

**THE STATE OF ADMINISTRATION OF JUSTICE
IN THE PHILIPPINES FROM THE VIEWPOINT OF THE BAR***

Simeon N. Ferrer

As we all know, justice in its broadest sense is administered by the highest official to the lowest employee in the public service. When any one of them falls down on the job, some form of injustice necessarily results. The administration of justice, however, in its traditional sense is largely the responsibility of the judicial department of government, of the judiciary, of the courts of justice. It is to this limited aspect that constraints of time and space impel us to address ourselves.

In *De la Paz v. Inutan*, 64 SCRA 540 at 548, the Supreme Court said:

“The Judge is the visible representation of the law, and more importantly, of justice. From him, the people draw their will and awareness to obey the law.”

And in *Conde v. Superable*, 29 SCRA 727 at 735:

“Perhaps of no government official is the truism that a public office is a public trust more applicable. He dispenses justice for the community. He is its instrument to assure that everyone be given his due. He speaks and acts for the State, not for himself.”

For the administration of justice is a very sensitive task. It can be said that justice is more important than food, clothing and shelter. A man can suffer hunger and thirst but nothing rankles more than being the victim of injustice. And so as again pointed out by the Supreme Court in *Jugueto v. Boncaros*, 60 SCRA 27 at 31:

“One who occupies an exalted position in the administration of justice must pay a high price for the honor bestowed upon him, for his private as well as his official conduct must at all times be free from the appearance of impropriety.”

The late Italian lawyer and scholar Piero Calamandrei once said:

“The judge who becomes accustomed to rendering justice is like the priest who becomes accustomed to saying Mass.”

*Address delivered before the members of the Philippine Bar Association on September 20, 1982 (Law Day) at the Hotel Intercontinental in Makati, Metropolitan Manila.

He continues:

"Fortunate indeed is that country priest who, approaching the altar with senile step, feels the same sacred tribulation in his breast which he felt as a young priest at his first Mass. And happy is that magistrate who even unto the day of his retirement experiences the same religious exaltation in rendering judgment which made him tremble 50 years before, when as a young praetor he handed down his first decision."

For a time frame of reference, we could roll back the years to the beginnings of our judicial traditions — to the courts of Cayetano Arellano, Manuel Araullo, Victorino Mapa, Florentino Torres — if only to bask in the reflected glory of the example of their public and private lives, of their acknowledged competence, probity, industry and zeal, qualities which awed the American administrators, qualities which impelled Yale University to confer an honorary doctorate degree on Chief Justice Arellano, and President Theodore Roosevelt to bestow on him the signal honor of representing not the Philippines, but the United States, in the International Congress of Jurists held at the Saint Louis Exposition in 1904.

But those were times far removed from the present. Perhaps a look back to the fifties up to the mid sixties in the Metro Manila area, a period with which many of us here tonight are more familiar, would be more relevant. In my personal estimation, those were golden years for the practicing lawyer. In Manila he appeared and tried cases before the likes of Conrado Sanchez, Edilberto Soriano, Antonio Lucero, Gregorio Narvasa, Ramon Nolasco, Jose Leuterio, Carmelino Alvendia, Magno Gatmaitan, Arsenio Solidum, Luis Reyes, Ruperto Kapunan, Guillermo Santos, Jesus de Veyra, Ricardo Puno, among others; Manuel Mejia and Jesus Perez in Pasay (and subsequently in Manila), Cecilia Muñoz Palma in Pasig, to name a few. That was certainly a powerhouse team, a "dream" team any time in any judiciary. In those years and before these trial judges, the practicing lawyer could sleep soundly at night worrying only about the merits of his case, not what the adverse party was up to. These were judges who embodied in themselves the qualities of mind and character necessary to win the confidence of the people in the administration of justice. Cases and their incidents were disposed of with reasonable dispatch. When lawyers talked shop in those days they would compare the qualities of judges, their idiosyncracies, their strength and weaknesses. There was hardly any talk of corruption. To be sure, there were probably two or three misfits then. But they were the exception rather than the rule. In a very fundamental way there was a shared notion of lofty ethical behavior. There was then a shared sense of values, a common value system, a community of purpose which enabled the judiciary to function as a respectable and efficient organization.

To paraphrase the title of one popular Pilipino movie: *Ganito Kami Noon, Pa'ano Kayo Ngayon?* Apolinario Mabini once said that the judiciary is the conscience of government. Does the judiciary, as now constituted, serve as such a conscience? Not very many, I am afraid, will agree.

"In sharp contrast (with NPA justice — swift and terrible) is the prolonged and expensive process that the poor and the unlettered can expect from the regular courts of justice. The aggrieved obtain redress promptly at NPA hands. As often as not, money talks in the courts of law. It is therefore no wonder that in the administration of justice, the government takes a beating while the communist-oriented NPA's are looked up to as the protectors of the dispossessed and the downtrodden."

(Jesus E. Bigornia,
Bulletin Today,
19 August 1982)

No less than the former Chief Justice of the Supreme Court and now the Speaker of the Batasang Pambansa speaking on August 28, 1982 before the Philippine Association of Law Professors decried that:

"... it is of common knowledge, especially among legal practitioners, that a number of men on the bench have proven themselves unworthy of the judicial robes they wear. They are either unprepared, incompetent or corrupt... It is not unusual for names of particular judges to be bandied about in connection with venal occurrences. Some, indeed, are pinned, half in jest and half in seriousness, with their respective price tags."

He also referred to the recent bar scandal which he mercifully described as "largely fortuitous" but was afraid "its traumatic effect upon many a budding disciple of the law will long be felt, or at least regretfully remembered".

Only last week, an afternoon metropolitan daily carried the screaming banner headline: "CASE FIXING IN CITY COURT". The lead article spoke of a syndicate in the Manila City Court amassing thousands of pesos daily in consideration of pre-arranged raffling of cases with the aid of a so-called First Lady of the City Court, supposedly a friend of a Manila City Court judge.

In Plato's *The Republic*, Socrates is portrayed as very seriously engaged in a search for the real concept of justice. Adeimantus seeks to persuade him, though rather unsuccessfully, that people are satisfied with the appearance of justice only, that "if a man can appear just while really being unjust, then he will have the best possible life." How many judges do we know who are not only not just, they make no effort even at least to appear just. In *Gutierrez v. Santos*, 2 SCRA 249 at 254, the Supreme Court emphasized the importance of not only a judge being just but for the litigants to be convinced that he is actually just.

It is truly saddening, even depressing, for any practising lawyer, particularly for one who was also at one time a member of the judiciary, to note and speak of its seemingly rapid deterioration. But the facts are before us, and as John F. Kennedy once said: "To state the facts frankly is not to despair for the future nor indict the past." For many of us, judges and lawyers alike, an honest look in the mirror should disclose our many failings and shortcomings.

In his concurring opinion upholding the constitutionality of the Judiciary Reorganization Act of 1980 (*De la Llana v. Alba*, 112 SCRA 294 at 347) Justice Barredo observed:

"Different sectors of society are demanding urgent reforms in their respective fields. And about the most vehement and persistent, loud and clear, among their gripes, which as a matter of fact is common to all of them, is that about the deterioration in the quality of performance of the judges manning our courts and the slow and dragging pace of pending judicial proceedings. Strictly speaking, this is, to be sure, something that may not necessarily lack of independence of the judiciary. It has more to do with the ineptness and/or corruption among and corruptibility of the men sitting in the courts in some parts of the country."

In a separate concurring opinion in the same case, Justice Guerrero wrote:

"...The general clamor that the prestige of the Judiciary today has deteriorated and degenerated to the lowest ebb in public estimation is not without factual basis. Records in the Supreme Court attest to the unfitness and incompetence, corruption and immorality of many dispensers of justice. According to the compiled data, the total number of Justices and Judges against whom administrative charges have been filed for various offenses, misconduct, venalities and other irregularities reaches 322. Of this total, 8 are Justices of the Court of Appeals, 119 CFI Judges, 2 Criminal Circuit Court Judges, 8 CAR Judges, 1 Juvenile & Domestic Relations Court Judge, 38 City Judges, and 146 Municipal Judges.

"The Supreme Court has found 102 of them guilty and punished them with either suspension, admonition, reprimand or fine. The number includes 1 CA Justice, 35 CFI Judges, 1 CCC Judge, 3 CAR Judges, 1 JDRC Judge, 9 City Judges and 53 Municipal Judges.

"Seventeen (17) Judges have been ordered dismissed and separated from the service. And these are 3 CFI, 1 CAR, 1 City Judge and 12 Municipal Judges."

Recent decisions of the Supreme Court in recent administrative cases are replete with instances of improprieties by members of the Judiciary, such as:

1. Issuing inside a cockpit a certificate in connection with a case pending before him (*Ruiz v. Avenido*, 79 SCRA 4 at 9);

2. Going to his office on a holiday to conduct a preliminary investigation for theft; issuing a warrant of arrest on a legal holiday (*Villapando v. Quitain*, 75 SCRA 24 at 27, 28);

3. Failing to issue a receipt for the judge's share of the commissioner's fee (*Li v. Mijares*, 65 SCRA 167, 169);

4. Not inhibiting himself from trying a case although one of the parties or lawyer is his relative (*Rivera v. Barro*, 96 SCRA 338, 340; *Marfil v. Espanola*, 107 SCRA 41 at 44; *Evangelista v. Baes*, 61 SCRA 476, 479);

5. Kicking a Philippine Constabulary soldier (*Castillo v. Barsana*, 63 SCRA 388, 391);

6. Poking a gun at somebody while drunk (*De la Paz v. Inutan*, 64 SCRA 540, 548);

7. Holding a preliminary investigation in the house of the relative of the political enemy of the father of the accused (*Fernandez v. Presbitero*, 79 SCRA 60, 69);

8. Hitching a ride in the car of a litigant (*Cabreana v. Avelino*, 107 SCRA 640 at 654); and

9. Borrowing a car sold at public auction by virtue of a writ of execution he issued with the intention of acquiring the car by offering to buy it (*Nate v. Agana*, 91 SCRA 1 at 10).

Other judges have been guilty of more serious infractions, such as:

1. Falsifying the court records by inserting an amended complaint to cover up for himself (*Serafin v. Lindayag*, 67 SCRA 166, 172-173);

2. Misappropriating money (*Borja v. Bercasio*, 74 SCRA 353; 359; *Sarmiento v. Cruz*, 69 SCRA, 289, 292; *Siosico v. Sales*, 71 SCRA 139, 192);

3. Maintaining a mistress (*Leynes v. Veloso*, 82 SCRA 324 at 328);
4. Extorting money from a litigant (*Quiz v. Castano*, 107 SCRA 196 at 203-204);
5. Suddenly caressing and kissing a female litigant and promising to decide in her favor if she would be his mistress. (*Dy Teban Hardware & Auto Supply Co. v. Tapucar*, 102 SCRA 492 at 510);
6. Engaging in the practice of law (*Añonuevo v. Bercacio*, 68 SCRA 81 at 87; *Omico Mining & Industrial Corp. v. Vallejos*, 63 SCRA 289 at 299; *Agdeppa v. Javier*, 63 SCRA 518 at 519).

Again we ask: what has brought about this sad state of our judiciary?

It is said that there are economic reasons or causes for this unfortunate situation. For example, the salaries of our judges are unrealistically low. In 1972, under Republic Act No. 3479, judges of the Courts of First Instance were receiving an annual salary of P23,000. They now receive P55,000 a year. According to the consumer price index, however, a commodity priced at P10 in 1972 would cost P34.50 in 1981. Thus, to keep up with this runaway rate of inflation, judges of the Court of First Instance should be paid at this time an annual salary of at least P79,500. This is all the more compelling when it is considered that up till 1972 the salaries of judges were tax-exempt. They are now subject to income taxation.

A judge stationed in a district outside his province is left to fend for himself locating a suitable residence. Singapore and Malaysia, among other countries, provide free housing quarters for their judges, cognizant of the need for maintaining their independence. Here, whenever the judge goes home, he has to pay the abruptly increased fares whether on land, sea or air as he is inhibited from accepting any pass or free ride from a common carrier because of the strong possibility of its being involved in a case to be tried before him. He has to maintain a decent standard of living because of his position of leadership in the community. All these are a heavy drain on his paltry resources.

So also, it has been said that the judiciary has become a neglected poor relation of the executive and the legislative departments as manifested in the minuscule appropriation of less than one percentum (1%) of the total national budget for the maintenance and operation of the courts of justice. Prior to martial law that figure ranged from 2 to 3%. Such neglect is reflected in the deplorable judicial facilities not only in the provinces but even in Manila where some judges squat in tiny, hot, and dirty

rooms. In short, it is asserted that the courts which perform the paramount function of dispensing justice have not been accorded the appropriate care and attention due them. It is no wonder then that the judiciary can no longer attract competent and upright practitioners.

One must concede that these economic or material factors have in no small measure contributed to the lamentable state of the current administration of justice. I would submit however that the malaise afflicting our judicial system may be largely ascribed to the deteriorated moral climate prevailing in our country today bereft of leadership by example. Judges, particularly the trial judges are neither blind nor deaf. They are as sensitive as any human being to prevailing notions of morality in the community and are necessarily affected thereby. They can sense like anyone else that there has been a conscious relaxation of traditional moral codes. *Delicadeza*, the unwritten judicial code of chivalry, once upon a time in full bloom, is now withering on the vine. Judges can see only too well that their superiors instead of preserving their independence and keeping their measured distance, defer only too willingly, in the guise of judicial activism, to the wishes of the Executive.

An Integrity Council was constituted ostensibly to screen, among others, candidates for the bench. Seminars and lecture-conferences were conducted for these prospective appointees. Yet, appointments based on considerations of personal loyalty and regional origin continue to be made. Some of those previously purged from the bench, have been recalled and reappointed for political reasons.

The Judiciary Reorganization Act was practically railroaded through the Batasan and promptly validated by the Supreme Court as if integrity and morality in the judiciary can be legislated. The Act, for all its ostensible urgency, is still awaiting implementation, hanging, in the meanwhile, like Damocles' sword over the heads of the incumbents. Awaiting to be filled are 504 judicial vacancies in different parts of the country where the wheels of justice have ground to a complete halt.

In the considered opinion of many lawyers, the recent infamous bar examination scandal whittled down the Supreme Court's independence and gravely eroded its moral underpinnings.

While Justice George Malcom is noted for his contribution to the development of constitutional law in this country, it is not generally known that he authored a book entitled *Legal and Judicial Ethics* in which he wrote (p. 209):

"Finally, it would appear as clear as crystal that members of the highest tribunal in the land should set an example for others to emulate."

The tragedy of our time is that our leaders have been slow to setting the example our people need to emulate. There just has been too much **disparity** between words and deeds. The sacrosanct principle enshrined in the Civil Code (Art. 19) that: "Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith" has been diluted by the martial law legacy that "the end justifies the means." Thus, not too long ago, an afternoon metropolitan daily came out with a hard-hitting front-page editorial entitled *Leadership by Example*. After noting "that top men in government, some in the highest councils of power" show off a lifestyle... borne out by the rich habiliments they affect such as million-peso cars, luxurious villas and mansions, their ubiquitous presence in casinos and similar establishments, it admonished:

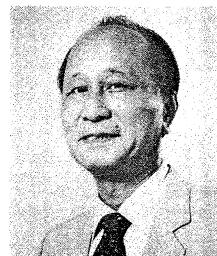
"...it still behooves officialdom to make common cause with the people... If the people know that the men who wield power share their more straitened circumstance, they would be more willing to undergo their share of sacrifices, and to contribute to the common effort toward the attainment of the goal of government."

(The Evening Post,
July 27, 1979)

Let us not lose sight of the fact however that there are still many selfless, dedicated, competent and upright judges who dispense justice daily in the anonymity of their courtrooms. You and I know some of them — judges who cannot afford the necessity and convenience of a private automobile, judges who have to prepare their meals in their chambers, judges who can hardly afford to give their children a decent college education, judges who cannot see their families for weeks on end because they cannot afford the prohibitive cost of transportation. I can only salute them. By them, the judiciary will survive. To them, our people will be eternally grateful.

Paying tribute to the ideal judge, Rufus Choate in his address to the Massachusetts Constitutional Convention said:

"Give to the community such a judge, and I care little who makes the rest of the Constitution, or what party administers it. It will be a free government, I know. Let us repose, secure, under the shade of a learned, impartial and trusted magistracy, and we need no more."



Dean FERRER

Simeon N. Ferrer was born on December 17, 1926 in Parañaque, Metropolitan Manila. He graduated from the Ateneo de Manila College of Law in 1951. He started teaching law at the Ateneo in 1959. He has handled several subjects among which are Sales and Special Proceedings. He was a District Judge of the Court of First Instance from 1967 to 1973. He is presently a senior partner of the law firm Ferrer, Valte, Mariano and Sangalang and also, Dean of the Ateneo College of Law.