

CHAPTER 3

Government and the State

The New Charter is described as 'pro-life, pro-people, pro-poor, pro-Filipino and anti-dictatorship'.¹ It is 'pro-life' because it bans nuclear weapons, protects the unborn from the moment of conception, abolishes the death penalty except in extreme cases when the Congress may reimpose it, and protects the family as a basic autonomous social institution.² It is considered 'pro-people' because it includes policies to promote people's welfare, *i.e.* a just and humane social order, adequate social services, protection for the right to health and to a balanced and healthy ecology and gives priority to education; it allows greater participation by the people in government through the free and open party system, sectoral representation, people's organizations, and the institution of the processes of initiative and referendum in law-making and constitutional amendment.³ It is 'pro-poor' because there are socio-economic policies that alleviate the plight of the under-privileged, and promote social justice.⁴ It is pro-Filipino because there are provisions for Filipino control of the economy, educational institutions, mass-media and advertising and public utilities; reservation of certain areas of investments for Filipinos if it is in the national interest, and in the practice of all professions; a Filipino national language and the preservation of a Filipino national culture.⁵ It is 'anti-dictatorship' because it puts limitations on the powers of the President and strengthens the powers of the Congress and the Judiciary, thus, preventing the consolidation of powers in any one person or branch of government.⁶

Although it is basically patterned after the 1973 Constitution, the 1987 Constitution consists of 100 new sections which primarily deal with social justice, the national economy, family rights, education and human resources, the Commission on Human Rights and the autonomous regions.⁷ However, the same basic principles underlying the previous constitutions are still found in the new Constitution, among which are:

¹ Philippine Constitutional Commission of 1986; Primer *The Constitution of the Republic of the Philippines* (1986) p 26.

² 1987 CONST; Article II, ss 7, 12; art III, s 19(1); Rep Act No 7659 (1993) reimposed the death penalty for certain heinous crimes.

³ Article II, ss 5,9,10, 11, 15, 16 and 17; art VI, s 5; art XIII, ss 15-16; art IX-C, ss 5,8; art X, ss 3 and 9; and art XVII, s 2.

⁴ Article II, ss 9-11, 18-23; arts XIII and XIV.

⁵ Articles XII, XIV, ss 4(2), 6-9, 12, 14-18.

⁶ Article VII, ss 16, 18-21.

⁷ Article II, ss 9, 10; art XII, ss 1-2; art XII, ss 1-22; art XV, ss 1-4; art IV, ss 1-19; art XIII, ss 17-19; and art X, ss 15-21.

- (1) a declaration of a republican state and sovereignty of the people;⁸
- (2) a renunciation of war as an instrument of national policy;⁹
- (3) the supremacy of civilian authority over the military;¹⁰
- (4) the separation of Church and State;¹¹
- (5) the guarantee of the bill of rights;¹²
- (6) the rule of the majority;
- (7) government through suffrage;¹³
- (8) the separation of powers;¹⁴
- (9) the independence of the judiciary;¹⁵
- (10) local autonomy is ensured;¹⁶
- (11) the accountability of public officers;¹⁷
- (12) the non-suability of the State;¹⁸ and
- (13) the nationalization of natural resources and other enterprises affected with the public interest.¹⁹

Structure of the Government

The government of the Philippines is republican in form and under a presidential system as distinguished from the parliamentary system under the 1973 Constitution. It is a unitary, centralized government with the principle of separation of powers as a basic feature. This means that there is a division of the functions of government into three distinct classes: the executive, the legislative, and the judicial departments; and in the exercise of the functions allotted to each department under the Constitution, each department is supreme, coordinate and coequal with the others.²⁰ Any acts of one in usurpation of the others or, in excess of the powers granted to it by the Constitution, are invalid. While the three are independent of one another, they form an interdependent unit as far as may be necessary to carry out the work of the government. There is also the system of checks and balances wherein the Constitution gives each department certain powers by which it may definitely restrain the others from exceeding their authority.²¹

The Executive

⁸ Article II, s 1.

⁹ Article II, s 2.

¹⁰ Article II, s. 3.

¹¹ Article II, s 6.

¹² Article III, ss 1-22.

¹³ Article V, ss 1 and 2.

¹⁴ Article VI, s 1; art VII, s 1; and art VIII, s 1.

¹⁵ Article VIII, ss 1-2 and 3.

¹⁶ Article II, s 25 and art X, s 2.

¹⁷ Article XI, s 1.

¹⁸ Article XVI, s 3.

¹⁹ Article XII, ss 2-4, 10 and 12.

²⁰ V *Sinco*, p 128.

²¹ V *Sinco*, p. 132.

The 1987 Constitution vests the executive power in a President²² who has control of all the executive departments, bureaus and offices;²³ exercises general supervision over local governments;²⁴ and ensures that the laws are faithfully executed.²⁵ It vests the President with powers of Commander-in-Chief of all the armed forces of the Philippines and empowers this office, under certain circumstances and conditions, to suspend the privilege of the writ of *habeas corpus* or place the Philippines under martial law for a limited period. 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. Likewise, the suspension of the privilege of the writ applies only to persons judicially charged for rebellion or offences inherent in or directly connected with an invasion.²⁶

The other powers of the President include: the authority to nominate and appoint, with the consent of the Commission on Appointments, 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 the Presidency under the Constitution and by law;²⁷ the authority to contract or guarantee foreign loans on behalf of the Republic but only with the prior concurrence of the Monetary Board and subject to such limitations as may be provided by law;²⁸ to grant reprieves, commutations and pardons, and remit fines and forfeitures after conviction by final judgment, except in cases of impeachment; and to grant amnesty with the concurrence of the majority of all the Members of the Congress.²⁹

The President also participates in the legislative process because a bill passed by the Congress does not become a law unless he approves it. If he vetoes the bill, it could still become a law if two-thirds of all the Members of each House reconsider and approve such bill.³⁰

Both the President and Vice-President are elected by direct vote of the people for a term of six years. The President is not eligible for any re-election whereas the Vice-President can serve for not more than two successive terms.³¹ In case of death, permanent disability, removal from office, or resignation of the President during his term, the Vice-President becomes President and serves the

²² Article VII, s 1.

²³ Article VII, s 17.

²⁴ Article X, s 4.

²⁵ Article VII, s 17.

²⁶ Article VII, s 18.

²⁷ Article VII, s 16.

²⁸ Article VII, s 20.

²⁹ Article VII, s 19.

³⁰ Article VI, s 27(1).

³¹ Article VII, s 4.

unexpired term. Where there is no President or Vice-President, the President of the Senate, or in case of his inability, the Speaker of the House of Representatives shall then act as President until the President or Vice-President shall have been elected and qualified.³²

The Legislature

The legislative power is vested in the Congress of the Philippines, a bicameral body composed of the Senate and House of Representatives, except on the extent reserved to the people by the provision on initiative and referendum.³³ The Senate is composed of 24 Senators who are elected at large for a term of six years and for not more than two consecutive terms.³⁴ The House of Representatives is composed of at most 250 members, 20% of whom are elected through the party-list system and from the sectors for the first three terms while the rest are elected by legislative district.³⁵ The members of the House of Representatives are elected for a term of three years but must not serve for more than three consecutive terms.³⁶

Upon assumption of office, all members of Congress must make a full disclosure of their financial or business interests. They must notify the House of any potential conflict of interest which may arise from the filing of proposed legislation of which they are authors.³⁷ Other prohibitions are:

- (1) the appearance as counsel before any court of justice or before the Electoral Tribunals or quasi-judicial or administrative bodies;
- (2) any financial interest in any contract with the government or special privilege granted by it directly or indirectly or intervening in any matter before any office of the government for pecuniary benefit or where the Member may be called upon to act on account of his office.
- (3) an appointment to any office or employment in the government, or any of its subdivisions, agencies or instrumentalities including government-owned or controlled corporations without forfeiting his seat; and
- (4) an appointment to any office which may have been created or emoluments thereof being increased during the term he was elected for.³⁸

³² Article VII, ss 7-8.

³³ Article VI, s 1.

³⁴ Article VI, ss 4-5.

³⁵ Article VI, s 5(1) and (2). The sectors mentioned are from 'labour, peasant, urban poor, indigenous cultural communities, women, youth and such other sectors as may be provided by law, except the religious sector'.

³⁶ Article VI, s 7.

³⁷ Article VI, s 12.

³⁸ Article VI, ss 13-14.

Congressional representatives enjoy parliamentary immunity for all offences punishable by not more than six years' imprisonment when Congress is in session.³⁹

The Congress convenes once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and continues to be in session for such number of days as it may determine until 30 days before the opening of its next regular session.⁴⁰ A majority of each House constitutes a quorum to do business but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the House may provide. Either House may adjourn for not more than three days but it cannot adjourn for a longer period or to some other place than that in which the two Houses are sitting.⁴¹ Each House, by a majority vote of all its respective members, elects the Senate President and the Speaker and other officers who hold their office at the pleasure of their respective members.⁴² Each House determines its rules of procedure, punishes its members for disorderly behaviour, and with the concurrence of two-thirds of all its members, may suspend a member for a period not exceeding 60 days or expel him.⁴³ Each House has an Electoral Tribunal composed of nine members, three of whom shall be Justices of the Supreme Court, to be designated by the Chief Justice, with the Senior Justice as the Chairman and the remaining Justices as members of the Senate or House, as the case may be, who are chosen on the basis of proportional representation from the political parties or organizations registered under the party-list system represented therein.⁴⁴

The Party-List System Act⁴⁵ establishes a mechanism of proportional representation in the election of representatives to the House from national, regional, or sectoral parties or organizations or coalitions registered with the Commission on Elections. The party-list representatives shall constitute twenty per centum (20%) of the total member of the members of the House of Representatives including those under the party-list.⁴⁶ In determining the allocation of seats for the second vote, the parties shall be ranked from the highest to the lowest based on the number of votes they garnered during the elections. The parties, organizations and coalitions receiving at least two percent (2%) of the votes shall be entitled to one seat each and if they garnered more than two percent, they shall be entitled to additional seats in the proportion to their total number of votes but not more than three seats.⁴⁷

³⁹ Article VI, s 11.

⁴⁰ Article VI, s 15.

⁴¹ Article VI, s 16(5).

⁴² Article VI, s 16(1).

⁴³ Article VI, s 16(3).

⁴⁴ Article VI, s 17.

⁴⁵ Rep Act No 7941 (1994).

⁴⁶ *Id.*, s 11.

⁴⁷ *Id.*

The Constitution has revived the Commission on Appointments, which was constituted under the 1935 Constitution, to consider the nominations made by the President to the more important positions in the government.⁴⁸ The Commission comprises the President of the Senate as ex officio Chairman, 12 Senators and 12 Members of the House of Representatives, elected by each House on the basis of proportional representation from the political parties registered under the party-list system. Nominations submitted to it should be acted upon within 30 session-days from their submission.

Although the legislative power of the Congress is wide in its scope, it is not unlimited. Such limitations may either be substantive or formal, implied or express. The Bill of Rights contains express, specific limitations while specific, substantive limitations are found in certain provisions: the sole power to declare the existence of a state of war for which the concurrence of two-thirds majority in joint session voting separately must be obtained; the rule of taxation shall be a uniform and equitable but progressive system; public money or property must not be appropriated for religious purposes; no law granting a title of royalty or nobility shall be enacted; no law can increase the appellate jurisdiction of the Supreme Court, as provided in the Constitution, without its advice and consent; no law shall be passed authorizing any transfer of appropriations except as provided for in the Constitution; and that charitable institutions, churches and personages or convents, non-profit cemeteries and all lands, buildings and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.⁴⁹ Of course, there are implied substantive limitations inherent in the nature and character of the government, such as the prohibition against the passage of irrevocable laws and the prohibition against the delegation of legislative authority.

Formal limitations refer to the procedural requirements in the enactment of legislation and the form and content therein. Every bill passed by the Congress shall embrace only one subject, which has to be expressed in its title. No bill passed by either House becomes a law unless it has passed three readings on separate days, and printed copies of it in its final form have been distributed to Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment is allowed and the vote is taken immediately thereafter and the yeas and nays entered in the journal.⁵⁰ Every bill passed by Congress has to be presented to the President for approval. If he approves it, he signs the bill and it becomes a law. If he vetoes it, he has to return the bill to the House where it originated, together with his objections. The bill undergoes the same procedure but has to obtain an approval of two-thirds of all the Members in each House in order to become law. For

⁴⁸ Article VI, s 18; Constitution (1935), art VI, s 12.

⁴⁹ Article VI, ss 23, 25(5), 28-31.

⁵⁰ Article VI, ss 279(1) & (2).

appropriation, revenue or tariff bills, the presidential veto of any particular item or items does not affect any item or items to which he does not object.

It should be noted that pursuant to article 2 of the Civil Code, 'laws shall take effect after fifteen days following the completion of their publication in the *Official Gazette* unless it is otherwise provided'. According to the Supreme Court, the clause 'unless it is otherwise provided' refers to the date of effectivity and not to the requirement of publication itself, which cannot in any event be omitted. The clause does not mean that the legislature may make the law effective immediately upon approval, or any other date, without its previous publication. Publication is indispensable in every case, but the legislature may, in its discretion, provide that the usual 15-day period shall be shortened or extended.⁵¹ This provision has been subsequently amended by section 18 of Executive Order No 200, dated 18 June 1987 and adopted in Executive Order No 292 which promulgated the Administrative Code of 1987 to include publication in a 'newspaper of general circulation'.

Other specific formal areas of limitations include: all appropriations, revenue or tariff bills, bills authorizing an increase of the public debt, bills of local application and private bills which must originate exclusively in the House of Representatives; the Congress may not increase the appropriations recommended by the President for the operation of the government as specified in the budget; no provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular specified appropriations; the procedure in approving appropriations for the Congress shall strictly follow the procedure for approving appropriations for other departments and agencies; and a special appropriation bill shall specify the purpose for which it is intended and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal.⁵²

The Judiciary

The judicial system of the Philippines consists of a hierarchy of courts with the Supreme Court⁵³ at the apex. Under the Judicial Reorganisation Act,⁵⁴ the other courts are: (a) one Court of Appeals (CA)⁵⁵ (b) Regional Trial Courts (RTCs)

⁵¹ *Tañada v Tuvera* GR No 63915, 24 April 1985, 136 SCRA 27 (1985); Resolution, 29 December 1986, 146 SCRA 446 (1986).

⁵² Article VI, ss 24 and 25.

⁵³ Article VIII, s 1.

⁵⁴ *Batas Pambansa Blg 129* (1980). The constitutionality of this law was challenged and upheld by the Supreme Court in the case of *De law Llana v. Alba* G.R No 57883, 12 March 1982, 112 SCRA 294 (1982).

⁵⁵ *Batas Pambansa Blg 129* (1980), s 3, as amended by Executive Order No 33 (1986) and Rep Act No 8246 (1996).

divided into 13 judicial regions, composing a total of 950 branches; and (c) 82 Metropolitan Trial Courts (MeTTCs), 124 Municipal Trial Courts in Cities (MTCCs) and 438 Municipal Trial Courts (MTCs) and 480 Municipal Circuit Trial Courts (MCTCs). For Muslims, there are 51 shari'a circuit and five shari'a district courts.⁵⁶ Aside from these tribunals, there are special courts, namely, the Family Courts⁵⁷, the Court of Appeals⁵⁸ and the *Sandiganbayan*.⁵⁹

The Supreme Court

The Supreme Court is composed of a Chief Justice and 14 Associate Justices who sit or at its discretion, in divisions of three, five or seven members.⁶⁰ Cases that are heard and decided by the Supreme Court *en banc* are those involving the constitutionality of a treaty, executive agreement or law; and such cases as required under the Rules of Court, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations. These cases are decided with the concurrence of a majority of the members who actually take part in the deliberations on the issues of the case and vote thereon.⁶¹ Cases or matters heard by a division are decided with the concurrence of a majority of the members who actually took part in the deliberations on the issues of the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the cases are decided *en banc*. No doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc*.⁶²

Under the Constitution, the Supreme Court exercises original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.⁶³ The Supreme Court has the power to review and revise, reverse, modify or affirm on appeal, as the law or the Rules of Court may provide, final judgments and decrees of inferior courts in:

⁵⁶ Presidential Decree No 1083 (1977), 73 OG 4638 No 20 (16 May 1977); Rep Act No 6734 (1989), art IX, s 2 created the Shari'a Appellate Court but has not yet been operationalised.

⁵⁷ Created by Rep Act No 8369 (1997) but such courts have not been organized. Instead, the Supreme Court designated certain RTCs as Family Courts.

⁵⁸ Rep Act No 1125 (1954) as amended by Rep Act No 9282 (2004) which expanded its jurisdiction and elevated its rank to the level of a collegiate court.

⁵⁹ Presidential Decree No 1486 (1978), 74 OG 10890 No 50 (11 December 1978), art XI, s 4 of the 1987 Constitution provides that 'it shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law'; Rep Act No 7975 (1995) enlarged the court with 5 divisions and Rep Act No 8249 (1997) enlarging its jurisdiction.

⁶⁰ Article VIII, s 4(1).

⁶¹ Article VIII, s 4(2).

⁶² Article VIII, s 4(3).

⁶³ Article VIII, s 5(1).

- (1) 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;
- (2) all cases involving the legality of any tax, impost, assessment, or toll or any penalty imposed in relation thereto;
- (3) all cases in which the jurisdiction of any lower court is in issue;
- (4) all criminal cases in which the penalty imposed is *reclusion perpetua* or higher;
- (5) all cases in which only an error or question of law is involved.⁶⁴

Any decision, order or ruling of the Civil Service Commission, Commission on Elections or the Commission on Audit may be brought to the Supreme Court on certiorari by the aggrieved party within 30 days from a receipt of a copy thereof.⁶⁵ Under special laws, the Supreme Court is vested with exclusive jurisdiction to review decisions of the Land Transportation Franchising and Regulatory Board and the National Telecommunications Commission, whose functions were formerly exercised by the Public Service Commission,⁶⁶ the National Electrification Administration⁶⁷ and the Securities and Exchange Commission.⁶⁸

The Supreme Court, sitting *en banc*, is the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for this purpose.⁶⁹

The Supreme Court also has the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleadings, practice and procedure in all courts, admission to the practice of law, the Integrated Bar, and legal assistance for the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.⁷⁰ It may order a change of venue or place of trial to avoid a miscarriage of justice.⁷¹ It may temporarily assign judges of lower courts to other stations as the public interest may require, but such temporary assignment shall not exceed six months without the consent of the judge concerned.⁷² The Supreme Court exercises administrative supervision over all courts and its personnel.⁷³ *En banc*, it has the power to discipline judges of the lower courts, or

⁶⁴ Article VIII, s 5(2).

⁶⁵ Article IX-A, s 7.

⁶⁶ Com Act No 146 (1936), as amended, s 35. Executive Order No 202, dated 19 June 1987, 83 OG 3122B (July 1987).

⁶⁷ Presidential Decree No 269 (1973), s 59, 60 OG 7485 (August 1973).

⁶⁸ Presidential Decree No 902-A (1976), as amended, s 6, 72 OG 4156 (19 April 1976).

⁶⁹ Article VII, s 4, last para.

⁷⁰ Article VIII, s 5(5). See *People v Gutierrez* GR Nos 32282-83, 26 November 1970, 36 SCRA 172 (1970).

⁷¹ Article VIII, s 5(4). See *People v Gutierrez* GR Nos 32282-83, 26 November 1970, 36 SCRA 172 (1970).

⁷² Article VIII, s 5(3).

⁷³ Article VIII, s 6.

order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted on them.⁷⁴

The Court of Appeals

The Court of Appeals consists of a Presiding Justice and 68 Associate Justices.⁷⁵ It exercises its powers, functions and duties through 23 divisions, each division being composed of three members. The Court may sit *en banc* only for the purpose of exercising its administrative, ceremonial or other non-adjudicatory functions.⁷⁶

The Court of Appeals has permanent stations in the City of Manila (17 divisions), Cebu City (3 divisions), and Cagayan de Oro City (4 divisions). Whenever demanded by public interest or whenever justified by an increase in case load, the Supreme Court may authorize any division of the Court to hold sessions periodically, or for such periods and at such places that the Supreme Court may determine for the purpose of hearing and deciding cases. Trials or hearings in the Court of Appeals must be continuous and must be completed within three months unless extended by the Chief Justice of the Supreme Court.

A majority of the actual members of the Court constitutes a quorum for its session *en banc*. Three members constitute a quorum for the sessions of a division. The unanimous vote of three members of a division is necessary for the pronouncement of a decision or final resolution, which shall be reached by consultation, before the writing of the opinion by any member of the division. In the event that the three members do not reach a unanimous vote, the President Justice requests the raffle committee of the Court for the designation of additional justices to sit temporarily with them, forming a special division of five members. The concurrence of a majority of such a division is necessary for the pronouncement of a decision or final resolution.⁷⁷

The Court of Appeals exercises;

- (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 jurisdiction over actions for annulment of judgments of Regional Trial Courts; and
- (3) exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial

⁷⁴ Article X, s 7.

⁷⁵ *Batas Pambansa Blg 129* (1980), as amended by Executive Order No. 33 (1986) and Rep Act No 8246 (1996).

⁷⁶ *Batas Pambansa Blg 129* (1980), as amended by Executive Order No. 33 (1986), s 4.

⁷⁷ *Batas Pambansa Blg 129* (1980), as amended by Executive Order No. 33 (1986), s 11.

agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court.⁷⁸

Whenever demanded by public interest, or whenever justified by an increase in case load, the Supreme Court, upon its own initiative or upon recommendation of the Presiding Justice of the Court of Appeals, may authorize any division of the court to hold periodically for such periods at such places as the Supreme Court may determine for the purpose of hearing and deciding cases.⁷⁹ The Court of Appeals has the power to receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original jurisdiction, such as acts for the annulment of a judgment of a regional trial court and cases falling within its appellate jurisdiction wherein a motion for a new trial is based only on the ground of newly discovered evidence.⁸⁰

Regional Trial Courts

The Philippines is divided into 13 judicial regions with one Regional Trial Court for each region.⁸¹ Each Regional Trial Court has several branches. Regional Trial Courts exercise exclusive original jurisdiction:

- (1) in all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
- (2) in all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds P20,000 or for civil actions in Metropolitan Manila, where such value exceeds P50,000, except actions for forcible entry into and the unlawful detaining of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;
- (3) in all actions in admiralty and maritime jurisdiction where the demand or claim exceeds P200,000 or in Metropolitan Manila where such gross value exceeds P400,000;⁸²
- (4) in all matters of probate, both testate and intestate, where the gross value of the estate exceeds P200,000.00 or in Metropolitan Manila where such gross value exceeds P400,000.00;⁸³

⁷⁸ Rep Act No 5434 (1968); *Batas Pambansa Blg 129* (1980), s 29. See Rules of Court, Rule 43.

⁷⁹ Rep Act No 8246 (1996), s 3.

⁸⁰ *Batas Pambansa Blg 129* (1980), as amended by Executive Order No 33 (986), s 9, 2nd para.

⁸¹ *Batas Pambansa Blg 129* (1980), s 13. For territorial area of a branch, see ss 17 & 18.

⁸² The jurisdiction amounts have been adjusted pursuant to s 5, Rep Act No 7691, which provides: 'Sec. 5.- After five (5) years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19(3), (4), and (8); and Sec. 33(1) of *Batas Pambansa Blg 129* as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000.00). Five (5) years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00): *Provided, however,* That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000.00).' According to Circular No. 21-99 dated 15 April 1999 issued by the Office of the Court Administrator, the first adjustment of the jurisdictional amounts took effect on 20 March 1999.

- (5) in all actions involving the contract of marriage and marital relations;⁸⁴
- (6) in all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions;
- (7) in all civil actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic Relations Court and of the Courts of Agrarian Relations as now provided for by law;⁸⁵ and
- (8) in all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy, amounts to more than P200,000.00 or, in such other cases in Metropolitan Manila, where the demand, exclusive of the abovementioned items exceed P400,000.00.⁸⁶

Pursuant to Section 5 of the Securities Regulation Code,⁸⁷ the RTC has jurisdiction over all cases involving the following controversies formerly under the exclusive jurisdiction of the Securities and Exchange Commission under Presidential Decree No. 902-A,⁸⁸ namely:

- (1) devices or schemes employed by, or any acts of, the Board of Directors, business associations, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission;
- (2) controversies arising out of intracorporate or partnership relations, between and among stockholders, members, or associates; between any and/or all of them and the corporation, partnership, or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;
- (3) controversies in the election or appointments of directors, trustees, officers or managers of such corporation, partnerships or associations.

In criminal cases, the Regional Trial Court has exclusive original jurisdiction over the following:

- (1) all criminal cases not within the exclusive jurisdiction of any other courts, tribunals, or bodies;
- (2) all criminal cases involving offenses where the imposable penalty is imprisonment exceeding 6 years, irrespective of the amount of fine, and

⁸³ *Ibid.*

⁸⁴ Jurisdiction transferred to the Family Courts under Rep Act No 8369 (1997).

⁸⁵ Executive Order No 229 (1987) divested the RTCs of such jurisdiction. See also Rep Act No 6657 (1988), s 50 but under s 56, an RTC designated as a special agrarian court at least in each province 'has special exclusive jurisdiction over (a) all petitions for determination of just compensation to landowners; and (b) the prosecution of all criminal offenses under the Act.

⁸⁶ *Batas Pambansa Blg 129* (1980), s 19 as amended by Rep Act No 7691 (1994).

⁸⁷ Rep Act No 8799 (2000).

⁸⁸ SEC Reorganization Act.

- regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of the kind, nature, value or amount thereof;
- (3) all criminal cases committed in relation to their office by public officials and employees, including those employed in government-owned or controlled corporations, and by private individuals charged as co-principals, accomplices or accessories, where none of the principal accused are occupying positions corresponding to salary grade 27 or higher, as prescribed in RA 6758, or are PNP officers occupying the rank of superintendent or higher, or their equivalent, or are, otherwise, not any of those enumerated in Sec. 4, PD 1606, as amended, if the imposable penalty is imprisonment 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 the kind, nature, value or amount thereof.⁸⁹

The Regional Trial Court also exercises original jurisdiction in the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunctions which may be enforced in any part of their respective regions and⁹⁰ in actions affecting ambassadors and other public ministers and consuls.⁹¹ It has appellate jurisdiction over all cases decided by the Metropolitan Trial Courts (MeTTCs), Municipal Trial Courts (MTCs), and Municipal Circuit Trial Courts (MCTCs).⁹² However, decisions, final orders and resolutions of the MTCs in the exercise of delegated jurisdiction should be appealed directly to the Court of Appeals as in appeals from Regional Trial Courts to the Court of Appeals.⁹³

Metropolitan and Municipal Trial Courts

There is a Metropolitan Trial Court in each metropolitan area established by law, a municipal trial court in each of the other cities or municipalities and a municipal circuit trial court in each circuit comprising such cities and/or municipalities as are grouped together pursuant to law.⁹⁴ These courts exercise exclusive original jurisdiction over all violations of city or municipal ordinances committed within their respective territorial jurisdictions and have exclusive original jurisdiction over all offences punishable with imprisonment not exceeding six years, irrespective of the amount of fine, and regardless of other impossible accessory or other penalties, including the civil liability arising from such offences or predicated thereon, irrespective of kind, nature, value or amount thereof *provided, however*, that in offences involving damage to property through criminal negligence, they

⁸⁹ Pres Decree No 1606 (1978), s 4, as amended by Rep Act No 7975 (1995), s 2.

⁹⁰ The jurisdiction to issue writs of *certiorari*, prohibition, *mandamus*, and *habeas corpus* is concurrent with the Supreme Court, Court of Appeals and *Sandiganbayan*.

⁹¹ *Batas Pambansa Blg 129* (1980), s 21.

⁹² *Batas Pambansa Blg 129* (1980), s 22.

⁹³ *Batas Pambansa Blg 129* (1980), as amended by Rep Act No 7691 (1994), s 4.

⁹⁴ *Batas Pambansa Blg 129* (1980), s 25.

have exclusive original jurisdiction thereof.⁹⁵ They have exclusive original jurisdiction over civil actions and probate proceedings both testate and intestate, including the grant of provisional remedies in proper cases, where the value of the property, estate, or the amount of the demand does not exceed P200,000.00 or in Metropolitan Manila where such personal property or amount of the demand does not exceed P400,000.00, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs, the amount which must be specifically alleged, *provided* that, interest damages of whatever kind, attorney's fees, litigation expenses where there are several claims or causes of action between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions. These courts also have 'exclusive original jurisdiction over cases of forcible entry and unlawful detainer, *provided* that when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership is resolved only to determine the issue of possession'. Finally, they have '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 P20,000.00 or, in civil actions in Metropolitan Manila, where such assessed value does not exceed 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'.⁹⁶

The Supreme Court may assign these courts to hear and determine *cadastral* or land registration cases covering lots where there is no controversy or opposition, or contested lots where the value of which does not exceed P100,000.00, such value which can be ascertained by an affidavit of the claimant, or an agreement by various claimants or the corresponding tax declaration.⁹⁷

The Family Courts

Republic Act No. 8369 created the Family Courts in 1997 which mandates that it shall be established in every province and city in the country. In case where the city is the capital of the province, the Family Court will be established in the Municipality which has the highest population.⁹⁸ However, pending the establishment of such Family Courts, the Supreme Court has designated from

⁹⁵ *Batas Pambansa Blg 129* (1980), s 32, as amended by Rep Act No 7691 (1994).

⁹⁶ *Batas Pambansa Blg 129* (1980), ss 32 & 33, as amended by Rep Act No 7691 (1994).

⁹⁷ Section 34, as amended by Rep Act No 7691 (1994).

⁹⁸ Sec. 3.

among the branches of the Regional Trial Courts at least one Family Court in each city and in such other places as it may deem necessary.⁹⁹

Family Courts have exclusive original jurisdiction to hear and decide the following cases:¹⁰⁰ (a) criminal cases where one of the accused is below eighteen years of age but not less than nine years of age or where one or more of the victims is a minor at the time of the commission of the offense; (b) petitions for guardianship, custody of children, *habeas corpus* in relation to the latter; (c) petitions for adoption of children and the revocation thereof; (d) complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different states and agreements, and petitions for dissolution of 'conjugal partnership' of gains; (e) petitions for support and/or acknowledgment; (f) summary of judicial proceedings brought under the provisions of the Family Code; (g) petitions for declaration of status of children as abandoned, dependent or neglected children; the suspension, termination or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56, series of 1986, and other related laws; (h) petitions for the constitution of the family home; (i) cases against minors cognizable under the Dangerous Drugs Act, as amended; (j) violations of Republic Act No. 7610, as amended; and (k) cases of domestic violence against women and children.

The Supreme Court has promulgated special rules to address the cases before the Family Courts. Thus far, the Rules promulgated are: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages; Rule on Legal Separation; Rule on Adoption; Rule on Guardianship of Minors; Rule on Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors; Rule on Examination of a Child Witness; Rule on Commitment of Children; Rule on Provisional Orders; and Rule on Violence Against Women and Children.

Shari'a District and Circuit Courts

For the Muslim communities in Mindanao, Shari'a District and Circuit Courts have been established in five special judicial districts, namely, the Province of Sulu; the Province of Tawi-Tawi; the Provinces of Basilan, Zamboanga del Norte, Zamboanga del Sur and the cities of Dipolog, Pagadian and Zamboanga; the Provinces of Lanao del Norte, Lanao del Sur and the cities of Iligan and Marawi; and the Provinces of Maguindanao, North Cotabato, Sultan Kudarat and the city of Cotabato.¹⁰¹ The Shari'a District Courts have exclusive original jurisdiction over: all cases involving custody, guardianship, legitimacy, paternity and filiation arising under the Muslim Code of Personal Laws; all cases involving disposition, distribution and settlement of the estate of deceased Muslims; petitions for

⁹⁹ Rep Act No 8369 (1997), s 7.

¹⁰⁰ *Id.*, s 5.

¹⁰¹ Presidential Decree No 1083 (1977), 73 OG 4033 (16 May 1977); art 138.

declaration of absence and death and for cancellation of entries in the Muslim Registries; all actions arising from customary contracts between Muslim parties; all parties for *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and processes in the aid of its appellate jurisdiction.¹⁰² The courts also have appellate jurisdiction over all cases tried by the Shari'a Circuit Courts,¹⁰³ and are of the same category as the RTCs.

On the other hand, Shari'a Circuit Courts have exclusive original jurisdiction over all cases involving offences defined and punished under the Muslim Code and all cases involving disputes relating to communal properties. Likewise, all civil actions and proceedings between Muslim parties or disputes relating to marriage, divorce, betrothal, customary dower (*mahr*), disposition and distribution of property upon divorce, maintenance and support and consolatory gifts (*mut'a*) and the restitution of marital rights in accordance with the Muslim Code are within its exclusive original jurisdiction.¹⁰⁴

Republic Act No 6734 (1989)¹⁰⁵ created the Shari'a Appellate Court but to date it has not yet been operational.

The Court of Tax Appeals

The Court of Tax Appeals (CTA) has special appellate jurisdiction over: decisions of the Commissioner of Internal Revenue and the Commissioner of Customs; decisions involving local tax cases and real property taxes; and criminal offences of tax laws.¹⁰⁶ The CTA is composed of a Presiding Justice and five Associate Justices and sits *en banc* or in two divisions to hear cases.¹⁰⁷ It is on the same level as the Court of Appeals.

The *Sandiganbayan*

The 1973 Constitution provided for the creation of a special court known as the *Sandiganbayan* which has jurisdiction over criminal and civil cases, involving graft and corruption practices and other such offences committed by public officers and employees, including those in government-owned or controlled corporations in relation to their office, as may be determined by law.¹⁰⁸ Implementing this mandate, Presidential Decree No. 1486 created the *Sandiganbayan* as a special court of the same level as the Court of Appeals,¹⁰⁹

¹⁰² Presidential Decree No 1083 (1977), art 143. See also *Tamano v. Ortiz* GR No 126603, 1998.

¹⁰³ Presidential Decree No 1083 (1977), art 144(1).

¹⁰⁴ Presidential Decree No 1083 (1977), art 115.

¹⁰⁵ Organic Act for the Autonomous Region of Muslim Mindanao, art IX, s 2.

¹⁰⁶ Rep Act No 1125 (1954), s 7 as amended by Rep Act No 9282 (2004).

¹⁰⁷ Rep Act No 1125 (1954), s 2 as amended by Rep Act No 9282 (2004).

¹⁰⁸ Article III, s 5.

¹⁰⁹ Section 1, para 1, as amended by Presidential Decree No 1606 (1978). The validity of the decree was upheld in *Nuñez v Sandiganbayan* GR Nos 50581 and 50617, 30 January 1982, 111 SCRA 433 (1982).

possessing exclusive jurisdiction over all such criminal cases.¹¹⁰ The 1987 Constitution provides that this anti-graft court shall continue to function and exercise its jurisdiction.¹¹¹

Republic Act No 7975 (1995) enlarged the court by creating five divisions compose of three justices each although five may sit at the same time.¹¹² Its jurisdiction was expanded to include:

- (a) violations of Republic Act No. 3019, as amended or the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in government, whether in a permanent, acting or interim capacity at the time of the commission of the offense;¹¹³
- (b) other offences or felonies committed by the public officials mentioned in subsection (a) committed in relation to their office; and
- (c) civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 & 14-A.

In cases where the principal accused are PNP officers occupying the rank of superintendent or higher, exclusive jurisdiction shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, and other courts, as the case may be.¹¹⁴

The *Sandiganbayan* exercises exclusive appellate jurisdiction on appeals from the final judgments, resolutions or orders of regular courts where all the accused are occupying positions lower than Grade '27'.¹¹⁵

Judicial and Bar Council

The 1987 Constitution provides a mandate for the creation of a Judicial and Bar Council under the supervision of the Supreme Court. It is composed of the Chief Justice of the Supreme Court as ex-officio chairman, the Secretary of Justice, and a representative of the Integrated Bar, a professor of law, a retired Member

¹¹⁰ *Batas Pambansa Blg* 129 (1980), s 20.

¹¹¹ Art XI, s 4.

¹¹² Sec 3.

¹¹³ It refers to officials of the executive branch occupying the positions of regional director and higher otherwise classified as Grade 27 of Republic Act No 6758, including provincial and city public officers; officials of the diplomatic service; Philippine Navy and Air Force colonels, and other PNP officers; city and provincial prosecutors and their assistants; officials and prosecutors of the Office of the Ombudsman; officers of government-owned or controlled corporations; state universities or educational institutions; members of Congress and officials therein; members of the judiciary without prejudice to the provisions of the Constitution; chairman and members of the Constitutional Commission; and all other national and local officials classified as Grade '27' and higher.

¹¹⁴ *Id.*, s 4.

¹¹⁵ *Id.*

of the Supreme Court, and a representative of the private sector.¹¹⁶ The regular members of the Council are appointed by the President for a term of four years with the consent of the Commission on Appointments. The regular members of the Council receive emoluments, determined by the Supreme Court, and the appropriations for the Council are provided for in the annual budget of the Supreme Court.¹¹⁷ The Clerk of Court is the Secretary *ex officio* of the Council and keeps a record of its proceedings.¹¹⁸

The Council has the principal function of recommending appointees to the judiciary and exercises such other functions and duties as may be assigned to it by the Supreme Court.¹¹⁹ The Council prepares a list of at least three nominees for every vacancy in the Supreme Court and lower courts from which the President makes appointments. Such appointments need no confirmation. For the lower courts, the President has to issue the appointments within 90 days from the submission of the list.¹²⁰

CONSTITUTIONAL COMMISSIONS

There are three constitutional commissions created under the 1973 Constitution which are continued by the 1987 Constitution, namely, the Civil Service Commission, the Commission on Elections and the Commission on Audit.

Except for the Commission on Elections which is composed of a Chairman and six Commissioners, the other Commissions are administered by a Chairman and two Commissioners, who are appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment.¹²¹ Their salaries are fixed by law and cannot be decreased during their tenure.¹²²

To ensure the independence of the Constitutional Commission, no member during his tenure shall hold any other office or employment, engage in the practice of any profession or in the active management or control of any business which in any way may be affected by the functions of his office, nor be financially interested, directly or indirectly, in any contract, franchise, or privilege granted by the government or any of its subdivisions, agencies or instrumentalities.¹²³ The Commissions enjoy fiscal autonomy, appoint their

¹¹⁶ Constitution, art VII, s 8(1). This has been implemented by Executive Order No 216 dated 10 July 1987, 83 OG 322 (July 1987).

¹¹⁷ Article VIII, s 8(4).

¹¹⁸ Article VIII, s 8(7).

¹¹⁹ Article VIII, s 8(5).

¹²⁰ Article VIII, s 9.

¹²¹ Article IX(B), (C), (D), s 1.

¹²² Article IX(A), s 3.

¹²³ Article IX(A), s 2.

officials and employees and promulgate their own rules concerning pleading and practice before them.¹²⁴

The Civil Service Commission

The Civil Service Commission administers the civil service, which embraces every branch, agency, subdivision and instrumentality of the government, including government owned or controlled corporations with original charters, and is the central personnel agency of the Government.¹²⁵

Appointments in the Civil Service are made only on the basis of merit and fitness which are determined as far as practicable by competitive examinations except for positions which are policy-determining, primarily confidential or highly technical. No officer or employee can be removed or suspended except for just cause as provided by law.¹²⁶

The Commission on Elections

The Commission on Elections enforces and administers all laws relating to the conduct of elections, plebiscites, initiatives, referenda and recalls, registers political parties, decides administrative questions affecting elections, save those involving the right to vote, and exercises exclusive original jurisdiction over all contests relating to elections, returns and qualifications of all elective regional, provincial and city officials. It also has 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.¹²⁷

The Commission on Audit

The Commission on Audit examines, audits, and settles all accounts pertaining to the revenues and receipts of, and expenditures or use of, funds and property owned or held in trust by, or pertaining to, the government or any of its subdivisions, agencies and instrumentalities.¹²⁸ It has exclusive authority to define the scope of its audit and establish the techniques and methods required and promulgate accounting and auditing rules, including the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or the use of government funds and properties.¹²⁹ It also decides any case brought before it within 60 days from the date of its submission for resolution and, unless otherwise provided by the Constitution or

¹²⁴ Article IX(A), ss 4-6.

¹²⁵ Article IX-B, ss 2-3.

¹²⁶ Article IX-B, ss 2(2) & (3).

¹²⁷ Article IX-C, s 2.

¹²⁸ Article IX-D, s 2(1).

¹²⁹ Article IX-D, s 2(2).

by law, its decision or order may be brought before the Supreme Court on certiorari by the aggrieved party within 30 days from receipt of a copy of the order.¹³⁰

The Commission on Human Rights

Under the 1987 Constitution, there is also created an independent office called the Commission on Human Rights which has been recently constituted under Executive Order No. 163, dated 06 May 1987, thus abolishing the Presidential Committee on Human Rights.¹³¹ Among its powers and functions are:

- (1) the investigation, on its own or on a complaint by any party, of all forms of human rights violations involving civil and political rights;
- (2) to provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;
- (3) the exercise of visitational powers over jails, prisons, or detention facilities;
- (4) the establishment of a continuing programme of research, education and information to enhance respect for the primacy of human rights and the recommendation to the Congress of effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families; and
- (5) to monitor the Philippine government's compliance with international treaty obligations on human rights.¹³²

The Ombudsman

The 1987 Constitution emphasizes the concept that public office is a public trust and so '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'.¹³³ The President, Vice-President, members of the Supreme Court, members of the Constitutional Commission and the Ombudsman may be impeached and removed from their office on conviction of a culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust, while all other public officers and employees may be removed from office as provided by law.¹³⁴ However, to reinforce the anti-graft court (the *Sandiganbayan*), another independent Office of the Ombudsman was created, composed of the Ombudsman or *Tanodbayan*, one overall Deputy and at least one deputy each

¹³⁰ Article IX-A, s 7.

¹³¹ Executive Order No 8, dated 18 March 1986, 82 OG 1485 (24 March 1986).

¹³² Article XIII, ss 17-19.

¹³³ Article XI, s 1.

¹³⁴ Article XI, s 2.

for Luzon, Visayas and Mindanao with a separate deputy for the Military establishment.¹³⁵ As protector of the people, the *Tanodbayan* and his deputies are required to act promptly on complaints filed in any form or manner against public officials or employees and, in appropriate cases, notify the complainants of the action taken and the result thereof.¹³⁶

The qualifications of an Ombudsman are: at least forty years of age, of recognized probity and independence, member of the Philippine Bar, and engaged for ten years in the practice of law.¹³⁷ He has a term of seven years without reappointment.

The Ombudsman can recommend to Congress if a law or regulation is unfair and unjust.¹³⁸ He can receive complaints from any source in whatever form concerning an official act or omission.¹³⁹ If the evidence of guilt against any public officer or employee is strong, the Ombudsman may preventively suspend such officer, not more than six months without pay.¹⁴⁰

Local Government

Local government comprises the governments of provinces, cities, municipalities and *barangays*, which are the territorial and political subdivisions of the Philippines.¹⁴¹ By statutory provision, they are considered to be corporate political bodies, for governmental administration of the affairs of the community within their territorial boundaries; as incorporated entities, they are classified as municipal corporations.¹⁴² Each municipal corporation is entitled to continuous succession in its corporate name, it may hold and acquire property, enter into contracts, sue and be sued, and do such other acts necessary to carry out the purposes of its organization.¹⁴³ No unit may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to the approval of a majority of the votes cast in a plebiscite in the directly affected units.¹⁴⁴

Provinces with respect to component cities and municipalities and cities and municipalities with respect to component *barangays* must ensure that the acts of their component units are within the scope of their prescribed powers and functions.¹⁴⁵ Local government units enjoy local autonomy¹⁴⁶ which means that

¹³⁵ Article XI, s 5.

¹³⁶ Article XI, s 12.

¹³⁷ Rep Act No 6770 (1989) otherwise known as the Ombudsman Act of 1989, s 7.

¹³⁸ *Id*, s 29.

¹³⁹ *Id*, s 26.

¹⁴⁰ *Id*, s 24.

¹⁴¹ Article X, s 1.

¹⁴² *V Sinco*, p 705.

¹⁴³ *V Sinco*, p 705.

¹⁴⁴ Article X, s 10.

¹⁴⁵ Article X, s 4.

they enjoy certain powers, such as the power of eminent domain, police power and taxing power. Each unit has the power to create its own sources of revenue and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, which shall accrue exclusively to the local governments.¹⁴⁷ As far as national taxes are concerned, local government units have a share as determined by law, which is automatically released to them. Likewise, they are entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas in the manner provided by law.¹⁴⁸

Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law.¹⁴⁹ The Congress may, by law, create special metropolitan political subdivisions, subject to a plebiscite in the units directly affected, that will be limited to providing basic services requiring coordination; but the localities shall retain their basic autonomy and are entitled to their own local executives and legislative assemblies.¹⁵⁰ All legislative bodies have sectoral representation as may be prescribed by law.¹⁵¹ For purposes of administrative decentralization to strengthen the local units and accelerate socio-economic growth and development of the units, regional development councils or other similar bodies have to be constituted by the President to be composed of local government officials, regional heads of the government and other government offices and representatives from non-governmental organizations within the regions.¹⁵²

Except for *barangay* officials, the term of office of the elective local officials is three years and for not more than three consecutive terms.¹⁵³ The Local Government Code of 1991 transformed the local government units into self-reliant communities by giving them powers to create its own sources of revenue, ie local taxes and real property taxes and the transfer of basic services and facilities in the provinces from the executive departments to them.¹⁵⁴

The *Lupong Tagapayapa*

Due to the clogging of dockets in courts, Presidential Decree No 1508 was promulgated, establishing a system for amicably settling disputes at the *barangay* level, popularly known as the *Katarungang Pambarangay*. This law was repealed and substantial changes were introduced by sections 399 to 422 and 515 of Republic Act No 7168 (1992), otherwise known as the Local

¹⁴⁶ Article X, s 2.

¹⁴⁷ Article X, ss 5-6.

¹⁴⁸ Article X, s 7.

¹⁴⁹ Article X, s 13.

¹⁵⁰ Article X, s 11.

¹⁵¹ Article X, s 9.

¹⁵² Article X, s 14.

¹⁵³ Article X, s 8.

¹⁵⁴ Rep Act No 7160 (1992).

Government Code. All disputes between or amongst persons residing in the same *barangay* have to be brought before the *Lupong Tagapamayapa* of the *barangay* except for those disputes where one party is the government or any of its subdivisions or instrumentalities; where one party is a public officer or employee and the dispute relates to the performance of his official functions; offences punishable by imprisonment exceeding one year or a fine exceeding P5,000; offences where there is no private offended party; where the dispute involves real property located in different cities or municipalities, unless the parties otherwise agree; disputes involving parties who actually reside in *barangays* of different cities or municipalities, except where such *barangay* units adjoin each other and the parties agree to submit their differences to amicable settlement by an appropriate *lupon*; disputes where urgent legal action is necessary to prevent injustice from being committed or further continued, specifically criminal cases where the accused is in police custody or under detention; petitions for *habeas corpus*; actions coupled with provision remedies; actions which may be barred by the Statute of Limitations, disputes arising from Comprehensive Agrarian Reform Law; labour disputes arising from employer-employee relations; actions to amend judgments upon a compromise; and such other classes of dispute which the President may determine to be in the interest of justice, or upon the recommendation of the Secretary of Justice.

The court, in which non-criminal cases not falling within the authority of the *lupon* are filed, may, at any time before trial, *motu proprio* refer the case to the *lupon* concerned for amicable settlement. No complaint, petition, action or proceeding involving any matter within the authority of the *lupon* shall be filed or instituted directly in court or any other government office for adjudication unless there has been a confrontation before the *lupon* chairman or *pangkat* as certified by the *lupon* that no conciliation or settlement has been reached.¹⁵⁵ The exceptions to this rule are cases where the accused is under detention or where a person has otherwise been deprived of personal liberty, calling for *habeas corpus* proceedings, or actions coupled with provisional remedies, or where the action may otherwise be barred by the Statute of Limitations.¹⁵⁶

Under Section 14 of Republic Act No. 9262 (2004), the *barangay* captain can issue protection orders for acts constituting violence against women and children effective for a period of fifteen days.

Autonomous Regions

¹⁵⁵ Presidential Decree No 1508 (1978), s 6. See *Morata v Go* GR No 62339, 27 October 1983, 125 SCRA 444 (1983), where the Supreme Court declared that the conciliation process at the *barangay* level, as a precondition for filing a complaint in court, is compulsory not only for cases falling under the exclusive competence of the metropolitan trial courts, but for actions cognizable by the regional trial courts as well.

¹⁵⁶ Presidential Decree No 1508 (1978), s 6, last para.

In consonance with the demand for autonomy by Muslims in the Southern Philippines and some of the leaders of indigenous groups in the Cordilleras, the 1987 Constitution authorized the creation of autonomous regions in Muslim Mindanao and in the Cordilleras. Republic Act No 6734 (1989), the Organic Act for the Autonomous Region in Muslim Mindanao was passed. As provided for by the Constitution, a plebiscite was held with Lanao del Sur, Maguindanao, Tawi-Tawi and Sulu voting favourably while Marawi City voted no,¹⁵⁷ pursuant to Republic Act No 6766 (1989).

Likewise, with the Organic Act for the Cordillera Autonomous Region, a plebiscite was held in Benguet, Mt Province, Baguio City, Ifugao, Kalinga-Apayao and Abra but only Ifugao voted favourably.¹⁵⁸

¹⁵⁷ Rep Act No 6734 (1989) was held to be valid by the Supreme Court in *Abbas v Commission on Elections* GR Nos 89651-89965, 10 November 1989.

¹⁵⁸ In *Ordillo v Commission on Elections* GR No 93054, 04 December 1990, 192 SCRA 100 (1990), the Supreme Court declared the Comelec Resolution, which upheld the creation of the Cordillera Autonomous Region to be null and void.