine National Police (PNP),⁶⁹⁶ which was also established by this Act⁶⁹⁷ to maintain peace and order and take all necessary steps to ensure public safety,⁶⁹⁸ including but not limited to enforce all laws and ordinances relative to the protection of lives and properties.⁶⁹⁹

For the Bureau of Fire Protection, the Department of the Interior and Local Government Act prescribes its establishment⁷⁰⁰ for fire prevention mission.⁷⁰¹ Similarly, Bureau of Jail Management and Penology was established⁷⁰² to exercise supervision and control over all city and municipal jails.⁷⁰³ The Philippine Public Safety College (PPSC) was established to be the premier educational institution for (1) the training, human resource

⁶⁹³ Section 2 of Republic Act No. 6975.

⁶⁹⁴ Section 4 of Republic Act No. 6975.

⁶⁹⁵ Section 6 of Republic Act No. 6975.

⁶⁹⁶ Section 14 of Republic Act No. 6975.

⁶⁹⁷ Section 23 of Republic Act No. 6975.

⁶⁹⁸ Section 24 (b) of Republic Act No. 6975.

⁶⁹⁹ Section 24 (a) of Republic Act No. 6975.

⁷⁰⁰ Section 53 of Republic Act No. 6975.

⁷⁰¹ Section 54 of Republic Act No. 6975.

⁷⁰² Section 60 of Republic Act No. 6975.

⁷⁰³ Section 61 of Republic Act No. 6975.

development; and (2) continuing education of all personnel of the PNP, Fire and Jail Bureaus.⁷⁰⁴

4.2.2 National Emergency⁷⁰⁵

The word “national emergency” can be found in various place of 1987 Constitution as follows:

a. Section 23 of Article VI regarding the Legislative Department prescribes that “In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.”

Under this form of national emergency, the Congress of the Philippines will pass the law that prescribes power and scope of it of the President specifying what he can do. In addition, although 1987 Constitution prescribes that timeframe, conditions and limitation on exercising of power shall be defined, it does not specify how long such timeframe shall be. Therefore, if the Congress does not specify the timeframe, it shall be deemed that such national emergency period can be maximized to 3 years which equals to the duration of the Congress because the law prescribes that the Congress shall adjourn every 3 years for the regular mid-term elections.

b. Section 17 of Article XII regarding National Economy and Patrimony prescribes that “In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.” This situation occurred during the term of President Gloria Arroyo when Proclamation No. 1107 was issued in 2006.

⁷⁰⁴ Section 66 of Republic Act No. 6975.

⁷⁰⁵ The Varieties of National Emergency in the Philippine Legal System, *available at* <https://bitsinbits.wordpress.com/2016/09/07/the-varieties-of-national-emergency-in-the-philippine-legal-system/> (last visited December 20, 2016).

c. Section 5 paragraph 7 of Article XVI on General Provisions prescribes that “The tour of duty of the Chief of Staff of the armed forces shall not exceed three years. However, in times of war or other national emergency declared by the Congress, the President may extend such tour of duty.”

In addition, the issue on national emergency is also stated in Republic Act No. 6826 which was promulgated by the Congress to grant emergency power to President Corazon Aquino to handle a coup d’etat on December 1, 1989. The rebel was comprised of some Filipino army and people who still supports former President Ferdinand Marcos. Such law granted variety of power to President Aquino such as:

(1) To protect the people from hoarding, profiteering, injurious speculations, manipulation of prices, product deceptions, and cartels, monopolies or other combinations in restraint of trade, or other pernicious practices affecting the supply, distribution and movement of food, clothing, medicine and medical supplies, office and school supplies, fuel, fertilizers, chemicals, building materials, implements, machinery equipment and spare parts required in agriculture, industry and other essential services, and other articles of prime necessity, whether imported or locally produced or manufactured;

(2) To temporarily take over or direct the operation of any privately-owned public utility or business affected with public interest that violates the herein declared national policy: Provided, however, that to the extent feasible, management shall be retained, under the direction and supervision of the President or her duly designated representative who shall render a full accounting to the President of the operations of the utility or business taken over: Provided, further, That whenever the President shall determine that the further use or operation by the Government of any such public service or enterprise is no longer necessary under existing conditions, the same shall be restored to the person entitled to the possession thereof;

(3) To stagger the working hours of, and adopt a flexible working schedule for, employees and workers in government, and whenever it becomes necessary, in the private sector;

(4) To conserve and regulate the distribution and use of power, fuels and energy and ensure adequate supply of the same.

4.2.3 Cheap Medicines Act of 2008

Cheap Medicines Act or Republic Act No. 9502 shall be enforced when national emergency is declared by the President. It will grant power to the Intellectual Property Office of the Philippines to issue compulsory licenses so that a local company is able to manufacture patented medicines and distribute them to people in the country.

4.2.4 The Price Act (1992)

Regarding economic measure during national emergency, Republic Act No. 7581 or the Price Act (1992) grants power to the President to impose price ceiling in the following situations:

- (1) The impendency, existence, or effects of a calamity;
- (2) The threat, existence, or effect of an emergency;
- (3) The prevalence or widespread acts of illegal price manipulation;
- (4) The impendency, existence, or effect of any event that causes artificial and unreasonable increase in the price of the basic necessity or prime-commodity; and
- (5) Whenever the prevailing price of any basic necessity or prime commodity has risen to unreasonable levels.

This law aims to ensure the citizens that they are always be able to purchase goods and commodities with fair price and to prevent hoarding, profiteering, cartel or controlling any businesses of any same commodities. The State will intervene to develop, and promote productivity in basic necessities and prime commodities; develop an improved and efficient transport and distribution system; promulgate measures to stabilize prices at reasonable levels; institute appropriate penalties for illegal price manipulation and other violations of this Act; and establish a mechanism that will readily protect consumers from inadequate supply and unreasonable price increase on occasions of calamities, emergencies and like occurrences.

Later, this law was amended by Republic Act No. 10623 which provide protection to consumers by stabilizing the prices of basic necessity and prime commodities. It grants power to the President the to extend the duration of these controls, but not more than sixty days.

4.2.5 *The Electricity Power Crisis Act of 1993*

The Electricity Power Crisis Act of 1993 or Republic Act 7648 was made in accordance with state policy on power for effective management and regulation in the time of electric power crisis in order to prevent economic and social system of the country from collapsing when public calamity occurs. It authorized the President (Fidel V. Ramos at that time) to issue licenses to independent power producers (IPP) for construction, repair, rehabilitation, improvement or maintenance of power plants, projects and facilities, including to establish the oversight committees from both Houses. The authority granted under this Act was only valid for 1 year from its effectivity.⁷⁰⁶

4.2.6 *National Water Crisis Act of 1995*

Another measure applied during national emergency is National Water Crisis Act of 1995 or Republic Act No. 8041. It is the law that declare the policy of the State to adopt urgent and effective measures to address the nationwide water crisis which adversely affects the health and well-being of the population, food production and industrialization process. It established the Joint Executive-Legislative Water Crisis Commission (JELWCC) chaired by Executive Secretary as designated by the Congress. This Commission's objectives are to undertake nationwide consultations on the water crisis and in-depth and detailed study and review of the entire water supply and distribution structure and to enhance and facilitate cooperation and coordination between Congress and the executive department in formulating and implementing the government's water crisis management policy and strategy.

4.2.7 *Martial Law*

Regarding martial law, Section 18 of Article VII of 1987 Constitution states that the President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, he may, for a period not exceeding sixty days, suspend the

⁷⁰⁶ Section 7 of Republic Act No. 7648.

privilege of the writ of habeas corpus or place the Philippines or any part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus, the President shall submit a report in person or in writing to the Congress. The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.

The Congress, if not in session, shall, within twenty-four hours following such proclamation or suspension, convene in accordance with its rules without any need of a call.

The Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must promulgate its decision thereon within thirty days from its filing.

A state of martial law does not suspend the operation of the Constitution, nor supplant the functioning of the civil courts or legislative assemblies, nor authorize the conferment of jurisdiction on military courts and agencies over civilians where civil courts are able to function, nor automatically suspend the privilege of the writ.

The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with the invasion.

During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.⁷⁰⁷

⁷⁰⁷ Article VII, Section 18 of 1987 Constitution of the Philippines, *available at* <http://www.officialgazette.gov.ph/constitutions/1987-constitution/> (last visited January 4, 2016).

4.3 Laws Concerning Anti - Corruption

4.3.1 *Anti-Corruption Month Act*

Republic Act No. 10589 or Anti – Corruption Month Act⁷⁰⁸ which was promulgated in 2013 prescribes that December of every year is hereby declared as "Anti-Corruption Month" in the entire country. For this purpose, all government agencies are mandated to conduct activities designed to create awareness among the people on the adverse effects of corruption.⁷⁰⁹

4.3.2 *Revised Penal Code*

The latest revision of Penal Code of the Republic of the Philippines (Act No. 3815) was conducted in 1920. The revision concerned important issues relating provisions on anti – corruption which were the revision on the definition of “public officers”, by clarifying in accordance with legal scholars and former Judge Luis B. Reyes who defined nature of public officers in *Maniego v. People*.⁷¹⁰ He defined “public officers” as “every public servant from the highest to the lowest”, which obliterates the standard distinction in the law of public officers between "officer" and "employee".⁷¹¹

In addition, Article 210 of the Revised Penal Code prescribes that any public officer who shall agree to perform an act constituting a crime, in connection with the performance of this official duties, in consideration of any offer, promise, gift or present received by such officer shall suffer the penalty of prision mayor (imprisonment of 6 years to 12 years) in its medium and maximum periods and a fine of not less than three times the value of the gift.⁷¹²

Section 211 penalizes any public officers who commit indirect bribery by stating that The penalties of prision correccional (imprisonment of 6 months to 6 years) shall be

⁷⁰⁸ Republic Act No. 10589, *available at* https://www.lawphil.net/statutes/repacts/ra2013/ra_10589_2013.html (last visited January 4, 2016).

⁷⁰⁹ Section 2 of Republic Act No. 10589.

⁷¹⁰ G.R. No. L-2971 (1951), *available at* http://www.lawphil.net/judjuris/juri1951/apr1951/gr_l-2971_1951.html (last visited March 26, 2016).

⁷¹¹ Luis B. Reyes (1998), *The Revised Penal Code*, p. 354.

⁷¹² Article 210 of the Revised Penal Code.

imposed upon any public officer who shall accept gifts offered to him by reason of his office, even though there is no request or agreement for an officer to conduct anything.⁷¹³

Additionally, Article 124 to Article 127 prescribes that any public officer who commit arbitrary detention or expulsion shall be criminally penalized, including any officer who violate the domicile of another individual⁷¹⁴, or prohibit or interrupt the holding of a peaceful meeting.⁷¹⁵ Moreover, Article 133 prescribes penalty for not only public officers but also any individual who commit crime against religious worship by performing acts notoriously offensive to the feelings of the faithful in a place devoted to religious worship or during the celebration of any religious ceremony.⁷¹⁶

Besides, the Revised Penal Code prescribes that malfeasance and misfeasance shall be punished by virtue of law.⁷¹⁷ Former Judge Luis B. Reyes defines malfeasance as the “performance of some act ought not to be done”⁷¹⁸ and misfeasance as “the improper performance of some act which might lawfully be done.”⁷¹⁹

Title Seven: Chapter Two: Section One (Article 204 to Article 209) of the Revised Penal Code mentions offences on dereliction of duty as follow:

1) Knowingly rendering unjust judgment⁷²⁰

It means an unjust judgment is rendered knowingly when it is made deliberately and maliciously.⁷²¹ In order to punish the wrongdoer, there must be evidence that the judgment is unjust. It cannot be presumed.⁷²²

⁷¹³ Article 211 of the Revised Penal Code. See G.R. No. L-62439 (1984), *available at* https://lawphil.net/judjuris/juri1984/oct1984/gr_l62439_1984.htm (last visited January 4, 2016).

⁷¹⁴ Article 124 to Article 127 of the Revised Penal Code.

⁷¹⁵ Article 131 of the Revised Penal Code.

⁷¹⁶ Article 132 and Article 133 of the Revised Penal Code.

⁷¹⁷ Article 204 to Article 209 of the Revised Penal Code.

⁷¹⁸ *Supra* note 711, at 356.

⁷¹⁹ *Supra* note 711, at 356.

⁷²⁰ Section 204 of the Revised Penal Code.

⁷²¹ *Supra* note 711, at 357.

⁷²² *Supra* note 711, at 358.

2) Judgment rendered through negligence⁷²³

It is a manifestly unjust judgment which is so manifestly contrary to law, that even a person having a meagre knowledge of the law cannot doubt the injustice.⁷²⁴ The elements of the offence are: (1) A wrongdoer is a judge; (2) render a judgment in any case submitted to him for decision; (3) such judgment is manifestly unjust; and (4) by reason of inexcusable negligence or ignorance. In addition, this offence does not require bad faith as an element.⁷²⁵

3) Unjust interlocutory order⁷²⁶

Unjust interlocutory order means Reyes, an order which is issued by the court between the commencement and the end of a suit or action and which decides some point or matter but which, however, is not a final decision of the matter in issue.⁷²⁷ For example, the court grants or dismisses preliminary injunction requests without justifiable reasons to support the granting or dismissal of the request.

4) Malicious delay in the administration of justice⁷²⁸

5) Negligence in prosecuting offenses and tolerance of commission of offenses⁷²⁹

6) Betrayal of trust by an attorney or solicitor⁷³⁰

This offence denotes revealing any of the secrets of the lawyer's client learned by the lawyer in his/her professional capacity. It is a punishable act even when no damage is caused,⁷³¹ such as undertaking the defense of the opposing party in the same case,

⁷²³ Section 205 of the Revised Penal Code.

⁷²⁴ *Supra* note 711, at 359.

⁷²⁵ Evangelista vs. Baes (1974), *available at* https://www.lawphil.net/judjuris/juri1974/dec1974/ac_000_1974.html (last visited January 4, 2016).

⁷²⁶ Section 206 of the Revised Penal Code.

⁷²⁷ *Supra* note 711, at 360.

⁷²⁸ Article 207 of the Revised Penal Code.

⁷²⁹ Article 208 of the Revised Penal Code.

⁷³⁰ Article 209 of the Revised Penal Code.

⁷³¹ *Supra* note 711, at 364.

without the consent of his first client, after having undertaken the defense of the said first client or after having received confidential information from the said client.⁷³²

7) Bribery

Bribery is prescribed in Title Seven: Chapter Two: Section Two. All forms of bribery of public officers are criminal offences that have to be punished. The law punishes not only the corrupted public officer but also the private individual who may “have made the offers or promises or given the gifts or presents” to the public officer.⁷³³

Reyes, a former judge, opines that the gift or present may be received by the public officer himself or through a third person. Hence, an intermediary may receive the gift or present. It does not have to be the public officer himself or herself. Reyes goes to comment that the law states that a “gift or present need not be actually received by the public officer, as an accepted offer or promise of gift is sufficient.”⁷³⁴ In addition, the gift or present must have a value or be capable of pecuniary estimation.⁷³⁵ The thing offered or accepted may be money, property, services or anything else of value. It must be some value, but any value is sufficient.⁷³⁶

8) Frauds

The Revised Penal Code penalizes frauds against the public treasury and similar offenses in Title Seven: Chapter Three.⁷³⁷ The same with a “public officer who directly or indirectly, shall become interested in any contract or business in which it is his official duty to intervene.”⁷³⁸ Reyes, a former judge, opines that “the offender must have the duty as public officer to deal with any person with regard to 1) furnishing supplies; 2) the making of contracts or; 3) the adjustment of account; or 4) settlement of accounts relating to public

⁷³² *Supra* note 711, at 364-365.

⁷³³ Article 212 of the Revised Penal Code.

⁷³⁴ *Supra* note 711, at 368.

⁷³⁵ *Supra* note 711, at 368.

⁷³⁶ *Supra* note 711, at 368.

⁷³⁷ Article 213 of the Revised Penal Code.

⁷³⁸ Article 216 of the Revised Penal Code.

property or; funds.”⁷³⁹ Reyes emphasizes that the public officer must act in his or her official capacity⁷⁴⁰ and take advantage of his official position.⁷⁴¹

9) Malversation

Malversation is prescribed in Title Seven: Chapter, which means embezzlement.⁷⁴² The Revised Penal Code prescribes the presumption of malversation in instances when any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property.⁷⁴³ This includes failure to render accounts,⁷⁴⁴ illegal use of public funds or property⁷⁴⁵ and Failure to make delivery of public funds or property⁷⁴⁶ which are likewise punishable.

According to Reyes, “to appropriate public funds or property includes every attempt to dispose of the same without right.”⁷⁴⁷ In addition, when it comes to negligence, Reyes opines that to measure negligence which pervades a particular act or omission, we must first determine upon a standard of care commensurate with the occasion, and then endeavour to ascertain how far short of this standard falls the act or omission in question.⁷⁴⁸

⁷³⁹ *Supra* note 711, at 397.

⁷⁴⁰ *Supra* note 711, at 397.

⁷⁴¹ *Supra* note 711, at 400.

⁷⁴² *Supra* note 711, at 405.

⁷⁴³ Article 217 of the Revised Penal Code.

⁷⁴⁴ Article 218 of the Revised Penal Code.

⁷⁴⁵ Article 220 of the Revised Penal Code.

⁷⁴⁶ Article 221 of the Revised Penal Code.

⁷⁴⁷ *Supra* note 711, at 412

⁷⁴⁸ *Supra* note 711, at 415.

10) Infidelity of public officers

This offence is prescribed in Title Seven: Chapter Five: Section One and Section Two. It means and an unfaithful behavior of public officers to their public duty which includes infidelity in the custody of prisoners,⁷⁴⁹ infidelity in the custody of documents⁷⁵⁰ and revelation of secrets,⁷⁵¹ which are punishable by the law.

Regarding infidelity in the custody of prisoners, the law punishes any public officer who shall consent to the escape of a prisoner in his custody or charge. According to Reyes citing the case of U.S. V. Bandino⁷⁵² which concerns connivance (agreement between the prisoner and the public officer) with the prisoner in his escape.⁷⁵³ In case of negligence, not every negligence or distraction of a guard is penalized. It is only the positive carelessness that is short of deliberate non-performance of his duties as guard that is the gravamen of the crime of infidelity under Art. 224, citing the case of People v. Reyes et al.⁷⁵⁴

In addition, Reyes opines that the acts punishable in infidelity in the custody of documents are committed by removing or by destroying or by concealing documents or papers officially entrusted to the offending public officer which must be viewed as distinct modes of committing the offense.⁷⁵⁵

Furthermore, this offence includes opening closed documents or allowing closed documents to be opened are punishable when the public officer has custody of the documents.⁷⁵⁶ Reyes, a former judge, further explain about this offence that it occurs when a public officer who has public duty to guard or take care of a document but fail to

⁷⁴⁹ Article 223 to Article 225 of the Revised Penal Code.

⁷⁵⁰ Article 226 to Article 228 of the Revised Penal Code.

⁷⁵¹ Article 229 to Article 230 of the Revised Penal Code.

⁷⁵² G.R. No. 9964 (1915) *available at* <http://www.chanrobles.com/cralaw/1915februarydecisions.php?id=38> (last visited March 25, 2016).

⁷⁵³ *Supra* note 711, at 427.

⁷⁵⁴ *Supra* note 711, at 430.

⁷⁵⁵ *Supra* note 711, at 435

⁷⁵⁶ Article 228 of the Revised Penal Code.

perform so, without considering whether or not such open or permission to open the information will cause damage. As long as it affects public interest, it is sufficient to become a crime. there is damage or intent to cause damage is not an element of the offense. In addition, secrets as contemplated by the Revised Penal Code excludes secrets of private individuals and excludes espionage which is punished elsewhere.⁷⁵⁷

11) Other punishable acts

Other punishable acts for public officers are prescribed in Title Seven: Chapter Six which cover 1) disobedience; 2) refusal of assistance; 3) maltreatment of prisoners;⁷⁵⁸ 4) anticipation, prolongation, and abandonment of the duties and powers of public office;⁷⁵⁹ 5) usurpation of powers and unlawful appointments;⁷⁶⁰ 6) abuses against chastity⁷⁶¹ which may only be committed against women and the offence becomes consummated by mere proposal⁷⁶² without considering whether or not the woman solicited have yielded to the solicitation of the offender.⁷⁶³

In punishing refusal of assistant, there must be damage to the public interest or to a third party, great or small. The penalty is higher when the failure to lend cooperation results in serious damage to the public interest or to third party. If the damage is not serious then the penalty is in proportion with the wrongdoing.⁷⁶⁴

4.3.3 *An Act Defining and Penalizing the Crime of Plunder*

Or Republic Act No. 7080, which was enforceable in 1991, prescribes plunder as an act that is committed by a public officer which shall be criminally punished.⁷⁶⁵ The law

⁷⁵⁷ *Supra* note 711, at 439 - 441.

⁷⁵⁸ Article 235 of the Revised Penal Code.

⁷⁵⁹ Article 236 to Article 238 of the Revised Penal Code.

⁷⁶⁰ Article 239 to Article 244 of the Revised Penal Code.

⁷⁶¹ Article 245 of the Revised Penal Code.

⁷⁶² *Supra* note 711, at 458.

⁷⁶³ *Supra* note 711, at 458.

⁷⁶⁴ Article 233 of the Revised Penal Code.

⁷⁶⁵ Republic Act No. 7080, *available at* https://www.lawphil.net/statutes/repacts/ra1991/ra_7080_1991

defines plunder the act of amassing, accumulating or acquiring ill-gotten wealth through a combination or series of overt or criminal, as further defined by the law, in the aggregate amount or total value of at least Seventy-five million pesos (P75,000,000.00).

The law further provides that a public officer convicted of plunder will be punished with life imprisonment with perpetual absolute disqualification from holding any public office. Any person who participated with said public officer in the commission of plunder shall likewise be punished.⁷⁶⁶

Actual Examples of Plunder Featuring Former Philippine Presidents

a. Joseph Ejercito Estrada

Joseph Ejercito Estrada was a former movie actor who became a politician.⁷⁶⁷ In 1998 he was elected as Philippine President. He was deposed in January 2001.⁷⁶⁸ Still in 2001, Estrada was indicted for plunder. In 2007 the Sandiganbayan Court (Philippine Anti-Graft Court) found Estrada guilty. It took six years for the Sandiganbayan Court to try the case. The case was filed in 2001 but a decision was handed down only in 2007.⁷⁶⁹

A local journalist opined that the reason it took the Sandiganbayan six years to try Estrada mostly due to delays caused by Estrada himself. He fired all his lawyers during the trial, so that a mistrial could take place. But after the court gave him new lawyers, whom he fired, Estrada retained new counsel and continued with the trial. The strategy was to postpone the trial until his close friend, Fernando Poe, Jr. (FPJ), whom he himself coaxed into running, was able to win the presidency in the May 2004 elections and dismissed any accusations against him.

But when Fernando Poe Jr. lost, Estrada had no alternative but to continue with the case, with a tactic aimed at destroying the court's credibility and presenting that the

.html (last visited January 4, 2016).

⁷⁶⁶ Section 2 of Republic Act No. 7080.

⁷⁶⁷ Joseph Estrada Biography, *available at* <http://www.biography.com/people/joseph-estrada-39942> (last visited March 26, 2016).

⁷⁶⁸ *Ibid.*

⁷⁶⁹ Aries C. Rufo and Reynaldo Santos, 'Jr. No closure yet on Erap Estrada's plunder case (2013)', *available at* <http://www.rappler.com/newsbreak/investigative/56007-closure-estrada-plunder-case> (last visited January 4, 2016).

prosecution was "politically motivated" in order to justify his removal from office.⁷⁷⁰ The fact showed that his attorneys have done very little to refute the voluminous evidence brought before the trial.

Only a month and a half after Estrada was guilty by the verdict, executive clemency by President Gloria Macapagal Arroyo was granted to convicted former President Estrada which provoked the warnings of civil-society groups, prosecution lawyers in the plunder trial, and that of another former chief executive, Fidel Ramos.⁷⁷¹ Most reports simplify matters and state that Estrada was pardoned by Arroyo.⁷⁷² Estrada's political and civil rights were restored by the executive clemency.⁷⁷³

Different opinions arose when Arroyo pardoned Estrada. For Estrada lawyer and former Senator Rene Saguisag, "pardon was also the 'best solution' for a closure to the events that began in 2001".⁷⁷⁴ Saguisag also said: "It is not only popular but also right for the vast majority of our people."⁷⁷⁵

On the other hand, according to University of the Philippines law professor and prominent lawyer, Harry Roque, the executive clemency was "not intended to favor Estrada, but to favor Arroyo, to ensure more stability so she can continue governing even if she has no concept of good governance." Akbayan party-list chair emeritus Loreta Ann Rosales has the same opinion as Roque. According to Rosales: "The capacity to grant an official convicted of corruption executive clemency could only come from a president who is all too willing to commit the same crime and expect that the same privilege would be

⁷⁷⁰ Rodel Rodis (2013, 'Estrada's plunder conviction remembered', *available at* <http://globalnation.inquirer.net/84269/estradas-plunder-conviction-remembered> (last visited March 24, 2016).

⁷⁷¹ PCIJ (2007), 'Estrada pardon: Transactional politics yet again?', *available at* <http://pcij.org/blog/2007/10/25/erap-pardon-transactional-politics-yet-again> (last visited March 24, 2016).

⁷⁷² Marichu Villanueva (2007), 'GMA Pardons Erap', *available at*, <http://www.philstar.com/headlines/23673/gma-pardons-erap> (last visited January 4, 2016).

⁷⁷³ *Ibid.*

⁷⁷⁴ *Supra* note 771.

⁷⁷⁵ *Supra* note 771.

extended to her once she faces accountability for her own crimes.”⁷⁷⁶

b. Gloria Macapagal Arroyo

Estrada’s successor, Former President Gloria Macapagal-Arroyo faced plunder charges herself. Arroyo is the daughter of former President Diosdado Macapagal. Arroyo herself rose from the ranks, starting out as Trade and Industry Undersecretary before running for Senator then Vice President. Arroyo took over when Estrada was deposed in 2001 and won the 2004 presidential elections.⁷⁷⁷ In 2010 and 2013, Arroyo won as District Representative/Congresswoman of Pampanga. She won in 2013 while still under hospital arrest. The arrest and detention were caused by Arroyo’s “alleged conspiracy to illegally divert public funds amounting to 366 million pesos sourced from Philippine Charity Sweepstakes Office’s operating budget.”⁷⁷⁸ Arroyo was detained in 2012⁷⁷⁹ at Veterans Memorial Medical Center in Quezon City while being tried on charges of plunder.⁷⁸⁰ Turning sixty-nine (69) years of age in 2016, Arroyo was under hospital detention to facilitate her medical needs. Arroyo has also been let out of detention on different occasions – for medical check-ups and special family visits including spending Christmas and New Year at her residence.

In 2015, British lawyer Amal Clooney filed a case with the United Nations wherein the said body ruled that Arroyo’s continued detention violates international law. Arroyo’s camp maintains that the charges against her are politically motivated criminal charges.

⁷⁷⁶ *Supra* note 771.

⁷⁷⁷ Gloria Macapagal Arroyo, *available at* <http://www.britannica.com/biography/Gloria-Macapagal-Arroyo> (last visited March 26, 2016).

⁷⁷⁸ Patricia Denise Chiu, ‘No more witnesses vs. Arroyo in PCSO plunder case’, *available at* <http://www.gmanetwork.com/news/story/361036/news/nation/no-more-witnesses-vs-arroyo-in-pcso-plunder-case> (last visited January 7, 2016).

⁷⁷⁹ Carmen Pedrosa, ‘Lawyer: UN rules GMA detention violates international law’, *available at* <http://www.philstar.com/headlines/2015/10/08/1508366/lawyer-un-rules-gma-detention-violates-international-law> (last visited January 4, 2016).

⁷⁸⁰ Tetch Torres- Tupas (2015), ‘SC stops Gloria Arroyo’s plunder trial for 30 days’, *available at* <http://newsinfo.inquirer.net/732971/sc-stops-arroyos-plunder-trial-for-30-days> (last visited March 24, 2016).

According to a news report, Clooney said that it was discovered by the UN body that Arroyo was illegally and arbitrarily detained because “the Sandiganbayan failed to take into account her individual circumstances, failed to consider measures alternative to pretrial detention, and because of undue delays in proceedings against her.” In addition, according to Clooney, “the UN body underscored the Aquino administration’s decision to stop Arroyo from traveling in November 2011 in defiance of a Supreme Court ruling allowing her to seek medical treatment for her neck and spine illnesses”.⁷⁸¹

4.3.4 The Ombudsman Act of 1989

Republic Act No. 6770 also known as “The Ombudsman Act of 1989”⁷⁸² expressly declares that “the State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.”⁷⁸³ The law creates the Office of the Ombudsman and provides the qualifications required, duties and responsibilities of the Ombudsman.

In addition, the law provides that the Ombudsman are “protectors of the people”.⁷⁸⁴ As such, the Ombudsman “shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people”.⁷⁸⁵ The Office of the Ombudsman is clearly given by the law the mandate to investigate complaints against officers or employees of the government.

⁷⁸¹ Gil C. Cabacungan (2016), ‘UN slams Arroyo detention’, *available at* <http://globalnation.inquirer.net/129335/un-slams-arroyo-detention> (last visited March 24, 2016).

⁷⁸² Republic Act No. 6770, *available at* http://www.lawphil.net/statutes/repacts/ra1989/ra_6770_1989.html (last visited January 6, 2016).

⁷⁸³ Section 2 of Republic Act No. 6770.

⁷⁸⁴ Section 13 of Republic Act No. 6770.

⁷⁸⁵ Section 13 of Republic Act No. 6770.

4.3.5 *Anti-graft and Corrupt Practices Act*

Republic Act No. 3019 otherwise known as the “Anti-graft and Corrupt Practices Act” which was enforceable since 1960⁷⁸⁶ lists corrupt practices of public officers in addition to those already provided by existing laws. The listed corrupt practices include indirect actions such as receiving or soliciting gifts or other benefits in connection with any transaction with the government.⁷⁸⁷ The law further includes prohibitions against certain family members of some public officers from intervening in government transactions. The prohibition applies to “the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, or the Speaker of the House of Representatives”.⁷⁸⁸ In addition, private individuals are also prohibited from “directly or indirectly requesting or receiving any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, request or contract with the government, in which such public official has to intervene”. The prohibition is for private individuals using “close personal relation”⁷⁸⁹ with any public officer to benefit. The said law “was enacted to deter public officials and employees from committing acts of dishonesty and improve the tone of morality in public service.”⁷⁹⁰ Citing the case of *Morfe v. Mutuc*, Reyes writes that it was declared to be a state policy “in line with the principle that public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto.”⁷⁹¹

According to Reyes, the law punishes taking advantage of family or close personal relation with a public official. “The offender under this provision is any person who has

⁷⁸⁶ Republic Act No. 3109, *available at* http://www.lawphil.net/statutes/repacts/ra1960/ra_3019_1960.html (last visited January 6, 2016).

⁷⁸⁷ Section 3 of Republic Act No. 3109.

⁷⁸⁸ Section 5 of Republic Act No. 3109.

⁷⁸⁹ Section 4 of Republic Act No. 3109.

⁷⁹⁰ *Supra* note 711, at 379.

⁷⁹¹ G.R. No. L-20387 (1968), *available at* http://www.lawphil.net/judjuris/juri1968/jan1968/gr_l-20387_1968.html (last visited March 25, 2016)

family or close personal relation with any public official who has to intervene in some business, transaction, application, request or contract of the government with any other person. The act constituting the crime is capitalizing or exploiting or taking advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift, or material or pecuniary advantage from the person having the business, transaction, application, request or contract with the government.”⁷⁹²

4.3.6 Laws on Anti - Corruption

The problem of corruption is considered a major obstacle in national administration because it causes conflict of interest and damages the economic, political, social and cultural systems. From the latest study, the Philippines ranks 116 in the world's most corrupt countries. (Thailand ranks 96th) for the year 2017, from 180 countries around the world.⁷⁹³ This shows that there is corruption from bribery at every level, from the smallest to the government level, causing fear and reluctance for other civilized countries to invest.

Currently, there are many efforts to combat corruption, such as joining the United Nations Convention Against Corruption (UNCAC), including establishing legal framework at government level, civil society organizations and various medias to cooperate to resolve the problems. However, many people still believe that there are difficult obstacles to tackle with corruption to be resolved, especially usurpation of power in elections for executive power from groups of past leaders. Some leaders, who used to be hope, were still unsuccessful. In addition, the Philippines often has scandals about corruption involving politicians at all levels, from the president to opposition party members which make the Philippines very slow in developing the country.

In 1960, the enactment of the Act No. 3019 on the Anti-Corruption and Corruption Practices Act⁷⁹⁴ was considered the first issue that defines what acts of government or

⁷⁹² *Supra* note 711, at 385.

⁷⁹³ Corruption Perceptions Index 2017, *available at* https://www.transparency.org/news/feature/corruption_perceptions_index_2017 (last visited May 1, 2018).

⁷⁹⁴ Republic Act No. 3019, *available at* http://www.lawphil.net/statutes/repacts/ra1960/ra_3019_1960

private officials are fraud or misconduct and determined that such acts are illegal. In addition, the law prescribes penalties for violators which are 1 year to 10 years of imprisonment, dismissal and confiscation of properties, including forfeiture of any unexplained wealth for public interest. Moreover, this law prescribes that every public officer shall declare statement of asset and liabilities every year. It was considered a significant law at that time. However, in 1993, Manuel Zosa, a Congressman, criticized that this law was enacted to please the public rather than to respond to necessity and there was no urgent necessity to enact this law because at that time there were Penal Code and other laws which were sufficient to bring wrongdoers to courts.⁷⁹⁵

However, in present, this law is considered the main anti – corruption law.⁷⁹⁶ It prescribes acts committed by public officers that are considered graft or corrupt practices, for example, persuading, inducing or influencing another public officer to perform an act constituting a violation of rules, or an offense in connection with official duties; requesting or receiving any gift, present, share, percentage or benefit, for himself or for any other person in connection with any contract or transaction between the Government and any other part, wherein the public officer in his official capacity has to intervene under the law. In addition, there are other acts that are considered corrupt practices, for example, requesting or receiving any gift, present or other material benefit, to secure or obtain, any government permit or license; causing any undue injury to any party, including the government; neglecting or refusing to act within a reasonable time on any matter pending before him for the purpose of obtaining some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party; entering, on behalf of the Government, into any contract or transaction manifestly and grossly

.html (last visited December 24, 2016).

⁷⁹⁵ Nelson Nogot Moratalla, 'Graft and Corruption: The Philippine Experience', p. 505, *available at* <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan019122.pdf> (last visited December 24, 2016).

⁷⁹⁶ Rodrigo Quimbo et. al., 'Anti-Corruption in the Philippines', *available at* <https://globalcompliancenews.com/anti-corruption/anti-corruption-in-the-philippines/> (last visited December 24, 2016).

disadvantageous to the same; having financing or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.⁷⁹⁷

⁷⁹⁷ Section 3 of Republic Act No. 3019.

Chapter 5

Public and Private Agencies Concerning Society, Culture, Politics and National Security

It is worth mentioning at the start of this chapter that it is very common in the Philippines to put up an organization or association. There is an association for almost everything. There is no shortage of “private agencies” in every town and industry. Non-governmental organizations are aplenty and increasing in numbers each day. Only a few examples of such “private agencies” shall be discussed in this chapter as it is still the agencies that are of importance and have more permanence as far the Philippines is concerned.

5.1 Public Agencies Concerning Society

5.1.1 *National Commission on Indigenous Peoples (NCIP)*

The National Commission on Indigenous Peoples (NCIP) was created by the Rules and Regulations Implementing Republic Act No. 8371, otherwise known as “The Indigenous Peoples’ Rights Act of 1997”.⁷⁹⁸ The said law when mentioning NCIP refers to the office created under the Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of Indigenous Cultural Communities/Indigenous People (ICCs/IPs).

Vision

The NCIP shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions. As enabling partner and lead advocate, the NCIP envisions genuinely empowered ICCs/IPs whose rights and multi-dimensional well-being are fully recognized, respected and promoted towards the attainment of national unity and development.

Mission

The NCIP is the primary government agency that formulates and implements policies, plans and programs for the recognition, promotion and protection of the rights

⁷⁹⁸ The Rules and Regulations Implementing Republic Act No. 8317 (1997), *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/ph/ph083en.pdf> (last visited February 23, 2017).

and well-being of the ICCs/IPs with due regard to their ancestral domain and lands, self-governance and empowerment, social justice and human rights, and cultural integrity.⁷⁹⁹

Organizational Structure

The National Commission on Indigenous Peoples is composed of seven Commissioners appointed by the President of the Philippine, supervising offices which are responsible for various work sectors which are Ancestral Domain Office; Office on Policy; Planning and Research; Office of Education, Culture and Health; Office on Socio-Economic Services and Special Concerns; Office of Empowerment and Human Rights; Administrative Office; and Legal Affairs Office.⁸⁰⁰

Powers and Functions

1) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, through which such assistance may be extended;

2) To review and assess the condition of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address role in national development;

3) To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;

4) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;

5) To issue certificate of ancestral land/domain title;

6) Subject to existing laws, to enter into contracts, agreements, or arrangement, with government or private agencies or entities as may be necessary to attain the objectives of the Indigenous Peoples' Rights Act of 1997, and subject to the approval of

⁷⁹⁹ National Commission on Indigenous Peoples, Mandate, Vision, Mission, Powers and Functions, available at <https://www.ncipro67.com.ph/> (last visited February 24, 2017).

⁸⁰⁰ Section 46 of Republic Act No. 8371.

the President, to obtain loans from government lending institutions and other lending institutions to finance its programs.⁸⁰¹

5.1.2 Department of Education

Department of Education (DepEd.)⁸⁰² was established by virtue of Republic Act No. 9155⁸⁰³ which is also known as Governance of Basic Education Act of 2001. The Department's duties are to formulate, implement, and coordinate policies, plans, programs and projects in the areas of formal and non-formal basic education. It supervises all elementary and secondary education institutions, including alternative learning systems, both public and private; and provides for the establishment and maintenance of a complete, adequate, and integrated system of basic education relevant to the goals of national development.⁸⁰⁴

Vision

We dream of Filipinos who passionately love their country and whose values and competencies enable them to realize their full potential and contribute meaningfully to building the nation. As a learner-centered public institution, the Department of Education continuously improves itself to better serve its stakeholders.

Mission

1) To protect and promote the right of every Filipino to quality, equitable, culture-based, and complete basic education where students learn in a child-friendly, gender-sensitive, safe, and motivating environment.

2) Teachers facilitate learning and constantly nurture every learner. Administrators and staff, as stewards of the institution, ensure an enabling and supportive environment for effective learning to happen.

⁸⁰¹ *Supra* note 798. See Section 44 of Republic Act No. 8371.

⁸⁰² The former name was Department of Education, Culture and Sport (DECS).

⁸⁰³ Republic Act No. 9155, *available at* https://www.lawphil.net/statutes/repacts/ra2001/ra_9155_2001.html (last visited February 24, 2017).

⁸⁰⁴ Department of Education, Vision, Mission, Core Values and Mandate, *available at* <https://www.deped.gov.ph/about-deped/vision-mission-core-values-and-mandate/> (last visited February 21, 2017).

3) Family, community, and other stakeholders are actively engaged and share responsibility for developing life-long learners.⁸⁰⁵

In a nutshell, the DepEd is in charge of all matters related to basic education in the Philippines. It supervises both public and private schools.

Organizational Structure

1. Central Office

Office of the Secretary is the supreme supervisory unit, responsible for advising the President on education, including setting a policy and program, promulgating rules and regulations on education. Its subordinate agencies are composed of Teacher Education Council Secretariat, Internal Audit Service, including Bureaus as its subordinates which are responsible for various tasks viz; Bureau of Curriculum Development; Bureau of Learning Delivery; Bureau of Education Assessment; Bureau of Learning Resource; Bureau of Learner Support Services; and Bureau of Human Resource and Organizational Development.⁸⁰⁶

2. Executives

Secretary of Education is the supreme executive with 7 Undersecretaries and 4 Assistant Secretaries working under command of the Secretary viz; Undersecretary, Chief of Staff; Undersecretary for Curriculum and Instruction; Undersecretary for Planning, Human Resource and Organizational Development, and Field Operations; Undersecretary for Administration; Undersecretary for Finance; Undersecretary for Legal Service; Undersecretary for Legislative Liaison Office External Partnerships Service and School Sports; Assistant Secretary for Procurement Service and Project Management Service; Assistant Secretary for Public Affairs Service and Alternative Learning System; Assistant Secretary for Curriculum and Instruction; and Assistant Secretary, Officer-in -Charge Finance – Budget and Program Monitoring.⁸⁰⁷

⁸⁰⁵ *Supra* note 804.

⁸⁰⁶ Department of Education, Central Office Organizational Structure, *available at* <https://www.deped.gov.ph/about-deped/central-office/> (last visited February 21, 2017).

⁸⁰⁷ Department of Education, DepEd Executive Committee, *available at* <https://www.deped.gov.ph/>

3. Attached Agencies

The Department of Education also has attached agencies which are Early Childhood Care and Development Council (ECCD Council); National Book Development Board (NBDB); National Council for Children's Television (NCCT); National Museum; and Philippine High School for the Arts⁸⁰⁸

Powers and Functions

Section 7 of Republic Act No. 9155 prescribes powers and functions of the Department of Education at national level as follows:

- 1) Formulating national educational policies;
- 2) Formulating a national basic education plan;
- 3) Promulgating national educational Standards;
- 4) Monitoring and assessing national learning outcomes;
- 5) Undertaking national educational research and studies;
- 6) Enhancing the employment status, professional competence, welfare and working conditions of all personnel of the Department; and
- 7) Enhancing the total development of learners through local and national programs and/or projects.⁸⁰⁹

5.1.3 Department of Health

Department of Health (DOH) was established by President Manuel Roxas through Executive Order No. 94, s. 1947 for being an executive department of the Philippines' Government. Its duty is to ensure that all Filipinos have a right to access to basic health services by issuing regulations on quality medical services and regulating public health

about-deped/deped-executive-committee/ (last visited February 21, 2017).

⁸⁰⁸ Department of Education, Attached Agencies, *available at* <https://www.deped.gov.ph/about-deped/attached-agencies/> (last visited February 21, 2017).

⁸⁰⁹ Section 7 of Republic Act 9155.

services and products. Its roles are to be a leader in health, enabler and capacity builder, and administrator of specific services.⁸¹⁰

Vision

Filipinos are among the healthiest people in Southeast Asia by 2022, and Asia by 2040. A global leader for attaining better health outcomes, competitive and responsive health care system, and equitable health financing.⁸¹¹

Mission

To lead the country in the development of a productive, resilient, equitable, sustainable and quality and people-centered health system, especially for the poor.⁸¹²

Organizational Structure

1. Central Office

Office of the Secretary is the supreme supervisory unit, headed by Secretary of Health. Its subordinate agencies includes Bureau of International Health Cooperation (BIHC); Bureau of Local Health Systems and Development (BLHSD); Bureau of Quarantine; Disease Prevention and Control Bureau; Epidemiology Bureau; Food and Drug Administration; Health Emergency Management Bureau; Health Facilities and Services Regulatory Bureau (HFSRB); Health Facilities Development Bureau; Health Policy Development and Planning Bureau (HPDPB); and Health Promotion and Communication Bureau (HPCS)⁸¹³

2. Executives

Secretary of Health is the supreme executive with 7 Undersecretaries who are responsible for various work sectors with 7 Assistant Secretaries viz; Undersecretary of

⁸¹⁰ Department of Health, DOH Profile, *available at* <https://www.doh.gov.ph/profile> (last visited June 24, 2017).

⁸¹¹ *Supra* note 810. See Department of Health, Mission and Vision, *available at* <https://www.doh.gov.ph/mission-vision> (last visited June 24, 2018).

⁸¹² *Supra* note 810.

⁸¹³ Department of Health, Organizational Chart, *available at* <https://www.doh.gov.ph/organizational-chart> (last visited June 24, 2018).

Health, Public Health Service Team; Undersecretary of Health, Office of the Chief of Staff and Health Regulation Team; Undersecretary of Health, Health Policy and Systems Development Team; Undersecretary of Health, Administration and Financial Management Team; Undersecretary of Health, Procurement and Supply Chain Management Team; Undersecretary of Health, Field Implementation and Coordination Team; Undersecretary of Health, Health Facilities and Infrastructure Development Team; Assistant Secretary of Health, Office of the Chief of Staff and Health Regulation Team; Assistant Secretary of Health, Public Health Services Team; Assistant Secretary of Health, Health Policy and Systems Development Team; Assistant Secretary of Health, Field Implementation and Coordination Team (Luzon); Assistant Secretary of Health, Field Implementation and Coordination Team (NCR and MMH); Assistant Secretary of Health, Field Implementation and Coordination Team (Visayas and Mindanao); and Assistant Secretary of Health, Health Facilities and Infrastructure Development Team⁸¹⁴

3. Attached Agencies

The Department of Health has other attached agencies which are Philippine Institute of Traditional and Alternative Health Care (PITAHC); Philippine Health Insurance Corporation (PHIC); Philippine National AIDS Council (PNAC); and National Nutrition Council (NNC)⁸¹⁵

Powers and Functions

Under Section 3 of Executive Order No. 102, s. 1999 which is a latest establishment law enforced upon the Department of Health, it prescribes that the Department of Health shall have the following powers and functions:

- 1) Formulate national policies and standards for health;
- 2) Prevent and control leading causes of health and disability;
- 3) Develop disease surveillance and health information systems;

⁸¹⁴ Department of Health, Executive Committee, *available at* <https://www.doh.gov.ph/executive-committee-directory> (last visited June 24, 2018).

⁸¹⁵ Department of Health, Attached Agencies, *available at* <https://www.doh.gov.ph/doh-attached-agencies-directory> (last visited June 24, 2018).

- 4) Maintain national health facilities and hospitals with modern and advanced capabilities to support local services;
- 5) Promote health and well-being through public information and to provide the public with timely and relevant information on health risks and hazards;
- 6) Create the environment for development of a health industrial complex;
- 7) Assume leadership in health in times of emergencies, calamities and disasters; system fails;
- 8) Ensure quality of training and health human resource development at all levels of the health care system;
- 9) Oversee financing of the health sector and ensure equity and accessibility to health services;⁸¹⁶

5.1.4 Department of Information and Communications Technology (DICT)

The Department of Information and Communications Technology was established by Republic Act No. 10844, also known as Department of Information and Communications Technology Act of 2015. The law was effective on June 9, 2016 which is an official establishment day of the Department of Information and Communications Technology.⁸¹⁷ Many agencies, especially on communications, were transferred from Department of Transportation and Communications (DOTC), which its name was later changed to Department of Transportation (DOTR), with the aim to make the Department of Information and Communications Technology become the primary policy, planning, coordinating, implementing, and administrative entity of the Executive Branch of the government that will plan, develop, and promote the national ICT development agenda.⁸¹⁸

⁸¹⁶ Section 3 of Executive Order No. 102, s. 1999, *available at* <https://www.officialgazette.gov.ph/1999/05/24/executive-order-no-102-s-1999/> (last visited June 24, 2018).

⁸¹⁷ Department of Information and Communications Technology, Department of ICT Law takes effect today, *available at* <https://dict.gov.ph/department-of-ict-law-takes-effect-today/> (last visited June 24, 2018).

⁸¹⁸ Section 5 of Republic Act No. 10844, *available at* <https://www.officialgazette.gov.ph/2016/05/23/republic-act-no-10844/> (last visited June 20, 2018).

Vision

An innovative, safe and happy nation that thrives through and is enabled by Information and Communications Technology. DICT aspires for the Philippines to develop and flourish through innovation and constant development of ICT in the pursuit of a progressive, safe, secured, contented and happy Filipino nation.⁸¹⁹

Mission

“DICT of the people and for the people.”

- 1) Provide every Filipino access to vital ICT infostructure and services
- 2) Ensure sustainable growth of Philippine ICT-enabled industries resulting to creation of more jobs
- 3) Establish a One Digitized Government, One Nation⁸²⁰
- 4) Support the administration in fully achieving its goals
- 5) Be the enabler, innovator, achiever and leader in pushing the country’s development and transition towards a world-class digital economy⁸²¹

Organizational Structure

1. Central Office

Office of the Secretary is the supreme supervisory unit headed by Secretary of Information and Communications Technology. Its subordinate units are composed of Infostructure Management Bureau; Cybersecurity Bureau; ICT Literacy and Competency Development Bureau; Government Digital Transformation Bureau; National ICT Planning Policy and Standards Bureau; and ICT Industry Development Bureau.

⁸¹⁹ Department of Information and Communications Technology, Mission and Vision, *available at* <https://dict.gov.ph/about-us/vision-and-mission/> (last visited June 20, 2018).

⁸²⁰ It is the development plan for digital government of the Philippines for integration of workforce of government sector, including transparency and people- participation for nation’s development. *See* Department of Information and Communications Technology, E-Government Masterplan 2022, *available at* https://www.ictecosystem.org.ph/wp-content/uploads/2019/06/EGMP_Book_Abridged_vp05.pdf (last visited September 28, 2019).

⁸²¹ *Supra* note 819.

2. Executives

Secretary of Information and Communications Technology is a supreme executive with 5 undersecretaries responsible for various information and communications technology tasks and 5 Assistant Secretaries viz; Undersecretary for Operations; Undersecretary for Special Concerns; Undersecretary for Legal Affairs, Policy, Planning & Finance; Undersecretary for General Administration; Undersecretary for the National Information and Communications Technology Assets Index; Assistant Secretary for Administration⁸²² (Assistant Secretary for Digital Philippines; Assistant Secretary for the National Broadband Plan Backbone and Free Wi-Fi Internet Access; Assistant Secretary for Maritime and Aquatic Information Management Systems; and Assistant Secretary for Resilient Government Emergency Communications.

3. Attached Agencies

The Department of Information and Communications Technology has the following attached agencies: National Telecommunications Commission; National Privacy Commission; and Cybercrime Investigation and Coordination Center.⁸²³

Powers and Functions

Under Section 5 of the Implementing Rules and Regulations of R.A. No. 10844,⁸²⁴ the Department of Information and Communications Technology has the flowing powers and functions:

1. Policy and Planning

a) Formulate, recommend and implement national policies, plans, programs and guidelines that will promote the development and use of ICT with due consideration to the 26 advantages of convergence and emerging technologies;

⁸²² Department of Information and Communications Technology, Officials, *available at* <https://dict.gov.ph/about-us/officials/> (last visited June 20, 2018).

⁸²³ Department of Information and Communications Technology, Attached Agencies, *available at* <https://dict.gov.ph/about-us/officials/> (last visited June 20, 2018).

⁸²⁴ Section 5 of the Implementing Rules and Regulations of R.A. No. 10844, *available at* https://dict.gov.ph/wp-content/uploads/2019/11/IRR_RA_10844.pdf (last visited June 20, 2018).

b) Formulate policies and initiatives, in coordination with the Department of Education (DepED), the Commission on Higher Education (CHED), and the Technical Education and Skills Development Authority (TESDA), to develop and promote ICT in education consistent with the national goals and objectives, and responsive to the human resource needs of the ICT and ICT-ES sectors;

c) Provide an integrated framework in order to optimize all government ICT resources and networks for the identification and prioritization of all E-Government systems and applications as provided for the E-Government Masterplan and the Philippine Development Plan (PDP);

2. Improved Public Access

a) Prescribe rules and regulations for the establishment, operation and maintenance of ICT infrastructures in unserved and underserved areas, in consultation with the local government units (LGUs), civil society organizations (CSOs), Private sector, and the academe;

b) Establish a free internet service that can be accessed in government offices and public areas using the most cost-effective telecommunications technology, through partnership with private service providers as may be necessary;

3. Resource-Sharing and Capacity-Building

a) Harmonize and coordinate all national ICT plans and initiatives to ensure knowledge, information and resource sharing, database-building and agency networking linkages among government agencies, consistent with E-Government objectives in particular, and national objectives in general;

b) Ensure the development and protection of integrated government ICT infrastructures and designs, taking into consideration the inventory of existing manpower, plans, programs, software, hardware, and installed systems;

c) Assist and provide technical expertise to government agencies in the development of guidelines in the enforcement and administration of laws, standards, rules, and regulations governing ICT;

d) Assess, review and support ICT research and development programs of the government in coordination with the Department of Science and Technology (DOST) and other institutions concerned;

e) Prescribe the personnel qualifications and other qualification standards essential to the effective development and operation of government ICT infrastructures and systems;

f) Develop programs that would enhance the career advancement opportunities of ICT workers in government;

g) Assist in the dissemination of vital information essential to disaster risk reduction through the use of ICT:

h) Represent and negotiate for Philippine interest on matters pertaining to ICT in international bodies, in coordination with the Department of Foreign Affairs (DFA) and other institutions concerned;

4. Consumer Protection and Industry Development

a) Ensure and protect the rights and welfare of consumers and business users to privacy, security and confidentiality in matters relating to ICT, in coordination with agencies concerned, the private sector and relevant international bodies;

b) Support the promotion of trade and investment opportunities in the ICT and ICT-ES sectors, in coordination with the Department of Trade and Industry (DTI) and other relevant government agencies and the private sector;

c) Establish guidelines for public-private partnerships in the implementation of ICT projects for government agencies; and

d) Promote strategic partnerships and alliances between and among local and international ICT, research and development, educational and training institutions, to speed up industry growth and enhance competitiveness of Philippine workers, firms, and small and medium enterprises in the global markets for ICT and ICT-ES;

5. Cybersecurity Policy and Program Coordination

a) To formulate a national cybersecurity plan consisting of robust and coherent strategies that would minimize national security risks in order to promote a peaceful, secure, open and cooperative ICT environment;

b) To extend immediate assistance for the suppression of real-time commission of cybercrime offenses and cyber-attacks against critical infrastructures and/or affecting national security through a computer emergency response team (CERT);

c) To provide pro-active government countermeasures to address and anticipate all domestic and transnational incidents affecting the Philippine cyberspace and any cybersecurity threats to the country;

d) To enhance the public-private partnership in the field of information sharing involving cyber-attacks, threats and vulnerabilities, and to coordinate in the preparation of appropriate and effective measures to prevent and suppress cybercrime as provided in R.A. No. 10175;⁸²⁵

e) To monitor cybercrime cases being handled by participating law and prosecution agencies, and to facilitate international cooperation on intelligence, investigations, training and capacity building related to cybercrime prevention, suppression, and prosecution;

f) To coordinate the support and participation of the business sector, local government units and nongovernment organizations in cybercrime prevention programs and other related projects;

g) To recommend the enactment of appropriate laws, issuances, measures and policies;

h) To call upon any government agency to render assistance in the accomplishment of the Departments mandated tasks and functions; and

i) To perform all other matters related to cybercrime prevention and suppression, including capacity building and such other functions and duties as may be necessary for the proper implementation of R.A. No. 10175;

6. Countryside Development

a) Formulate policies in consultation with local government units and other local stakeholders and line agencies for the implementation of responsive, relevant and comprehensive ICT-related strategies to improve the competitiveness of provincial locations for ICT and ICT-enables services (ICT-ES) industry in order to develop balanced investments between high-growth and economically-depressed areas and to promote the development and widespread use of ICT;

⁸²⁵ Cybercrime Prevention Act of 2012 prescribes definition of cybercrime and penalties, *available at* https://lawphil.net/statutes/repacts/ra2012/ra_10175_2012.html (last visited June 20, 2018).

b) Develop plans and programs in coordination with LGUs (local government units) and other local stakeholders and line agencies to ensure that universal access to ICT services and infrastructure are effectively utilized to generate investments and opportunities in the rural area or areas unserved by private sector;

c) Assist, guide and support ICT-related activities and initiatives for countryside economic development; and

d) Promote and assist LGUs and local stakeholders in developing specialized ICT-enabled investment areas by providing technical and industry-calibrated assistance in the use of ICT for the enhancement of key public services, development and promotion of local arts and culture, tourism, digital literacy, and talent development.

5.1.5 Department of Environment and Natural Resources (DENR)

The Department of Environment and Natural Resources was established in 1987 by virtue of Executive Order No. 192, s. 1987. Its name was changed from the previous Department of Environment, Energy and Natural Resources⁸²⁶ to Department of Environment and Natural Resources to be responsible for conservation, management, development, and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos.⁸²⁷

Vision

To become a nation enjoying and sustaining its natural resources and a clean and healthy environment.⁸²⁸

⁸²⁶ Responsibility on energy sector was transferred to Office of the President and later was enhanced to Department of Energy in 1992.

⁸²⁷ Department of Environment and Natural Resources, DENR Mandate, Mission & Vision, *available at* <https://www.denr.gov.ph/index.php/about-us/mission-vision> (last visited June 20, 2018).

⁸²⁸ *Supra* note 827.

Mission

To mobilize our citizenry in protecting, conserving, and managing the environment and natural resources for the present and future generations.⁸²⁹

Organizational Structure

1. Central Office

Office of the Secretary is the supreme supervisory unit headed by Secretary of Environment and Natural Resources with the following subordinate units: Mines and Geosciences Bureau; Forest Management Bureau; Land Management Bureau; Biodiversity Management Bureau; Ecosystems Research and Development Bureau; and Environment Management Bureau.

2. Executives

Secretary of Environment and Natural Resources is the supreme executive with Undersecretaries and Assistant Secretaries responsible for various tasks on environment and natural resources viz; Undersecretary and Chief of Staff; Undersecretary for Administration, Finance, Human Resources, Information Systems, Legal, Legislative Affairs and Anti-Corruption; Undersecretary for Climate Change Service, Mining Concerns and Attached Agencies; Undersecretary for Policy, Planning and International Affairs; Undersecretary for Field Operations; Undersecretary for Solid Waste Management and Local Government Units Concerns; Assistant Secretary for Anti-Corruption; Assistant Secretary for Policy and Planning Service; Assistant Secretary for Field Operations; Assistant Secretary for Legal Affairs; Assistant Secretary for Mining Concerns and Finance; Assistant Secretary for Field Operations; Assistant Secretary for Human Resource Development, Information Systems and Legislative Affairs; Assistant Secretary for Administration; and Assistant Secretary for Staff Bureaus.⁸³⁰

3. Attached Agencies

Department of Environment and Natural Resources has the following attached agencies: Laguna Lake Development Authority (LLDA); National Mapping and Resource

⁸²⁹ *Supra* note 827.

⁸³⁰ Department of Environment and Natural Resources, DENR Directory of Key Officials, *available at* <https://www.denr.gov.ph/index.php/about-us/denr-directory> (last visited June 20, 2018).

Information Authority (NAMRIA); National Water Resources Board (NWRB); Natural Resources Development Corporation (NRDC); Palawan Council for Sustainable Development (PCSD); Philippine Mining Development Corporation (PMDC); and Philippine Reclamation Authority (PRA).⁸³¹

Powers and Functions

Section 5 of Executive Order No. 192, s. 1987 prescribes powers and functions of Department of Environment and Natural Resources as follows:

- 1) Advise the President on the enactment of laws relative to the development, use, regulation, and conservation of the country's natural resources and the control of pollution;
- 2) Formulate, implement, and supervise the government's policies, plans and programs pertaining to the management, conservation, development, use and replenishment of the country's natural resources;
- 3) Promulgate rules and regulations in accordance with law governing the exploration, development, conservation, extraction, disposition, use and such other commercial activities tending to cause the depletion and degradation of our natural resources;
- 4) Exercise supervision and control over forest lands, alienable and disposable lands, and mineral resources and in the process of exercising such control the Department shall impose appropriate payments, fees, charges, rentals and any such form of levy and collect such revenues for the exploration, development, utilization or gathering of such resources;
- 5) Undertake exploration, assessment, classification and inventory of the country's natural resources using ground surveys, remote sensing and complementary technologies;
- 6) Promote proper and mutual consultation with the private sector involving natural resources development, use and conservation;
- 7) Undertake geological surveys of the whole country including its territorial waters;

⁸³¹ Department of Environment and Natural Resources, Organizational Chart, *available at* <https://www.denr.gov.ph/index.php/about-us/organizational-structure> (last visited June 20, 2018).

8) Establish policies and implement programs for the:

(a) Accelerated inventory, surveys and classification of lands, forest, and mineral resources using appropriate technology, to be able to come up with a more accurate assessment of resource quality and quantity;

(b) Equitable distribution of natural resources through the judicious administration, regulation, utilization, development and conservation of public lands, forest, and mineral resources (including mineral reservation areas), that would benefit a greater number of Filipinos;

(c) Promotion, development and expansion of natural resource-based industries;

(d) Preservation of cultural and natural heritage through wildlife conservation and segregation of national parks and other protected areas;

(e) Maintenance of a wholesome natural environment by enforcing environmental protection laws; and

(f) Encouragement of greater people participation and private initiative in natural resource management.

9) Promulgate rules and regulations necessary to:

(a) Accelerate cadastral and emancipation patent surveys, land use planning and public land titling;

(b) Harness forest resources in a sustainable manner, to assist rural development, support forest-based industries, and provide raw materials to meet increasing demands, at the same time keeping adequate reserves for environmental stability; and

(c) Expedite mineral resources surveys, promote the production of metallic and non-metallic minerals and encourage mineral marketing.

10) Regulate the development, disposition, extraction, exploration and use of the country's forest, land and mineral resources;

11) Assume responsibility for the assessment, development, protection, conservation, licensing and regulation as provided for by law, where applicable, of all natural resources; the regulation and monitoring of service contractors, licensees, lessees, and permittees for the extraction, exploration, development and utilization of natural resource products; the implementation of programs and measures with the end in view of promoting close collaboration between the government and the private sector; the effective and efficient

classification and sub-classification of lands of the public domain; and the enforcement of natural resources laws, rules and regulations;

12) Promulgate rules, regulations and guidelines on the issuance of co-production, joint venture or production sharing agreements, licenses, permits, concessions, leases and such other privileges and arrangement concerning the development, exploration and utilization of the country's natural resources and shall continue to oversee, supervise and police our natural resources; to cancel or cause to cancel such privileges and arrangements upon failure, non-compliance or violations of any regulations, orders, and for all other causes which are in furtherance of the conservation of natural resources and supportive of the national interests;

13) Exercise exclusive jurisdiction on the management and disposition of all lands of the public domain and shall continue to be the sole agency responsible for classification, sub-classification, surveying and titling of lands in consultation with appropriate agencies.

14) Implement measures for the regulation and supervision of the processing of forest products, grading and inspection of lumber and other forest products and monitoring of the movement of timber and other forest products;

15) Promulgate rules and regulations for the control of water, air and land pollution;

16) Promulgate ambient and effluent standards for water and air quality including the allowable levels of other pollutants and radiations;

17) Promulgate policies, rules and regulations for the conservation of the country's genetic resources and biological diversity, and endangered habitats;

18) Formulate an integrated, multi-sectoral, and multi-disciplinary National Conservation Strategy, which will be presented to the Cabinet for the President's approval;

19) Exercise other powers and functions and perform such other acts as may be necessary, proper or incidental to the attainment of its mandates and objectives.

5.1.6 Department of Justice

Department of Justice was firstly established in 1897 under the name of Department of Grace and Justice. Its organizational structure was severally changed until it becomes Department of Justice nowadays which was established by Administrative Code of 1987 which is also known as Executive Order No. 292. It is a primary legal agency of the Philippines functioning as a legal counsel and a prosecution arm.⁸³²

Vision

A just and peaceful society anchored on the principles of transparency, accountability, fairness and truth.⁸³³

Mission

Effective, efficient and equitable administration of justice.⁸³⁴

Organizational Structure

1. Central Office

It is comprised of the Office of the Secretary and the Undersecretaries and other agencies viz; National Prosecution Service; Legal Staff; Office for Competition; Office of Cybercrime; Planning and Management Service; Financial Service; Technical Staff; and Internal Audit Service.⁸³⁵

2. Executives

Secretary of Justice is the supreme executive with 3 Undersecretary and 5 Assistant Secretary who are responsible for:

1) Advise and assist the Secretary in the formulation and implementation of the Department's policies, plans, programs and projects;

2) Oversee the operational activities of the Department;

⁸³² Department of Justice, History, *available at* <https://www.doj.gov.ph/history-of-doj.html> (last visited June 20, 2018).

⁸³³ Department of Justice, Vision, Mission, Quality Policy/ Objectives, Mandate and Functions, *available at* <https://www.doj.gov.ph/vision-mission-and-mandate.html> (last visited June 20, 2018).

⁸³⁴ *Supra* note 833.

⁸³⁵ Department of Justice, Organizational Structure, <https://www.doj.gov.ph/the-doj-organizational-structure.html> (last visited June 20, 2018).

3) Coordinate the programs and projects of the Department for efficient and effective administration;

4) Serve as deputy for the Secretary;

5) Perform, when so designated, the powers and functions of the Secretary, during the latter's absence or incapacity; and

6) Perform such other functions as may be provided by law or assigned by the Secretary to promote efficiency and effectiveness in the delivery of frontline services.⁸³⁶

3. Attached Agencies

Department of Justice has other attached agencies viz; Bureau of Corrections (BuCor); Bureau of Immigration (BI); Land Registration Authority (LRA); National Bureau of Investigation (NBI); Office of the Government Corporate Counsel (OGCC); Office of the Solicitor General (OSG);⁸³⁷ Parole and Probation Administration (PCGG); Presidential Commission on Good Government (PCGG); Public Attorney's Office (PAO);⁸³⁸ and Office for Alternative Dispute Resolution (OADR).

Powers and Functions

Under Book IV, Title III, Section 3 of Administrative Code of 1987, Department of Justice has the following powers and functions:

1) Act as principal law agency of the government and as legal counsel and representative thereof, whenever so required;

2) Investigate the commission of crimes, prosecute offenders and administer the probation and correction system;

3) Extend free legal assistance/representation to indigents and poor litigants in criminal cases and non-commercial civil disputes;

4) Preserve the integrity of land titles through proper registration;

⁸³⁶ Book IV, Title III, Section 6 of Administrative Code of 1987, *available at* https://www.lawphil.net/executive/execord/eo1987/eo_292_1987.html (last visited June 20, 2018).

⁸³⁷ It functions as a legal counsel of the government, including a legal defender of the Government., *available at* <http://www.osg.gov.ph/about/> (last visited June 20, 2018).

⁸³⁸ It is an agency that provide free legal services, counselling and assistance for indigent or underprivileged., *available at* <http://www.pao.gov.ph/page.php?id=19> (last visited June 20, 2018).

5) Investigate and arbitrate untitled land disputes involving small landowners and members of indigenous cultural communities;

6) Provide immigration and naturalization regulatory services and implement the laws governing citizenship and the admission and stay of aliens;

7) Provide legal services to the national government and its functionaries, including government-owned or controlled corporations and their subsidiaries; and

8) Perform such other functions as may be provided by law.

5.1.7 Department of the Interior and Local Government (DILG)

Department of the Interior and Local Government was established in 1897 by virtue of Article 15 of 1897 Constitution (Biak-na-Bato Constitution) under the name of Department of Interior at that time with comprehensive responsibilities including statistics, roads and bridges, agriculture, public information and posts, and public order. In 1990, by virtue of Republic Act No. 6975, Department of Interior was merged with Department of Local Government and became Department of Interior and Local Government nowadays.⁸³⁹

Vision

A strongly determined and highly trusted Department committed to capacitate and nurture local government units, public order and safety institutions to sustain peaceful, progressive, and resilient communities where people live happily.⁸⁴⁰

Mission

The Department shall promote peace and order, ensure public safety, strengthen capability of local government units through active people participation and a professionalized corps of civil servants.⁸⁴¹

⁸³⁹ Department of the Interior and Local Government, Who we are, *available at* <https://www.dilg.gov.ph/page/Who-we-are/19> (last visited June 20, 2018).

⁸⁴⁰ Department of the Interior and Local Government, Vision & Mission, *available at* <https://www.dilg.gov.ph/page/Vision-Mission/20> (last visited June 20, 2018).

⁸⁴¹ *Supra* note 840.

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supervisory unit with the following subordinates: Bureau of Local Government Development (BLGD); Bureau of Local Government Supervision (BLGS); Office of Project Development Services (OPDS); National Barangay⁸⁴² Operations Office (NBOD).⁸⁴³

2. Executives

Secretary of the Interior and Local Government is the supreme supervisor, with Undersecretaries and Assistant Secretaries who are responsible for various tasks viz; Undersecretary for Local Government; Undersecretary for Operations; Undersecretary for Plans, Public Affairs and Communication; Undersecretary for Peace and Order; Undersecretary for Public Safety; Undersecretary for Barangay Affairs; Undersecretary for External and Legislative Affairs; Assistant Secretary for Administration, Finance and Comptrollership; Assistant Secretary for Plans and Programs; Assistant Secretary for Human Resources Development; Assistant Secretary for Community Participation and Barangay Affairs; Assistant Secretary for Mindanao Affairs and Special Concerns; Assistant Secretary for Peace and Order; and Assistant Secretary for Public Safety and Security.⁸⁴⁴

3. Attached Agencies

Department of Interior and Local Government has the following attached agencies: Local Government Academy; Philippine National Police; Bureau of Fire

⁸⁴² Barangay is a smallest local administrative unit, similar to a village.

⁸⁴³ Department of the Interior and Local Government, Key Officials, *available at* <https://www.dilg.gov.ph/key-officials/> (last visited June 20, 2018).

⁸⁴⁴ *Supra* note 843.

Protection; Bureau of Jail Management and Penology;⁸⁴⁵ Philippine Public Safety College; and National Police Commission.⁸⁴⁶

Powers and Functions⁸⁴⁷

1) Assist the President in the exercise of general supervision over local governments;

2) Advise the President in the promulgation of policies, rules, regulations and other issuances on the general supervision over local governments and on public order and safety;

3) Establish and prescribe rules, regulations and other issuances implementing laws on public order and safety, the general supervision over local governments and the promotion of local autonomy and community empowerment and monitor compliance thereof;

4) Provide assistance towards legislation regarding local governments, law enforcement and public safety; Establish and prescribe plans, policies, programs and projects to promote peace and order, ensure public safety and further strengthen the administrative, technical and fiscal capabilities of local government offices and personnel;

5) Formulate plans, policies and programs which will meet local emergencies arising from natural and man-made disasters; Establish a system of coordination and cooperation among the citizenry, local executives and the Department, to ensure effective and efficient delivery of basic services to the public;

⁸⁴⁵ Its duties are different from Bureau of Correction. While Bureau of Correction is responsible for prisons and takes care of prisoners convicted by courts three years and above, Bureau of Jail Management and Penology supervises local jails and safekeeps detainees accused before a court who are temporarily confined in such jails while undergoing investigation, waiting final judgement and those who are serving sentence promulgated by the court 3 years and below.

⁸⁴⁶ Department of the Interior and Local Government, Attached Agencies, *available at* <http://region3.dilg.gov.ph/index.php/about/attached-agencies> (last visited June 20, 2018).

⁸⁴⁷ Department of the Interior and Local Government, Powers and Functions, *available at* <https://dilg.gov.ph/page/Powers-Functions/21> (last visited June 20, 2018).

6) Organize, train and equip primarily for the performance of police functions, a police force that is national in scope and civilian in character.⁸⁴⁸

5.1.8 Department of Energy

Department of Energy was firstly established by President Ferdinand Marcos in 1977 under Presidential Decree No. 1206 with National Power Corporation and Philippine National Oil Company as attached agencies. In 1987, Department of Energy was demoted to Office of Energy Affairs. In 1992, during the presidency of Fidel Ramos, Republic Act No. 7638 was promulgated to establish Department of Energy (DOE) to be responsible for energy task of the country until present.⁸⁴⁹

Vision

A globally-competitive DOE powering up Filipino communities through clean, efficient, robust and sustainable energy systems that will create wealth, propel industries and transform the lives of men and women and the generations to come.⁸⁵⁰

⁸⁴⁸ Formerly, Philippine police do not possess military ranks such as General, Captain or Sergeant but civilian ranks were used such as Inspector, Superintendent or Director because Article 6, Section XVI of 1987 Philippine Constitution prescribes so. However, on February 8, 2019, President Rodrigo Duterte signed Republic Act No. 11200 which prescribes that all Philippine polices shall use military ranks for purposes of clear and effective supervision and control for more effective coordination with other law enforcement agencies, especially for tasks involving anti-terrorism and threats to national security in other forms. This issuance was criticized that it may violate the aforementioned Constitution provision but the law proposer affirmed that it was only a change of position names but character of police conducts still remain civilian. See <https://www.bworldonline.com/Duterte-signs-law-modifying-police-rank-designations/>, <https://news.abs-cbn.com/news/02/21/19/new-law-modifies-pnp-rank-classification> (last visited February 21, 2019).

⁸⁴⁹ Department of Energy, Who We Are, *available at* <https://www.doe.gov.ph/who-we-are> (last visited June 20, 2018).

⁸⁵⁰ Department of Energy, Mandate, Vision and Vision, *available at* <https://www.doe.gov.ph/transparency/mandate-mission-and-vision-0> (last visited June 20, 2018).

Mission

Improve the quality of life of the Filipino by formulating and implementing policies and programs to ensure sustainable, stable, secure, sufficient, accessible and reasonably-priced energy.⁸⁵¹

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supervisory unit with the following subordinates: Energy Resource Development Bureau; Energy Utilization Management Bureau; Energy Industry Administration Bureau; Energy Planning and Monitoring Bureau; and Administrative Support Services.⁸⁵²

2. Executives

Secretary of Energy is the supreme executive with no more than 3 undersecretaries who are responsible for the following duties:

1) Advise and assist the Secretary in the formulation and implementation of department objectives and policies;

2) Oversee all the operational activities of the department for which he shall be responsible to the Secretary;

3) Coordinate the programs and projects of the department and be responsible for its economical, efficient and effective administration;

4) Serve as deputy to the Secretary in all matters relating to the operations of the department;

5) Temporarily discharge the duties of the Secretary in the latter's absence or inability to discharge his duties for any cause or in case of vacancy of the said office, unless otherwise provided by law. Where there are more than one Undersecretary, the Secretary shall allocate the foregoing powers and duties among them. The President shall likewise make the temporary designation of Acting Secretary from among them; and

⁸⁵¹ *Supra* note 850.

⁸⁵² Section 12 of Republic Act No. 7638, *available at* https://www.lawphil.net/statutes/repacts/ra1992/ra_7638_1992.html (last visited June 20, 2018).

6) Perform such other functions and duties as may be provided by law.⁸⁵³

In addition, there are 3 Assistant Secretaries which are Assistant Secretary for Operations; Assistant Secretary for Policy and Programs; and Assistant Secretary for Administrative Services.⁸⁵⁴

3. Attached Agencies

Department of Energy has the following attached agencies: Philippine National Oil Company (PNOC); National Power Corporation (NPC); National Electrification Administration (NEA).⁸⁵⁵

Powers and Functions

Under Section 5 of Republic Act No. 7638, Department of Energy has the following powers and functions:

1) Formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy consistent with the approved national economic plan and with the policies on environmental protection and conservation and maintenance of ecological balance, and provide a mechanism for the integration, rationalization, and coordination of the various energy programs of the Government;

2) Develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy. The program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry and reduction of dependency on oil-fired plants. Said program shall be updated within nine months from its completion and not later than the fifteenth day of September every year thereafter;

⁸⁵³ Section 9 of Republic Act No. 7638.

⁸⁵⁴ Section 10 of Republic Act No. 7638.

⁸⁵⁵ Section 13 of Republic Act No. 7638.

3) Establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources of all forms, whether conventional or non-conventional;

4) Exercise supervision and control over all government activities relative to energy projects in order to attain the goals embodied in Section 2 of this Act;⁸⁵⁶

5) Regulate private sector activities as provided under existing laws: Provided, that the Department shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities;

6) Assess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies;

7) Formulate and implement programs, including a system of providing incentives and penalties, for the judicious and efficient use of energy in all energy-consuming sectors of the economy;

8) Formulate and implement a program for the accelerated development of nonconventional energy systems and the promotion and commercialization on its applications;

9) Devise ways and means of giving direct benefits to the province, city, or municipality, especially the community and people affected, and equitable and preferential benefit to the region that hosts the energy resource and/or the energy-generating facility: Provided, however, That the other provinces, cities, municipalities, or regions shall not be deprived of their energy requirements;

10) Encourage private enterprises engaged in energy projects, including corporations, cooperatives, and similar collective organizations, to broaden the base of their ownership and thereby encourage the widest public ownership of energy-oriented corporations;

⁸⁵⁶ Section 2 of Republic Act No. 7638 prescribes that it is the policy of the State to ensure stability of energy of the country and to promote self-reliance of energy which is friendly to environment.

11) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

12) Exercise such other power as may be necessary or incidental to attain the objectives of Republic Act No. 7638.⁸⁵⁷

5.1.9 Department of Science and Technology

Department of Science and Technology was firstly established on June 13, 1958 in the form of Board under the name of National Science and Development Board (NSDB). Later, on March 17, 1981, its organization structure was changed into National Science and Technology Authority (NSTA). Until January 30, 1987, Executive Order No. 128, s. 1987 was signed, enhancing status of the agency to become a part of administrative branch in the form of Department under the name of Department of Science and Technology (DOST) until present day.⁸⁵⁸

Vision

The DOST is the provider of world-class scientific, technological and innovative solutions that will lead to higher productivity and better quality of life. The DOST will become a leading ASEAN Science, Technology and Innovation Hub by 2022.⁸⁵⁹

Mission

Executive Order No. 128 mandates the Department to “provide central direction, leadership and coordination of scientific and technological efforts and ensure that the results therefrom are geared and utilized in areas of maximum economic and social benefits for the people”.⁸⁶⁰

⁸⁵⁷ Section 5 of Republic Act No. 7638.

⁸⁵⁸ Department of Science and Technology, History and Logo, *available at* <http://www.dost.gov.ph/transparency/about-dost/history-and-logo.html> (last visited June 20, 2018).

⁸⁵⁹ Department of Science and Technology, Mandate, Mission, and Vision, *available at* <http://www.dost.gov.ph/transparency/about-dost/mandate-mission-and-vision.html> (last visited June 20, 2018).

⁸⁶⁰ *Supra* note 859.

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supervisory unit with the following subordinates: Administrative & Legal Service; Gender & Development & Regional Support Service; Internal Audit Service; Finance & Management Service; Planning & Evaluation Service; Office of the Undersecretary; and Office of the Assistant Secretary.⁸⁶¹

2. Executives

Secretary of Science and Technology is the supreme supervisor with the following Undersecretaries and Assistant Secretaries collaborating in various tasks: Undersecretary for Disaster Risk and Climate Change; Undersecretary for Regional Operations; Undersecretary for Research and Development; Undersecretary for Scientific and Technical Service; Assistant Secretary for Administration; Assistant Secretary for Finance; and Assistant Secretary for International Cooperation.⁸⁶²

3. Attached Agencies

Department of Science and Technology has the following attached agencies: Philippine Council for Agriculture, Aquatic and Natural Resources Research and Development (PCAARRD); Philippine Council for Health Research and Development (PCHRD); Philippine Council for Industry, Energy and Emerging Technology Research and Development (PCIEERD); Advanced Science and Technology Institute (ASTI); Food and Nutrition Research Institute (FNRI); Forests Product Research and Development Institute (FPRDI); Industrial Technology Development Institute (ITDI); Metal Industry Research and Development Center (MIRDC); Philippine Nuclear Research Institute (PNRI); Philippine Textile Research Institute (PTRI); Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA); Philippine Institute of Volcanology and Seismology (PHIVOLCS); Philippine Science High School (PSHS); Science and Technology Information Institute (STII); Technology Application and Promotion Institute

⁸⁶¹ Department of Science and Technology, Organizational Structure, *available at* <http://www.dost.gov.ph/transparency/about-dost/organizational-structure.html> (last visited June 20, 2018).

⁸⁶² *Supra* note 861.

(TAPI); Technology Resource Center (TRC); National Academy of Science and Technology (NAST); and National Research Council of the Philippines (NRCP).⁸⁶³

Powers and Functions

Section 5 of Executive Order No. 128, s. 1987 prescribes the following powers and functions of Department of Science and Technology:

1) Formulate and adopt a comprehensive National Science and Technology Plan including specific goals, policies, plans, programs and projects based on the recommendation of the Inter-Council Review Board and, upon approval by the President, monitor and coordinate its funding and implementation by all government agencies and instrumentalities;

2) Promote, assist, and where appropriate, undertake scientific and technological research and development in those areas which are determined to be vital to the country's development and offer optimum returns for the resources employed;

3) Promote the development of indigenous technology and adaptation and innovation of suitable imported technology, and in this regard, undertake technology development up to the commercial stage, preferably in joint venture with the private sector or with public agencies;

4) Undertake design and engineering work to complement its research and development functions;

5) Promote, assist and where appropriate undertake the transfer of the results of scientific and technological research and development, to their end-users;

6) Promote, assist and where appropriate undertake technological services needed by agriculture, industry, transport, and the general public;

7) Develop and maintain an information system and databank on science and technology for use by both the public and private sectors;

8) Develop and implement, together with other entities concerned, programs for strengthening scientific and technological capabilities in the relevant disciplines through manpower training, and through infrastructure and institution building and rationalization, in both the public and private sectors;

⁸⁶³ *Supra* note 861.

- 9) Promote public consciousness in science and technology;
- 10) Undertake policy research, technology assessment studies, feasibility studies and technical studies.⁸⁶⁴

5.1.10 Department of Public Works and Highways

Department of Public Works and Highways was firstly established in 1896 by being merged with war affairs under the name of Department of War and Public Works. In 1905, it was demoted to Bureau of Public Works belonged to Department of Commerce and Police. Until 1916, it was promoted to Department of Commerce and Communications and its structure was transformed several times by bringing Public Works into its responsibility. Until January 30, 1987, Executive Order No. 124, s. 1987 was signed to establish Department of Public Works and Highways, responsible for planning, design, construction and maintenance of infrastructures such as roads and bridges, flood control systems, water resource development projects and other public works until present.⁸⁶⁵

Vision

By 2030, DPWH is an effective and efficient government agency, improving the life of every Filipino through quality infrastructure.⁸⁶⁶

Mission

To provide and manage quality infrastructure facilities and services responsive to the needs of the Filipino people in the pursuit of national development objectives.⁸⁶⁷

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as the supreme supervisory unit with the following subordinates: Bureau of Design; Bureau of Construction; Bureau of

⁸⁶⁴ Section 5 of Executive Order NO. 128, s. 1987, *available at* <https://www.officialgazette.gov.ph/1987/01/30/executive-order-no-128-s-1987/> (last visited June 20, 2018).

⁸⁶⁵ Department of Public Works and Highways, History, *available at* <http://www.dpwh.gov.ph/dpwh/about/history> (last visited June 20, 2018).

⁸⁶⁶ Department of Public Works and Highways, About DPWH, *available at* <http://www.dpwh.gov.ph/dpwh/content/about-dpwh> (last visited June 20, 2018).

⁸⁶⁷ Supra note 866.

Maintenance; Bureau of Equipment; Bureau of Research & Standard; and Bureau of Quality & Safety.⁸⁶⁸

2. Executives

Secretary of Public Works and Highways is the supreme supervisor with the following Undersecretaries and Assistant Secretaries who are responsible for various tasks: Undersecretary for Planning & PPP; Undersecretary for Support Services; Undersecretary for Regional Operations in Luzon; Undersecretary for Regional Operations in Visayas; Undersecretary for Regional Operations in Mindanao; (Undersecretary for UPMO⁸⁶⁹ Operations and Technical Services; Assistant Secretary for the Office of the Secretary & Special Concerns; Assistant Secretary for Support Services; Assistant Secretary for Regional Operations in Luzon; Assistant Secretary for Regional Operations in Visayas; Assistant Secretary for Operations in Mindanao; and Assistant Secretary for Technical Services.⁸⁷⁰

3. Attached Agencies

Department of Public Works and Highways has the following attached agencies: Metropolitan Waterworks and Sewerage System (MWSS); and Local Water Utilities Administration (LWUA).⁸⁷¹

Powers and Function

Section 5 of Executive Order No. 124, s. 1987 prescribes powers and functions of Department of Public Works and Highways as follows:

⁸⁶⁸ Department of Public Works and Highways, Organizational Chart, *available at* <http://www.dpwh.gov.ph/dpwh/about/org-chart/org-chart-main> (last visited June 20, 2018).

⁸⁶⁹ UMPO = Unified Project Management Office

⁸⁷⁰ Department of Public Works and Highways, Organizational Chart, *available at* <http://www.dpwh.gov.ph/dpwh/about/org-chart/org-chart-main> (last visited June 20, 2018).

⁸⁷¹ *Supra* note 870. In addition, Road Board, which was used to be an attached agency of Department of Public Works and Highways, was dissolved on March 8, 2019 by President Rodrigo Duterte reasoning that Road Board is a “milking cow” for corruption. See Philippine News Agency, PRRD signs law abolishing Road Board, *available at* <https://www.pna.gov.ph/articles/1064995> (last visited March 19, 2019).

- 1) Provide technical services for the planning, design, construction, maintenance, and/or operation of infrastructure facilities;
- 2) Develop and implement effective codes, standards, and reasonable guidelines to ensure the safety of all public and private structures in the country and assure efficiency and proper quality in the construction of public works;
- 3) Ascertain that all public works plans and project implementation designs are consistent with current standards and guidelines;
- 4) Identify, plan, secure funding for, program, design, construct or undertake prequalification, bidding, and award of contracts of public works projects with the exception only of specialized projects undertaken by Government corporate entities with established technical capability and as directed by the President of the Philippines or as provided by law;
- 5) Provide the works supervision function for all public works construction and ensure that actual construction is done in accordance with approved government plans and specifications;
- 6) Assist other agencies, including the local governments, in determining the most suitable entity to undertake the actual construction of public works projects;
- 7) Maintain or cause to be maintained all highways, flood control, and other public works throughout the country except those that are the responsibility of other agencies as directed by the President of the Philippines or as provided by law;
- 8) Provide an integrated planning for highways, flood control and water resource development systems, and other public works;
- 9) Classify roads and highways into national, regional, provincial, city, municipal, and barangay roads and highways, based on objective criteria it shall adopt; provide or authorize the conversion of roads and highways from one category to another;
- 10) Delegate, to any agency it determines to have the adequate technical capability, any of the foregoing powers and functions.⁸⁷²

⁸⁷² Section 5 of Executive Order No. 124, s. 1987, *available at* <https://www.officialgazette.gov.ph/1987/01/30/executive-order-no-124-s-1987/> (last visited June 20, 2018).

5.1.11 Department of Social Welfare and Development

Department of Social Welfare and Development was firstly established in 1915 in the form of Public Welfare Board (PWB). Until 1921, PWB was dissolved and replaced by Bureau of Public Welfare, which is under Department of Public Instruction. In 1941, it was transferred to Department of Health and Public Welfare. In 1968, Republic Act No. 5416 was promulgated to establish Department of Public Welfare as a part of administrative branch. Its name was later changed to Department of Public Welfare and Development which is under Executive Order No. 123, s. 1987 and Administrative Code of 1987.

Vision

The Department of Social Welfare and Development envisions all Filipinos free from hunger and poverty, have equal access to opportunities, enabled by a fair, just, and peaceful society.⁸⁷³

Mission

To lead in the formulation, implementation, and coordination of social welfare and development policies and programs for and with the poor, vulnerable, and disadvantaged.⁸⁷⁴

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supervisory unit with the following subordinates: Bureau of Emergency Assistance; Bureau of Family and Community Welfare; Bureau of Disabled Persons Welfare; Bureau of Womens Welfare; Bureau of Child and Youth Welfare;⁸⁷⁵ Policy Development and Planning Bureau; Standards Bureau; Disaster Response Management Bureau; Social Technology Bureau; Program

⁸⁷³ Department of Social Welfare and Development, About Us, *available at* <https://www.dswd.gov.ph/about-us/> (last visited June 20, 2018).

⁸⁷⁴ *Supra* note 873.

⁸⁷⁵ Book IV, Title XVI, Section 11 of the Administrative Code of 1987.

Management Bureau; Social Welfare Institutional Development Bureau; and National Response and Logistics Management Bureau⁸⁷⁶

2. Executives

Secretary of Social Welfare and Development is the supreme supervisor with the following Undersecretaries and Assistant Secretaries who are responsible for various tasks: Undersecretary for Social Welfare and Development; Undersecretary for Standards and Capacity Building; Undersecretary for General Administration and Support Services Group; Undersecretary for Operations; Undersecretary for Disaster Response Management Group; Undersecretary for Policy and Plans; Undersecretary for Special Concerns; Undersecretary for Special Projects; Assistant Secretary for General Administration and Support Services Group; Assistant Secretary for Policy and Plans; Assistant Secretary for Standards and Capacity Building; Assistant Secretary for Luzon Affairs; Assistant Secretary for Specialized Programs; and Assistant Secretary for Statutory Programs.⁸⁷⁷

3. Attached Agencies

Department of Social Welfare and Development has the following attached agencies: Council for the Welfare of Children; Inter-Country Adoption Board; and National Council for Disability Affairs.

Powers and Functions

Under Book IV, Title XVI, Section 3 of Administrative Code of 1987, Department of Social Welfare and Development has the following powers and functions:

- 1) Formulate, develop and implement plans, programs and projects in the field of social welfare and development;
- 2) Adopt policies to ensure effective implementation of programs for public and private social welfare services;

⁸⁷⁶ Department of Social Welfare and Development, DSWD Directory of Officials, *available at* <https://www.dswd.gov.ph/directory/> (last visited June 20, 2018).

⁸⁷⁷ *Supra* note 876.

- 3) Promote, support and coordinate the establishment, expansion and maintenance of non-government social welfare facilities, projects and services;
- 4) Establish, operate, maintain and otherwise support institutional facilities, projects and services for its constituents;
- 5) Promote, build and strengthen people's organizations for a self-directing welfare system at the grassroots level;
- 6) Promote, support and coordinate networks and facilities for the identification and delivery of appropriate interventions to its welfare constituents;
- 7) Accredite institutions and organizations engaged in social welfare activities and provide consultative and information services to them;
- 8) Undertake researches and studies on matters pertaining to its constituency;
- 9) Initiate, promote and maintain bilateral and multi-lateral linkages for technical cooperation, in coordination with the Department of Foreign Affairs;
- 10) Provide advisory services and develop and implement training standard and programs for personnel, social workers and students and third-country participants for career and staff development in social welfare activities;
- 11) Disseminate information and publish technical bulletins on social welfare and development;
- 12) Deputize law enforcement agencies to assist in the implementation of laws, rules and regulations for the protection of the rights of the exploited, abused and disadvantaged;
- 13) Regulate fund drives, public solicitations and donations for charitable or welfare purposes;
- 14) Set standards, accredit and monitor performance of all social welfare activities in both public and private sectors;
- 15) Exercise functional and technical supervision over social workers in other government settings or agencies like courts, hospitals, schools and housing projects;
- 16) Deputize local government units and other agencies of government as are necessary in providing disaster relief;
- 17) Coordinate all activities pertaining to the implementation of programs and services for the disabled, the aging and other socially disadvantaged; and

18) Perform such other functions as may be provided by law.⁸⁷⁸

5.2 Private Agencies Concerning Society

There are countless charity organizations, religious organizations, fraternity, sorority, foundations and the like in the Philippines. Each caters to the needs of their respective groups, religions and the like. For understanding, only the Iglesia ni Cristo will be discussed here as the said religious organization originated in the Philippines and now has a following worldwide.

Iglesia ni Cristo (INC)

Iglesia ni Cristo (INC) literally means Church of Christ. INC was founded by Felix Y. Manalo in Manila, Philippines and was officially registered with the Philippine government on July 27, 1914.⁸⁷⁹ By 1968 INC had presence outside the Philippines.⁸⁸⁰ INC claims to be the one true church. INC is the third largest religious organization in the Philippines after the Roman Catholic Church and Islam. As of 2014 there were “2,251,941 members of the INC in the Philippines”⁸⁸¹.

Politicians often solicit the support of INC to be assured of victory in elections. INC is a “solid bloc, considering that INC members regard as a religious duty going to the polling precincts on Election Day to carry out the command of their leaders.”⁸⁸² INC has been known to vote as a bloc.

⁸⁷⁸ Book IV, Title XVI, Section 3 of the Administrative Code of 1987.

⁸⁷⁹ Iglesia Ni Cristo, Our History, *available at* <https://iglesianicristo.net/eng/about/history> (last visited February 24, 2017).

⁸⁸⁰ *Ibid.*

⁸⁸¹ Michael Bueza (2014), ‘MAP: Iglesia ni Cristo in the Philippines’, *available at* <http://www.rappler.com/newsbreak/iq/64391-map-iglesia-ni-cristo-population-philippines> (last visited February 24, 2017).

⁸⁸² Aries Rufo (2014), ‘How potent is the INC’s vote delivery system?’, *available at* <http://www.rappler.com/newsbreak/64448-potent-inc-vote-delivery-system> (Visited February 24, 2017)

Purpose

According to INC theirs is a “Christian religion whose primary purpose is to serve and worship the Almighty God based on His teachings recorded in the Bible.”⁸⁸³ Despite the use of the name “Cristo”, INC does not recognize Jesus Christ as God but as the Son of God.

Organizational Structure

An Executive Minister (Tagapamahala Pangkalahatan in Filipino) serves as the leader of INC and is tasked with managing the administration of the church. A Lupon ng Sanggunian (Church Economic Council) comprises of the Executive Minister and other senior ministers and forms the Central Administration of INC.

So far INC has had three Executive Ministers: the founder, Felix Manalo, the founder’s son, Eranio Manalo, and at present, Eranio’s son, Eduardo Manalo.

5.3 Public Agencies Concerning Culture

National Commission for Culture and the Arts (NCCA)

Creation and Purpose

The National Commission for Culture and the Arts (NCCA) was created by Republic Act No. 7356⁸⁸⁴ in 1992. The NCCA is “is the overall policy making body, coordinating, and grants giving agency for the preservation, development and promotion of Philippine arts and culture; an executing agency for the policies it formulates; and task to administering the *National Endowment Fund for Culture and the Arts (NEFCA)* — fund exclusively for the implementation of culture and arts programs and projects.”⁸⁸⁵

NCCA states its vision that the “culture and arts community envisions the Filipino culture as the Wellspring of national and global well-being”.⁸⁸⁶

⁸⁸³ The Iglesia Ni Cristo, About Us, *available at* <https://iglesianicristo.net/eng/about> (last visited February 24, 2017).

⁸⁸⁴ Republic Act No. 7356, *available at* <http://ncca.gov.ph/republic-act-7356/> (last visited February 24, 2017)

⁸⁸⁵ National Commission for Culture and the Arts, History and Mandate, *available at* <http://ncca.gov.ph/about-ncca-3/history-and-mandate/> (last visited February 14, 2017).

⁸⁸⁶ *Ibid.*

Organizational Structure

The Philippine government supports cultural development and coordination among cultural agencies.⁸⁸⁷ Executive Order No. 80 administratively attached five cultural agencies to NCCA. The five agencies are: 1) Cultural Center of the Philippines; 2) National Historical Commission of the Philippines; 3) National Museum; 4) National Library of the Philippines; and 5) National Archives of the Philippines. On the other hand, Republic Act No. 9155 added the Commission on the Filipino Language (Komisyon sa Wikang Filipino) to the five agencies previously mentioned as among those the NCCA is responsible for.

In effect, the NCCA is the “de facto Ministry of Culture” of the Philippines.⁸⁸⁸

Powers and Functions

- 1) Encourage and facilitate the organization of a network of regional and local councils for culture and the arts;
- 2) Set up a system of networking among all existing government cultural agencies for the effective implementation;
- 3) Advise the President on matters pertaining to culture and the arts;
- 4) Regulate activities inimical to the preservation/conservation of national cultural heritage/ properties;
- 5) Deputize law enforcement agencies to enforce the laws to protect culture and arts.⁸⁸⁹

5.4 Private Agencies Concerning Culture

There is no private agency of significance at present. There are countless small groups that aim to protect their interests such as organizations of movie actors, of film directors, of librarians, etc.

⁸⁸⁷ Section 1 of Executive Order No. 80, *available at* <http://ncca.gov.ph/about-ncca-3/history-and-mandate/> (last visited February 14, 2017).

⁸⁸⁸ *Supra* note 885.

⁸⁸⁹ *Supra* note 885.

5.5 Public Agencies Concerning Politics

Commission on Elections

The Commission on Elections (COMELEC) “is the principal government agency tasked by the Constitution to enforce and administer all laws and regulations concerning the conduct of regular and special elections. It is a body that is designed to be constitutionally independent from the executive, legislative and judicial branches of government to ensure the conduct of free, fair and honest elections. As an added measure, the constitution also grants fiscal autonomy to enable the COMELEC to operate effectively, efficiently and free from political interference”⁸⁹⁰.

The reality is that COMELEC gets most of the blame for all mishaps that occur every election and is put in a negative light when a losing candidate and his/ her supporters make an allegation of cheating against the winning candidate. This is true for national and local posts.

Organizational Structure

The COMELEC consists of one Chairman and six commissioners, all appointed by the President of the Philippines. The term of the Chairman and the Commissioners is for seven years with no reappointment possible. There is also an Executive Director who is in charge of managing the day-to-day affairs and operations of the COMELEC. The Executive Director “implements the policies and decisions of the Commission, takes charge of the administrative affairs and serves as the communication and operational link between the staff and Commissioners.” The Executive Director is “assisted by a Deputy Executive Director for Administration (DEDA) and a Deputy Executive Director for Operations (DEDO)”⁸⁹¹.

Powers and Functions

Beside election administration which are its primary task, the COMELEC also functions as judicial, regulatory and administrative agency. Judicially, its power includes “exclusive original jurisdiction over all contests relating to the elections, returns, and

⁸⁹⁰ Commission on Elections, Organizational Info, *available at* <http://www.comelec.gov.ph/?r=About> COMELEC/OrganizationalInfo (last visited February 23, 2017).

⁸⁹¹ *Supra* note 890.

qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. Exception issues involving the right to vote, it has regulatory and administrative authority to decide on all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.”⁸⁹²

5.6 Private Agencies Concerning Politics

There are many political parties in the Philippines. However, the two oldest are the Nacionalista and the Liberal Party.

5.6.1 *Nacionalista Party*

Founded on April 29 1907, the Nacionalista Party (NP) claims that it “has the distinction of being the most enduring political party not only in the Philippines but also in Asia.”⁸⁹³ NP has produced six Philippine presidents; four by popular election and another two who assumed the Presidency by other means. The four presidents who won by election were: Manuel L. Quezon (1935; reelected in 1941); Ramon Magsaysay (1953); Carlos P. Garcia (1957) and Ferdinand Marcos (1965; reelected in 1969). Sergio Osmeña was Quezon’s vice president who assumed the presidency when Quezon died in 1944 while World War II was ongoing. Jose P. Laurel, on the other hand, was the president of the Philippine Republic under Japanese Occupation.

Some of the other Philippine presidents were also members of NP at some point in their career prior to running for the presidency. A number of respected senators in the 20th century also hailed from NP.

⁸⁹² *Supra* note 890.

⁸⁹³ Nacionalista Party, About us (2005), *available at* <http://www.nacionalistaparty.com/index.php/about-us> (last visited February 24, 2017).

Purpose

The slogan of NP is “the country above all things.” The focus used to be on achieving independence from the colonial masters but has since shifted to achieving economic independence.⁸⁹⁴

Organizational Structure

NP has a party president. Membership is open for application to all Filipino citizens aged eighteen years old and above. NP is not only active during election period. The members “meet regularly every month, have different types of activities, and sponsor events which promote nationalism or further nationalist causes.”⁸⁹⁵

5.6.2 Liberal Party

On January 19, 1946, the Liberal Party (LP) was founded on 19 January by the first President of the Philippine Republic, Manuel Roxas from what was once the “Liberal Wing” of the old Nacionalista Party. Two Presidents of the Philippines who was elected into office came from the LP: Elpidio Quirino and Diosdado Macapagal. Two other Presidents came LP, being former members of the Party but choose to follow a different path and joined the Nacionalistas: Ramon Magsaysay and Ferdinand Marcos.⁸⁹⁶

Mission

To attain that vision, we shall advance the Liberal Ideals of Society, Justice, Human Rights, a free Market Economy, Participatory Democracy, and Solidarity with all Nations.

Objectives

- Advance and institutionalize the Party, political ideology and philosophy;
- Broaden the Party’s political constituency and expand the influence of its political leaders, and elevate the level of political consciousness and help create a strong pluralist

⁸⁹⁴ Nacionalista Party, Frequently asked questions (2005), *available at* <http://www.nacionalistaparty.com/index.php/faqs> (last visited February 24, 2017).

⁸⁹⁵ *Supra* note 893.

⁸⁹⁶ Council of Asian Liberals and Democrats, Liberal Party of the Philippines, *available at* <http://cald.org/member-parties/liberal-party-of-the-philippines/> (last visited February 24, 2017).

political system.⁸⁹⁷

Organizational structure

LP is headed by the National Executive Council (NECO) which “comprises of delegates elected by the General Assemblies of the Party chapter from each of the four major geographical areas of the country, namely: Luzon, Visayas, Mindanao and the National Capital Region.”⁸⁹⁸

5.7 Public Agencies Concerning National Security

5.7.1 Department of National Defense (DND)

The Philippines had a defense organization dating back to the pre-Spanish period which was similar to national defense. Each barangay had an organization of adult men of the village whose duty was to protect the community from hostile forces. This organization was the beginning of armed forces nowadays.⁸⁹⁹

A Department of National Defense was formally created on November 1, 1939 by virtue of Commonwealth No. 1, during American occupation of the Philippines. At that time, a Commonwealth government was already in place with Manuel Quezon as President. With the formal creation of the Department of National Defense, General Douglas MacArthur, the U.S. Chief Army who took care of the Philippines at that time, could no longer order munitions, enroll trainees, nor enter into contracts for the construction of military facilities without the approval of the President and the Secretary of National Defense.⁹⁰⁰

⁸⁹⁷ Political Party Forum Southeast Asia, Liberal Party of the Philippines, *available at* <https://partyforumseasia.org/liberal-party-of-the-philippines/> (last visited February 24, 2017).

⁸⁹⁸ Officers and structure, *available at* <https://liberalph.wordpress.com/members/officers-and-structure/> (last visited February 24, 2017).

⁸⁹⁹ Department of National Defense, 'Brief History of the Department of National Defense', p. 1, *available at* <http://www.dnd.gov.ph/pdf/history.pdf> (last visited February 24, 2019).

⁹⁰⁰ *Supra* note 899, at 2.

Vision

Within 2028, the Department will be a defense organization that guarantees Philippine security, territorial integrity and sovereignty; a reliable partner in national development; and a strategic player in the Asia-Pacific Region.⁹⁰¹

Mission

To defend against external and internal threats to territorial integrity and sovereignty, and promote the welfare of the people, in order to create a secure and stable environment conducive to national development.

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supreme supervisory unit with the following subordinates: Armed Forces of the Philippines; Government Arsenal; National Defense College; Office of the Civil Defense and Philippine Veterans Affairs Office.⁹⁰²

2. Executives

Secretary of National Defense is the supreme supervisor with the following Undersecretaries and Assistant Secretaries who are responsible for various tasks: Undersecretary of National Defense; Undersecretary for Defense Operations; Undersecretary for Defense Policy; Undersecretary for Civil, Veterans, and Retiree Affairs; Undersecretary for Finance and Materiel; Undersecretary for Special Concerns; Assistant Secretary for Financial Management; Assistant Secretary for Assessments and International Affairs; Assistant Secretary for Human Resource; Assistant Secretary for Logistics and Acquisitions; Assistant Secretary for Installations and Self-Reliant Defense Posture; and Assistant Secretary for Plans and Program.⁹⁰³

⁹⁰¹ Department of National Defense, DND Vision and Mission, DND Proper Mission and DND Proper Quality Policy, *available at* <http://www.dnd.gov.ph/transparency/about-dnd/dnd-visionand-mission-dnd-proper-mission-anddnd-proper-quality-policy.html> (last visited February 24, 2019).

⁹⁰² Department of National Defense, *available at* <http://www.dnd.gov.ph/index.html> (last visited February 24, 2019).

⁹⁰³ Department of National Defense, DND Officials, *available at* <http://www.dnd.gov.ph/transparency/dnd-officials-2.html> (last visited February 24, 2019).

3. Attached Agencies

Agencies attached to Department of National Defense are National Security Council; National Intelligence Coordination Agency; and Philippine Aerospace Development Corporation.

Powers and Functions

1) Provide the necessary protection of the State against external and internal threats; directing, planning and supervising the National Defense Program; maintaining law and order throughout the country; and performing other functions as may be provided for by law;

2) Exercises executive supervision over the Armed Forces of the Philippines (AFP), the Government Arsenal (GA), the Office of Civil Defense (OCD), the Philippine Veterans Affairs Office (PVAO), and the National Defense College of the Philippines (NDCP);

3) Supervises the National Defense Program of the country, oversees field operations to ensure the judicious and effective implementation of National Defense and Security Programs.⁹⁰⁴

5.7.2 Department of Foreign Affairs

Department of Foreign Affairs was officially established when the Philippines regained independence on July 4, 1946 by virtue of Commonwealth Act No. 732 with roles to revive the country after World War II, formulate policies for investment promotion, and establish diplomatic relations with other countries, including to express standpoints on international politics of the Philippines all along during the era of Cold War and Korean War. In 1967, Department of Foreign Affairs also had an important role on establishment of the Association of Southeast Asian Nations (ASEAN).⁹⁰⁵

⁹⁰⁴ The Lawphil Project, Department of National Defense, *available at* <https://lawphil.net/administ/dnd/dnd.html> (last visited February 24, 2019).

⁹⁰⁵ Department of Foreign Affairs, Historical Background, *available at* <https://www.dfa.gov.ph/about/history-of-dfa> (last visited February 24, 2019).

Vision

A resilient foreign service for a strong Philippines

Mission

To promote and protect Philippine interest in the global community

Organizational Structure

1. Central Office

It is comprised of Office of the Secretary as a supervisory unit with the following subordinate: Office of Asian and Pacific Affairs; Office of Middle East and African Affairs; Office of American Affairs; Office of European Affairs; Office of ASEAN Affairs; Office of the United Nations and Other International Organizations; Office of International Economic Affairs and Development; Office of Cultural Affairs and Public Information Services; Office of Personnel and Administrative Services; Office of Financial Management Services; and Office of Consular Services.⁹⁰⁶

2. Executives

Secretary of Foreign Affairs is the supreme supervisor with the following Undersecretaries who are responsible for various tasks: Undersecretary for Administration; Undersecretary for Policy; Undersecretary for International Economic Relations; Undersecretary for Migrant Workers Affairs; and Undersecretary for Civilian Security and Consular Concerns.⁹⁰⁷

3. Attached Agencies

Attached Agencies of Department of Foreign Affairs are Foreign Service Institute; Technical Cooperation Council of the Philippines; and Philippine National Commission for UNESCO (UNACOM).⁹⁰⁸

Powers and Functions

Under Book IV, Title I, Section 3 of Administrative Code of 1987, Department of Foreign Affairs has the following powers and functions:

⁹⁰⁶ Book IV, Title I, Section 8 of the Administrative Code 1987.

⁹⁰⁷ Department of Foreign Affairs, Organizational Structure, *available at* <https://www.dfa.gov.ph/about/organizational-structure> (last visited February 24, 2019).

⁹⁰⁸ *Supra* note 907.

- 1) Conduct the country's foreign relations;
- 2) Maintain and develop the country's representation with foreign governments;
- 3) Conduct Philippine representation in the United Nations, the Association of Southeast Asian Nations (ASEAN), and other international and regional organizations;
- 4) Serve as the channel for matters involving foreign relations, including official communications to and from the Republic of the Philippines;
- 5) Negotiate treaties and other agreements pursuant to instructions of the President, and in coordination with other government agencies;
- 6) Promote trade, investments, tourism and other economic relations with other countries in cooperation with other government agencies;
- 7) Foster cultural relations with other countries and protect and enhance the Philippines' image abroad;
- 8) Undertake efforts to inform the international community about the Philippines in cooperation with other government agencies;
- 9) Protect and assist Philippine nationals abroad;
- 10) Carry out legal documentation functions as provided for by law and regulations;
- 11) Monitor and analyze events in other countries and report them, as appropriate, to the President and other government agencies;
- 12) Initiate, formulate, integrate and submit to the President short, medium, and long-range foreign policy plans and programs in cooperation with other government agencies;
- 13) Supervise and direct officials and employees assigned by the Department and other government agencies to Foreign Service establishments abroad in accordance with the pertinent laws, rules and inter-agency agreements;
- 14) Recruit, maintain and develop a professional career foreign service based on merit; and
- 15) Perform such other functions as may be provided by law.⁹⁰⁹

⁹⁰⁹ Book IV, Title I, Section 3 of the Administrative Code of 1987.

5.7.3 *The Philippine National Police (PNP)*

The Philippine National Police was firstly established in the form of the Philippine Constabulary (PC) on August 8, 1901 as an insular police force under American occupation. On August 8, 1975, after the Philippines became independent, Presidential Decree No. 765 was issued to establish the Philippine Constabulary Integrated National Police (PC/INP) to integrate fragmented and diverse local police units into a national police force.

After the People's Revolution in 1986, the Constitution prescribed that a police force shall be "national in scope and civilian in character"⁹¹⁰, therefore, Republic Act No. 6975 was promulgated to reorganize the police force and became a part of Department of Interior and Local Government (DILG) until present.⁹¹¹

Vision

By 2030, we shall be a highly capable, effective and credible police service working in partnership with a responsive community towards the attainment of a safer place to live, work and do business.⁹¹²

Mission

The PNP shall enforce the law, prevent and control crimes, maintain peace and order, and ensure public safety and internal security with the active support of the community.⁹¹³

Organizational Structure

The Philippine National Police has Chief of PNP as the supreme supervisor and 2 Deputy Chiefs who take care of administrative task and operation. In the same level, there is the Chief of the Directorial Staff who with several subordinates who work as Directorates viz; Directorate for Personnel and Records Management; Directorate for Logistics;

⁹¹⁰ See note 848.

⁹¹¹ Official Gazette, The Philippine National Police, *available at* <https://www.officialgazette.gov.ph/featured/about-the-pnp/> (last visited February 24, 2019).

⁹¹² Philippine National Police, About Us, *available at* <http://www.pnp.gov.ph/about-us> (last visited June 20, 2018).

⁹¹³ *Supra* note 912.

Directorate for Comptrollership; Directorate for Information & Communications Tech Management; Directorate for Human Resource and Doctrines Development; Directorate for Research and Development; Directorate for Plans; Directorate for Investigation and Detective Management; Directorate for Operations; Directorate for Integrated Police Operations; and Directorate for Police-Community Relations⁹¹⁴

Powers and Functions

Under Section 24 of Republic Act No. 6975, the Philippine National Police has the following powers and functions:

- 1) Law Enforcement;
- 2) Maintain peace and order;
- 3) Prevents and investigates crimes and bring offenders to justice;
- 4) Exercise the vested powers from the Philippine Constitution and pertinent laws;
- 5) Detain an arrested person for a period not beyond what is prescribed by law;
- 6) Implements pertinent laws and regulations on firearms and explosives control;
- 7) Supervise and control the training and operations of security agencies.⁹¹⁵

5.8 Private Agencies Concerning National Security

National security is handled by the government and falls under the jurisdiction of the DND as discussed above.

⁹¹⁴ Philippine National Police, Organizational Structure, *available at* <http://www.pnp.gov.ph/about-us/organizational-structure> (last visited June 20, 2018).

⁹¹⁵ *Supra* note 914.

Chapter 6

Conclusion

Since Philippines was under colonization of superpower nations for long and was influenced with administrative philosophy from both Spain and U.S., Philippines' laws, therefore, strongly emphasize rights, liberty and humanity, including interestingly commingle ideas from both Common Law and Civil Law system. Especially, the presidential system that the president comes directly from popular election and is responsible for the whole executive tasks. This system grants ultra-power to the president which sometimes leads to abuse of power, cronyism and patronage which result in people uprising.

With regard to education and culture, Philippines is multicultural society and archipelago nation which consists of various tribal groups with inconvenient transportation. Therefore, education laws of the Philippines focus on alternative education, especially home schooling and education that uses multi-languages as medium of learning. The lessons also emphasize significance of multi-culturalism and multi-wisdom of indigenous groups.