BENCHBOOK FOR TRIAL COURT JUDGES

INTRODUCTION

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I. JUDICIAL POWER AND THE ROLE OF THE JUDICIARY[1]

The Philippine Constitution vests judicial power in one Supreme Court and in such lower courts as may be established by law.[2] Judicial power is described by the same section of the Constitution as follows:

> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.

The use of the word 'includes' connotes that the provision is not an exhaustive enumeration of what is comprised in judicial power. The use of the word 'duty' emphasizes the obligation of the courts of justice to exercise the judicial power in actual controversies. The inclusion of the duty to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government is in accord with the role of the judiciary as the last bulwark of the constitutional rights and liberties of the people. However, it does dispense with the doctrine that purely political questions are beyond the pale of judicial review.

The importance of the Judiciary in Philippine society is succinctly spelled out in the Preamble of the Code of Judicial Conduct:[3]

An honorable, competent and independent judiciary exists to administer justice and thus promote the unity of the country, the stability of government, and the well-being of the people.

This is an improvement of Canon 2 of the Canons of Judicial Ethics which provided that "The courts exist to promote justice; and thus to aid in securing the contentment and happiness of the people."[4]

The role of the Judiciary has been depicted in florid language

> No when as now is the duty of the Supreme Court in upholding the moral tenets of our Constitution and laws more imperative. In no idea is the moral sense more inherent and manifest than in justice. By the nature of their social function, the organs of judicial power are placed in the dominant position of the highest moral leadership. Never was the need of such moral leadership — inspired, dynamic, militant — felt with more acuteness than in the present stage of our travel toward national destiny. Wickedness and lack of scruples are on a rampage in every social strata, private and official. Flagrant violations of the fundamental law are committed with callous nonchalance, while robbery, banditry and gangsterism are practiced in broad daylight. Fundamental rights and privileges, liberties and immunities, whether private or official, are trampled down with satrapic insolence, while murders and wanton attacks against honor are perpetrated as exciting sport; graft, corruption, and absolute lack of principles in many high places; black market, gambling, shady negotiations, and exploitation of the innocent and the weak in some other spheres.

The ultimate hope to escape collapse must be pinned on the judiciary for the latter to fulfill with unrelentless

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straight-forwardness the duties of moral leadership entrusted to it by the Constitution. The judiciary should be the mighty euphroe that must link the loosened or severed moral cords and strengthen the bonds which will keep society from disintegrating.[5]

Twenty-one years later, the Supreme Court came up with a more pragmatic description linking the judiciary to the rule of law, thus:

> Law stands for order, for the peaceful and systematic adjustment of frictions and conflicts unavoidable in a modern society with its complexities and clashing interests. The instrumentality for such balancing or harmonization is the judiciary and other agencies exercising quasi-judicial powers. When judicial or quasi-judicial tribunals speak, what they decree must be obeyed, what they ordain must be followed. A party dissatisfied may ask for a reconsideration and, if denied, may go on to a higher tribunal. As long as the orders stand unmodified, however, they must, even if susceptible to well-founded doubts on jurisdictional grounds, be faithfully complied with. Such is the way of the law. So it has been in the past. So it should continue to be. If it were otherwise, the intellect no longer holds sway, the dictates of moderation are ignored, and passion takes over.[6]

In administering justice, the judiciary decides controversies between the party litigants. At the same time, it also contributes to the establishment of the Rule of Law without which there will be chaos in the community. What is more significant, however, is that the judiciary achieves such goal by relying on the moral force generated by the quality of its work in administering justice. It has been pointed out that:

> Among the three powers of government, the judiciary is in the material sense the weakest. Although its function in society is as noble and important as the ones entrusted to the legislative and executive powers, and there is none loftier that our mind may conceive or to which the most ambitious heart may aspire, it needs the active and positive help of other agencies to make it effective. Congress must provide for the adequate budget, and the executive power the necessary force to make effective the orders and decisions of tribunals.
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> To compensate for that comparative physical weakness of the judicial power, it is necessary that judges and courts should acquire the unbounded moral force which springs from the general faith and confidence of government and people alike. That moral force, although intangible, immeasurable and imponderable, is as effective as any cosmic force, if not more. We hold as an axiom that spiritual energy is stronger than atomic energy, the mighty basic force of material universe. But to obtain and retain public faith and confidence, it is necessary that courts and judges should show by their acts that they are actually entitled to such faith and confidence. Recalcitrant insubordination and indiscipline are not the means. On the contrary, they will only provoke public suspicion and distrust, if not popular wrath and condemnation.[7]

To gain and maintain such confidence of the people, the judiciary must, in the words of the Code of Judicial Conduct, be “honorable, competent and independent.”

Having efficient judges is one of the basic means to achieve this end, and this Benchbook for Trial Court Judges aims to help judges attain that necessary efficiency.

II. HOW TO USE THE BENCHBOOK

A. The Benchbook as Judge's Guide

The Benchbook is designed and intended to be a Judge's guide on the Bench while hearing cases and as part of his or her preparation before a particular hearing. Critical matters of judicial concern are highlighted and discussed direct to the point to provide a quick solution to situations Judges often encounter. The Benchbook is not designed as a law textbook or casebook, thus discussion are abbreviated whenever possible.

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B. Organization of the Benchbook

The Benchbook is presented in a ring binder format to allow ease of updating. Whenever any portion of the Benchbook becomes outdated, that section can simply be taken out of the binder and an updated page can be inserted in its place.

The Benchbook is divided into eight (8) sections: Outline of Jurisdiction; Civil Procedure; Special Proceedings; Criminal Procedure; Evidence; Judicial Ethics; Judicial Reasoning, Writing and Research; and Court and Case Management.

The section Judicial Reasoning, Writing and Research is divided into four subsections: Judicial Reasoning, Judicial Writing is divided into four subsections: Judicial Reasoning, Judicial Writing, Judicial Research, and a Glossary of commonly used legal terms. This section discusses concepts and methods that will be useful to the Judge when drafting a decision or resolution.

The section Court and Case Management is divided into two subsections: Trial Court Performance Standards (TCPS) and total Quality Management (TQM). This section provides Judges with a handy management reference that can help them with the daily demands of their Branch, including activities outside of a court hearing. The section is not intended to be a comprehensive discussion of TCPS and TQM. Rather, it is a summary of the basic concepts involved in the two mentioned management techniques. It must be noted that TCPS and TQM are regular modules in most seminars conducted by the Philippine Judicial Academy (PHILJA), thus the section Court and Case Management offers a reviewer or, for those who have not yet undergone the pertinent PHILJA seminar, a preview of the PHILJA seminar, a preview of the PHILJA modules on TCPS and TQM.

The pages of each section are numbered independently of the other sections, and all sections begin with page one. To differentiate the sets of pages, the page numbers of each section are preceded by the number of that section, where Outline of Jurisdiction is section number 1; Civil Procedure, number 2; Criminal Procedure, number 3; evidence, and number 4; Judicial Ethics, number 5; Judicial Reasoning, Writing and Research, number 6; and Court and Case Management, number 7. Thus, the pages of Civil Procedure, section number 2, are numbered 2-1, 2-2, 2-3, etc. The pages of Criminal Procedure, on the other hand, are numbered 3-1, 3-2, 3-3, etc. This method of page numbering also facilitates updating of the Benchbook in that modifications in one section will not disrupt or affect the organization of the other sections.

To differentiate quoted text from Supreme Court decisions or the Rules of Court of from provisions of law, quotations are set in a different, smaller type size than that used in the main text, and quotations are intended on the left and right sides.

C. Benchbook Citations

It is not advised that the Benchbook be cited as an authority for court decisions or resolutions. One reason is that the Benchbook is designed to allow timely, continuous updating of the various sections independent of each other. One of the effects of this system is that it is not possible to place an edition number to any particular version of the Benchbook. Given this characteristic, citing the Benchbook may confuse readers of decisions or resolution as to which version of the Benchbook should be used as reference.

Additionally, the Benchbook, although produced by the Supreme Court, is not a primary sources of the information in the Benchbook are properly cited in the footnotes.

Except when otherwise stated, all references to the Rules of Court are to the Rules in effect as of January 2001. Said Rules therefore include the 1997 Rules of Civil Procedure, the 2000 Rules of Criminal Procedure, and the

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1989 Rules of Evidence.

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[1] Excerpted from the draft on 'Judicial Ethics' by retired Court of Appeals Justice Hector L. Hofileña.

[2] Constitution, Art. VIII, Sec. 1.

[3] Promulgated by the Supreme Court of the Philippines on September 6, 1989.

[4] Administrative Order No. 162, Department of Justice, August 1, 1948.

[5] Iloilo Provincial Warden, 78 Phil. 599 [1947], dissenting opinion of Justice Gregorio Perfecto.

[6] Philippine Association of Free Labor Unions (PAFLU) v. Salvador, G. R. No. L-29471, September 28, 1968, 25 SCRA 393.

[7] Talabon v. The Provincial Warden, 78 Phil. 599 [1947].

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