

NOTES ON P.D. 1508:
THE BARANGAY JUSTICE SYSTEM

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I. Introduction

In June of Nineteen Hundred and Seventy-Eight, P.D. 1508 was signed into Law establishing a system of amicably settling disputes at the Barangay Level. More than two years have passed since then but the full impact of such decree has yet to be understood and realized by both laymen and legal practitioners.

The philosophy behind the law is best stated in its own introductory clauses:

WHEREAS, the perpetuation and official recognition of the time-honored tradition of amicably settling disputes among family and barangay members at the barangay level without judicial recourse would promote the speedy administration of justice and implement the constitutional mandate to preserve and develop Filipino culture and to strengthen the family as a basic social institution;

WHEREAS, the indiscriminate filing of cases in the courts of justice contributes heavily and unjustifiably to the congestion of court dockets, thus causing a deterioration in the quality of justice;

WHEREAS, in order to help relieve the courts of such docket congestion and thereby enhance the quality of justice dispensed by the courts, it is deemed desirable to formally organize and institutionalize a system of amicably settling disputes at the barangay level.

II. New Bodies Created:

Lupong Tagapayapa — This is the body of at least 10 members chaired by the Barangay Captain from which the 3-member Conciliation Panels* are to be formed. Its members are chosen and appointed by the Barangay Captain from qualified residents or persons employed within the Barangay.

The Lupon thus serves as a pool of arbitrators or conciliators and exercises administrative supervision over the conciliation panels formed or to be formed. The Lupon as a body meets (or more aptly, should meet) once a month to exchange views and observations regarding the workings of the system or their experiences as conciliators in the settlement of disputes.

The Barangay Secretary also acts as Lupon Secretary. It is important to note that the Lupon Secretary receives and keeps records regarding all disputes arising in the Barangay, whether settled or unsettled. The Lupon Secretary has the concurrent duty of submitting a report thereon to the proper city or municipal court, and is responsible for issuing the certificates that are essential before one can avail of *judicial recourse* with respect to disputes falling under the Barangay's jurisdiction.

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Furthermore, such *records* of Mediation and Pangkat Proceedings kept by the Lupon Secretary forwarded by him to the proper court may be used as evidence in *any* other proceeding by virtue of Section 10 of P.D. 1508 which provides that:

"SECTION 10. *Admissions.* — Admissions made in the course of any of the proceedings for settlement may be admissible for any purpose in any other proceeding."

Section 3 of Rule III of the Katarungang Pambarangay Rules enumerates the duties of the Lupon Secretary as follows:

(a) In the absence of the Barangay Captain, preside over the striking-out process for the selection of the three (3) members and one (1) alternate of the *Pangkat* as provided for in Section 1(f) of the *Katarungang Pambarangay*

(b) Keep and maintain a record book of all complaints filed with the Barangay Captain numbered consecutively in the order in which they were received and enter therein the names of the parties, date and time filed, nature of the case, and disposition;

(c) Note the results of the mediation proceedings before the Barangay Captain and submit a final report thereon to the proper city or municipal court;

(d) Record the willful failure or refusal of a party to comply with the summons issued by the Barangay Captain and transmit a certification to that effect to the proper court having jurisdiction over the matter in dispute;

(e) Receive and keep the records of proceedings submitted to him by the various *Pangkats*;

(f) Transmit the settlement agreed upon by the parties to the local city or municipal court not earlier than the eleventh nor later than the fifteenth day from date of settlement;

(g) Transmit the arbitration award to the local city or municipal court within five (5) days from date thereof;

(h) *Issue the certification* required for filing an action or proceeding in court or any government office for adjudication. Such certification shall show that a confrontation of the parties has taken place and that no conciliation or settlement has been reached; although no such personal confrontation took place through no fault that can be attributed to the complainant, such certification may nevertheless be issued;

(i) Issue a *certification for barring* the complainant from filing a case or the respondent from filing a counterclaim in court in case of willful failure of the complainant or respondent, respectively, to appear as provided in Sec. 7 Rule VI (or Sec. 4d of P.D. 1508) hereof; and

(j) Furnish copies of the settlement or arbitration award to all the parties and to the Barangay Captain.

The Pangkat ng Tagapagkasundo — This is a 3-member Conciliation Panel chosen by the disputing parties from among the members of the Lupon Tagapayapa. The parties should also select a 4th person from the Lupon to serve as alternate member. In case of failure to agree on the composition, selection shall be made in accordance with the procedure laid down by law as reiterated in Rule V of the Katarungang Pambarangay Rules. This body is formed *only if* the parties fail to settle their differences through the *mediation* of the Barangay Captain.

The 3 selected members shall choose their own Chairman and Secretary, the functions and duties of the latter being as follows:

SECTION 5. Rule III. *Secretary of the Pangkat.* — The *Pangkat* Secretary shall be chosen by the majority vote of its three (3) members and shall perform the following duties and functions:

- (a) Issue notices of hearing before the *Pangkat* and cause them to be served upon the parties and witnesses;
- (b) Keep minutes of proceedings for conciliation and arbitration by the *Pangkat* and have them attested by the *Pangkat* Chairman;
- (c) Note in the minutes the willful failure or refusal of a party to comply with the summons issued by the *Pangkat* Chairman and transmit a certified copy of such record to the proper court having jurisdiction over the matter in dispute;
- (d) Immediately transmit to the *Lupon* Secretary all settlements agreed upon by the parties and arbitration awards made by the *Pangkat*;
- (e) Submit copies of said minutes to the *Lupon* Secretary and to the local city or municipal court;
- (f) Issue the certification required for filing an action or proceeding in court or any government office for adjudication. Such certification shall show that a confrontation of the parties took place and that no conciliation or settlement has been reached; although no such personal confrontation took place and that no conciliation or settlement has been reached; although no such personal confrontation took place through no fault that can be attributed to the complaint, such certification may nevertheless be issued; and,
- (g) Issue a certification for barring the complainant from filing a case or the respondent from filing a counterclaim in court in case of willful failure of the complainant or respondent, respectively, to appear as provided in Sec. 7 Rule VI (or Sec. 4d of P.D. 1508) hereof.

The creation of the two new bodies, namely the Lupon and the Pangkat is intended to harness the potential of the Barangay members who are willing to render public service. In turn, the law has provided:

Character of Office. — The members of the Lupon shall be deemed public officers and persons in authority, within the meaning of the Revised Penal Code. (See Art 152 RPC)

Character of Service. — The members of the Lupon or Pangkat shall serve without any compensation or allowance whatsoever. Such service by any Lupon or Pangkat member, whether he be in public or private employment, shall be deemed to be on official time and no such member shall suffer any diminution in compensation or allowances by reason thereof.

III. Jurisdiction:

The subject matters for amicable settlement is quite comprehensive and the law has defined it negatively by stating the exceptions which are:

1. When one of the parties is a juridical person. (Sec. 1 Rule VI)
2. Where the parties involved reside in barangays of different cities or municipalities unless such barangays adjoin each other;
3. Where the dispute involves real property located in different cities or municipalities;
4. Where one party is the government or any subdivision or instrumentality thereof;
5. Where one party is a public officer or employee and the dispute relates to the performance of his official functions;
6. Where the dispute involves an offense punishable by imprisonment exceeding thirty (30) days or a fine exceeding two hundred pesos (₱200.00). Thus, physical injuries requiring medical attendance for not exceeding nine (9) days, slight slander, light threats, unjust vexation, petty theft, intriguing against honor, simple trespass, would be appropriate subject matters for settlement.
7. Offenses where there is no private offended party, for example, littering, gambling, jaywalking, public scandal, vagrancy and prostitution, and ordinances;
8. Such other classes of disputes which the Prime Minister (now President) may, in the interest of justice, determine upon recommendation of the Minister of Justice and the Minister of Local Government and Community Development. (Sec. 2, Rule VI or Secs. 2 & 3 of P.D. 1508)

From the first exception, it is clear that Corporations or other juridical entities need not be bothered by the workings of the Barangay System of Justice.

The initial and most important jurisdictional question that arises is that of residency. It is essential that both parties, plaintiff and respondent, be residents of the same city or municipality. The Jurisdiction of the barangay "courts" is founded upon and established on the viability of amicably settling disputes among neighbors and townmates, and thus, the moment the opposing parties reside in different cities or municipalities, there can be no basis for compelling such parties to seek redress at the Barangay level. There is only one exception to this rule and that is when the opposing parties are residents of adjoining barangays of adjoining municipalities or cities.

With respect to jurisdiction over disputes involving real property, it must be noted that this rule must logically be consistent and limited by the jurisdictional rule on residency. Thus, unlike in the jurisdiction of regular courts, wherein the situs of the real property is the main consideration in order to determine venue and jurisdiction, the Barangay "courts" will not have jurisdiction over disputes involving real property situated within its territory when the parties involved are residents of different municipalities or cities.

The third exception, i.e. where the dispute involves real property located in different cities or municipalities, refers to boundary situations such as when the real property involved is located between two municipalities or cities, considering that it is phrased in a similar manner to the Rules of Court provisions on Venue. The latter have been interpreted to contemplate but *one* property falling within two territorial jurisdictions and not separate properties having different locations. This situation wherein neither Barangay has jurisdiction results in the necessity for judicial recourse as regards the above-mentioned class of disputes. It is commented however that there seems to be no logical reason for exempting such dispute from the Barangay "courts" jurisdiction in the light of the same law's grant of jurisdiction in case of disputes between parties of adjoining barangays of different municipalities or cities. Furthermore, the Rules of Court provisions on Venue have dealt with the same problem in a liberal manner by granting jurisdiction to either municipality. It seems therefore inconsistent for the Barangay Courts to be less flexible and unable to acquire jurisdiction in such cases when it is not bound by technical rules of procedure and evidence.

The fourth and fifth exceptions remove from the jurisdiction of the Barangay "courts" any dispute involving the government, any of its subdivisions and instrumentalities including its officers or employees with respect to their official functions. This is but consistent with the principle of State Immunity from Suit and for purposes of safeguarding public policy and interest, which are never subject to compromise or arbitration for the sake of individual interest.

The sixth and seventh exceptions provide us with the scope of the Barangay court's criminal jurisdiction which is also subject to the Residency Rule. Thus all crimes or offenses punished by law or ordinance by *arresto menor* (imprisonment of up to 30 days) or a fine of two hundred pesos or less are proper subject matters for amicable settlement. However, the exception to the general rule just stated, are those crimes or offenses where there is no private offended party, since there would be no opposing party to settle with save the state or one of its subdivisions. In such cases, public interest governs and dictates the penalty for the offense which usually involve crimes that are *mala prohibita*. It may be emphasized at this point that the Barangay "courts" do not form part of the judiciary and have no power whatsoever to mete our penalties or fines. This point was underscored by the Minister of Justice in an opinion regarding the Pangkat's authority to impose fine or imprisonment in an Arbitration Award:

"In the exercise of its conciliatory power, it is clear that the Pangkat neither decides a case nor renders judgment, but merely makes it possible for the parties to come to a settlement of their dispute. And although in the exercise of its arbitral function, the Pangkat decides for the parties and renders a judgment or award, it has nonetheless no power to carry the same into effect. Section 12 of P.D. No. 1508 provides that both the settlement and the arbitration award are enforced by execution through the appropriate city or municipal court.

"As stated above, it is a basic principle that the power to impose criminal sanctions is a judicial power. And Article X, Section 1, of the new Constitution provides that "Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law". The Pangkat not being a court within the contemplation of the said provisions, as we have already shown, cannot exercise the judicial power to impose criminal sanctions, moreover it would be unconstitutional for the Pangkat, to impose the criminal sanctions of *fine or imprisonment* considering that the civil procedure provided for in P.D. No. 1508 is incompatible with the accepted rules and constitutional guarantees governing the trial of criminal cases (*Halvering v. Michell*, 303 U.S. 391) (Opinion No. 100 s. 1979)

Consequently, said offenses, having no private offended party, must be penalized directly by judicial recourse.

As regards crimes having a private offended party, the general rule is that the state may prosecute the offender even without the consent of the offended party, the only exception being private crimes as enumerated by Section 4, Rule 110 of the Rules of Court. With the promulgation and implementation of P.D. 1508, the general rule is now subject to further qualification by inhibiting the freedom of fiscals to prosecute at their own discretion the light offenses that fall within the Barangay court's jurisdiction. In fact, an amicable settlement would result in the *extinguishment of criminal liability* as was stated in an opinion of the Minister of Justice, the pertinent portion of which is quoted hereunder:

"Lastly, conciliation and arbitration as provided for in P.D. No. 1508, if and when successful in settling the dispute between the parties, can be considered as modes of extinguishing criminal liability. By prescribing these modes of dispute settlement in said decree, the State waived its right to prosecute the offenses which the decree has placed within the authority of the *Lupons* created thereunder. Thus, only the civil aspect of the crime remains and this may take the form of an award of damages in favor of the offended party which is within the power of an administrative body like the *Pangkat* to impose (*Tite v. State Tax Com.* 157 p2d. 734, [1936]; *Helvering v. Mitchell*, 303 U.S. 391 (Opinion No. 100, s. 1979; Underscoring supplied)

The goal, however of limiting petty offenses to settlement at the barangay level is dependent on the faithful compliance by fiscals of their duty to charge the right offense and not otherwise for purposes of harrassment or circumvention.

The eighth exception has no application as of date.

Thus the jurisdiction of the Barangay Courts stated positively are as follows:

1. Disputes Involving Natural Persons Residing in the same municipality or city;
2. Disputes Involving Natural Persons Residing in *Adjoining* barangays of *Different* municipalities or cities. (Not applicable to Disputes Involving Real Property)
3. Disputes Involving Real Property situated in one Municipality or City, if the parties thereto are residents of the said municipality or city.
4. Offenses punishable by *arresto menor* or a fine not exceeding two hundred pesos (P200.00) so long as there is a private offended party, whether residing in the same municipality/city as the offender OR in a barangay adjoining that of the offender.

From the foregoing, it is evident that the Barangay court's jurisdiction covers all kinds of disputes and thus, civil cases, no matter what the amount involved, would fall under their jurisdiction so long as the residency requirement is fulfilled.

As stated on Opinion No. 151, series of 1979 of the Minister of Justice:

"The intention to make the authority of the Lupon broad enough to cover all kinds of disputes except those expressly enumerated therein is manifest from the language of the above-quoted section. Moreover, advertng to the maxim '*expressio unius est exclusio alterius*', we note that agrarian disputes, are not among those expressly excepted or excluded from the authority of the *Lupon*; hence, they are deemed to fall within that authority. This maxim dictates that "where a form of conduct, the manner of its performance and operation, and the persons

and things to which it refers are affirmatively or negatively designated [in a statute], there is an inference that all omissions were intended by the legislature." (*Sutherland, Statutes and Statutory Constructions*, 3rd ed., vol. II, pp. 412-414)

As was stated in the opinion above-quoted, agrarian disputes are proper subject matter for amicable settlement. Even ejection cases would be within the jurisdiction of the Barangay court as referred to in another opinion of the Minister of Justice (*Op. No. 155, s. 1979*).

What makes this jurisdiction highly significant is that pursuant to the provisions of P.D. 1508, such jurisdiction attains an exclusive and original character. Section 6 of said law provides:

SECTION 6. *Conciliation, pre-condition to filing of complaint.* — No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman of the *Pangkat* and no conciliation or settlement has been reached as certified by the Lupon Secretary or the *Pangkat* Secretary, attested by the Lupon or *Pangkat* Chairman, or unless the settlement has been repudiated. However, the parties may go directly to court in the following cases:

- (1) Where the accused is under detention;
- (2) Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;
- (3) Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property, and support pendente lite; and (See Rules 52-61 of Rules of Court)
- (4) Where the action may otherwise be barred by the Statute of Limitations.

Rule VIII of the Katarungang Pambarangay Rules has added another ground for issuance of the certification by the Lupon Secretary by providing that: "Although no such personal confrontation took place through *no fault* that can be attributed to the *complainant*, such certification may nevertheless be issued". An illustration of the latter would be the willful refusal to appear by a respondent as referred to by Section 7, Rule VI of the same Rules.

Therefore, unless the action falls squarely under the enumeration above quoted, the courts have *no original authority* to hear cases that are subject to amicable settlement at the barangay level.

Considering the comprehensiveness of such, the effect on the jurisdiction of the regular courts is indeed significant. Pursuant to Letter of Implementation No. 105 issued by the President in 1979 citing implementing circulars Nos. 38 and 22 issued by the Minister of Justice and the Chief Justice respectively, the regular courts of justice motu proprio or upon motion, will dismiss, and have in fact dismissed cases falling within the authority of the Lupong Tagapayapa, when such cases do not have the requisite certification regarding the unsuccessful attempt by the parties to conciliate in accordance with law.

Such certification should be obtained prior to one's filing of a complaint in court or with the fiscal's office in order to avoid delay and undue expense, assuming one has availed of the Barangay Justice System. If one is determined however, to go to court, such certification should not be too difficult to secure considering that the law imposes a time limit on Mediation and Conciliation efforts. Furthermore, the law and rules require only that a confrontation has been had between the parties before the Lupon Chairman OR the Pangkat and thus, once there is no amicable settlement before the Barangay Captain (concurrently Lupon Chairman) during the mediation stage, either party may demand issuance of the required certificate by the Lupon Secretary despite the fact that the law provides for an alternative recourse of conciliation before the three (3)-member Pangkat ng Tagapagkasundo. Section 13 of the law also provides that "repudiation (of the settlement) shall be sufficient basis for the issuance of the certification for filing a complaint." which will be discussed hereunder.

IV. Procedure:

Before everything else, both laymen and practitioner must realize the clear prohibition of the law and its implementing rules against the presence or intervention of lawyers in any of the barangay court's proceedings:

"SECTION 9. of P.D. 1508. *Appearance of parties in person.* - In all proceedings provided for herein, the parties must appear in person without the assistance of counsel/representative, with the exception of minors and incompetents who may be assisted by their next of kin who are not lawyers."

"SECTION 6 of Rule VI. *Personal appearance.* - In all proceedings for amicable settlement, the parties must appear in person without the assistance of counsel or the intervention of any one. Minors and incompetents, however, may be assisted by their next of kin who is not a lawyer."

The Rules on Venue have been simplified and enumerated as follows:

Rule VI, Section 3. • *Venue* - The place of settlement shall be subject to the following rules:

- (a) Where the parties reside in the same barangay, the dispute shall be brought for settlement in said barangay;
- (b) Where the parties reside in different barangays in the same city or municipality (or in adjoining barangays), the dispute shall be settled in the barangay where the respondent or any one of the respondents actually resides, at the choice of the complainant;
- (c) Dispute involving real property (located in same city or municipality) shall be brought for settlement in the barangay where the real property or any part thereof is situated;
- (d) Any objection relating to venue shall be raised before the Barangay Captain during the mediation proceedings before him. Failure to do so shall be deemed a waiver of such objection; and
- (e) Any legal question relating to venue may be raised to the Minister of Justice whose ruling thereon shall be binding upon the parties involved. The proceedings shall nevertheless continue pending resolution of such question.

It is noted that the last sentence of paragraph (e) relating to the continuation of proceedings is not found in the original law but merely supplied by the implementing rules and regulations. It is doubted whether such rule can be enforced without qualification.

The pertinent provisions of the law and rules outlining the procedure provides:

SECTION 4 of P.D. 1508. Procedure for amicable settlement. -

a) **Who may initiate proceedings.** - Any individual who has a cause of action against another individual involving any matter within the authority of the Lupon as provided in Section 2 may complain orally or in writing, to the Barangay Captain of the Barangay referred to in Section 3 hereof.

b) **Mediation by Barangay Captain.** - Upon receipt of the complaint, the Barangay Captain shall within the next working day summon the respondent/s, with notice to the complainant/s for them and their witnesses to appear before him for a mediation of their conflicting interest. If he fails in his effort within fifteen (15) days from the first meeting of the parties before him, he shall forthwith set a date for the constitution of the Pangkat in accordance with the provisions of Section 1 of this Decree.

c) **Hearing before the Pangkat (Conciliation).** - The Pangkat shall convene not later than three (3) days from its constitution, on the day and hour set by the Barangay Captain, to hear both parties and their witnesses, simplify issues, and explore all possibilities for amicable settlement. For this purpose, the Pangkat may issue summons for the personal appearance of parties and witnesses before it.

d) **Sanctions.** - Refusal or willful failure of any party or witness to appear in compliance with the summons issued pursuant to the preceding two (2) para-

graphs may be punished by the city or municipal court for indirect contempt of court upon application filed therewith by the Lupong Chairman, the Pangkat Chairman, or by any of the parties. Further, such refusal or willful failure to appear shall be reflected in the records of the Lupong Secretary or in the minutes of the Pangkat Secretary and shall bar the complainant from seeking judicial recourse for the same cause of action, and the respondent, from filing any counterclaim arising out of or necessarily connected therewith.

e) **Time Limit.** – The Pangkat shall arrive at a settlement/resolution of the dispute within fifteen (15) days from the day it convenes in accordance with paragraph (c) hereof. This period shall, at the discretion of the Pangkat, be extendible for another period which shall not exceed fifteen (15) days except in clearly meritorious cases.

SECTION 9 of Rule VI. Agreement for arbitration. – The parties may, at any stage of the proceedings, agree in writing to have the matter in dispute decided by arbitration by either the Barangay Captain or the Pangkat. In such a case, arbitral hearings shall follow the formal order of adjudicative trials.*

Thus, assuming that neither party is determined to go to court, the dispute may be successfully resolved at the Barangay level in any of the following ways:

1. Settlement by Mediation of the Barangay Captain.
2. Settlement by Conciliation before the Pangkat.
3. Decision by Arbitration of the Barangay Captain.
4. Decision by Arbitration of the Pangkat.

In all the above-mentioned situations, mutual consent of the opposing parties is **essential**. The resolution of any dispute will not have any value nor effect without manifestation of such mutual consent. In the first and second method, mutual consent is manifested and evidenced by the signature of the opposing parties in the written settlement. In the latter two methods, mutual consent is evidenced by a Written Arbitration Agreement.

Such is the foundation of the Barangay Justice System of amicably settling disputes and consequently, the law provides for remedies where such consent is defective or vitiated by fraud, violence or intimidation, as follows:

Rule VI, Section 12. Repudiation. – Any aggrieved party to an agreement for arbitration may within five (5) days from date thereof, repudiate the same by filing with the Barangay Captain or the Pangkat as the case may be, a statement sworn to before either of them repudiating the agreement on the ground that his consent thereto was obtained and vitiated by fraud, violence or intimidation.

Similarly, a settlement by conciliation or mediation may be repudiated by an aggrieved party for the same grounds, within ten (10) days from date of such settlement.

Failure to repudiate the settlement or the arbitration (agreement) within the time limits respectively set, shall be deemed a waiver of the right to challenge on said grounds.

Even when the repudiation of the Arbitration Agreement is no longer possible, the law provides a further remedy as against the Arbitration Award by allowing the filing within 10 days from the date thereof a court action for its nullification before the proper city or municipal court. (Sec. 11, P.D. 1508.)

Absent any repudiation or petition for nullification within 10 days from the date of the settlement by arbitration, mediation or conciliation, as the case may be, such settlement or arbitration award attains the status of a final judgment of a regular court, enforceable by a writ of execution to be issued by the proper local city or municipal court. However, as provided by Section 12 of the law, such writ must be issued within 1 year from the date of settlement and not the usual five-year period provided by the Rules of Court. After said one-year period, the settlement may still be enforced by court action, i.e. by filing a complaint for revival of judgment. The foregoing is without prejudice to the losing party's seeking relief from judgment or any other legal remedy possible.

V. Conclusion

The Barangay Justice System as created by P.D. 1508 presents a novel and concrete approach to the problem of clogged dockets and upgrading the quality of justice. It still remains to be fully implemented and unsettled questions regarding its provisions are still to be settled. As any law, time will judge its true merits.

As was aptly stated by the late Chief Justice Fred Ruiz Castro in his message two years ago which is as good today as it was then'

"Through this system, the approximately 42,000 barangays throughout the Philippines will be mobilized as vehicles of mediation and conciliation. Numerous disputes and controversies there are that need not reach our overburdened courts of justice. Through the good offices of the Barangay Captain and other respected leaders of the locality, the disputants may be brought together for amicable settlement of their disputes without judicial recourse.

But the efficacy and success of this new system will depend entirely on the integrity and dedication of the men and women called upon to implement its objectives."