RE: Submission to the report on national Judicial Council

Questionnaire of the Special Rapporteur on the Independence of Judges

JUDICIAL POWER

Under the Philippine Constitution, judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

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. (Art. VII Sec.1)

CONGRESS LIMITATION

Congress cannot pass a law reorganizing the Judiciary when it undermines the security of tenure of its Members.

Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over the following cases:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.

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

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

(b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(c) All cases in which the jurisdiction of any lower court is in issue.

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

(e) All cases in which only an error or question of law is involved.

(Art. VII Secs 2 and 5)

FISCAL AUTONOMY

The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released. (Art. VII Sec 3)

RULE MAKING POWER OF THE SUPREME COURT

Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to 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. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. (Art. VII Sec 5)

ADMINISTRATIVE AUTHORITY OF THE SUPREME COURT

Appoint all officials and employees of the Judiciary in accordance with the Civil Service Law.

Assign temporarily judges of lower courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned.

Order a change of venue or place of trial to avoid a miscarriage of justice. (Art. VII Sec 5)

ADMINISTRATIVE SUPERVISION OF THE SUPREME COURT

The Supreme Court shall have administrative supervision over all courts and the personnel thereof. (Art. VII Sec 6)

As held by the Supreme Court of the Philippines:

Article VII, section 6 of the 1987 Constitution exclusively vests in the Supreme Court administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk. By virtue of this power, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, and take the proper administrative action against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.

In fine, where a criminal complaint against a Judge or other court employee arises from their administrative duties, the Ombudsman must defer action on said complaint and refer the same to this Court for determination whether said Judge or court employee had acted within the scope of their administrative duties. (Maceda v Ombudsman G.R. No. 102781. April 22, 1993)

QUALIFICATION OF JUSTICES OF THE SUPREME COURT AND LOWER COLLEGIATE COURT

No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines. (Art. VII Sec 7)

QUALIFICATION OF JUDGES OF THE LOWER COURT

The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar. (Art. VII Sec 7)

A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence. (Art. VII Sec 7)

VETTING OF JUSTICES AND JUDGES

A Judicial and Bar Council is hereby created under the supervision of the Supreme Court composed of the Chief Justice as ex officio Chairman, the Secretary of Justice, and a representative of the Congress as ex officio Members, a representative of the Integrated Bar, a professor of law, a retired Member of the Supreme Court, and a representative of the private sector. (Art. VII Sec 8)

The regular Members of the Council shall be appointed by the President for a term of four years with the consent of the Commission on Appointments. Of the Members first appointed, the representative of the Integrated Bar shall serve for four years, the professor of law for three years, the retired Justice for two years, and the representative of the private sector for one year. (Art. VII Sec 8)

The Council shall have the principal function of recommending appointees to the Judiciary. It may exercise such other functions and duties as the Supreme Court may assign to it. (Art. VII Sec. 8)

APPOINTING AUTHORITY

The Members of the Supreme Court and judges of lower courts shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation.

For the lower courts, the President shall issue the appointments within ninety days from the submission of the list. (Art. VII Sec. 9)

TENURE OF JUSTICES AND JUDGES

The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reached the age of seventy years or become incapacitated to discharge the duties of their office. (Art. VII Sec. 11)

DISCIPLINING AUTHORITY

The Supreme Court en banc shall have the power to discipline judges of lower courts, or 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 thereon. (Art. VII Sec. 11)

REMOVAL OF JUSTICES OF THE SUPREME COURT

The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment. (Art. XI Sec.2)

Internal Legal Services Division

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