

**2005 Consultative Commission  
To Propose the Revision of the 1987 Constitution**

**Committee on the Judiciary  
MINUTES of the Meeting  
Wednesday, November 9, 2005**

**CALL TO ORDER**

At 2:15 p.m., the Co-Chairperson, Rita Linda V. Jimeno, called the meeting to order.

**ROLL CALL**

Upon suggestion of the Chair, there being no objection, the Committee dispensed with the roll call. The following Members were present:

Abueg, Alfredo Jr. E.  
Adamat, Ronald L.  
Apostol, Sergio A.F.  
Angeles, Emmanuel Y.  
Garcia, Pablo P.  
Gonzalez, Nelia T.  
Jimeno, Rita Linda V.  
Lambino, Raul L.  
Lorenzana, Lito Monico C.  
Naval, David C.  
Ortega, Victor F.  
Pedrosa, Carmen N.  
Peña, Fernando M. O.  
Rodriguez, Oscar S.  
Varela, Miguel B.

**Non-Members:**

Acevedo, Anthony Y.  
Matula, Jose Sonny G.

**PRESENTATION OF  
COMMISSIONER LAMBINO**

Commissioner Lambino explained his proposal regarding reforms in the Philippine judicial system through a PowerPoint presentation. (See "Reforming the Judiciary")

Commissioner Lambino stated that the Judiciary is the weakest of the three branches of government, as it does not have the power of the purse (of the legislature) and the power of the sword (of the executive). But he believed that it must be placed in an equal place as that of the executive and legislative branches.

Commissioner Lambino cited the comment of a foreigner hired as special anti-corruption adviser that the slow moving Philippine judicial system is the biggest obstacle to solving crime and corruption.

In this light, Commissioner Lambino presented the following recommendations:

1. Judicial power shall be vested in one Supreme Court, and in Regional Appellate Courts and such other lower courts as may be established by Law. The Supreme Court shall be composed of a Chief Justice and eight (8) Justices and that it shall only sit *en banc*.

At this point, Commissioner Apostol commented that Commissioner Lambino's proposal would cause more delay. Commissioner Lambino replied that the cause of delay is expanded judicial power. Commissioner Apostol thereby proposed that the Spanish judicial system should be followed for a more efficient judicial system.

Commissioner Lorenzana suggested that Commissioner Lambino be allowed to finish his presentation for a smoother flow of the discussion.

Commissioner Lambino continued with his recommendations:

2. With regard to qualifications, a Member of the Supreme Court must be at least 50 years of age but not more than 65 and must be for 20 years or more a judge of a lower court or engaged in the practice of law in the Philippines. This will ensure a more independent Supreme Court.

3. The Supreme Court Justices should serve for life.

4. The appointment of the Chief Justice and the 8 Members of the Supreme Court, the Members of the Regional Appellate Courts, the Ombudsman and his deputies must be made by the President (or Prime Minister) with the consent of the Commission on Appointments.

5. There shall be a Judicial Commission composed of the Chief Justice of the Supreme Court as the ex-officio chairman, the Secretary of Justice as the ex-officio vice-chair. The Commission should take over the administrative matters of the Judiciary.

6. Regarding the definition of judicial power, Section 1, second paragraph of Article VIII should be deleted from the Constitution.

7. As regards the Supreme Court's jurisdiction, Section 5, paragraph 5 of Article VIII should be modified in order to let the Legislature or the Parliament exercise its plenary powers over the promulgation of procedural laws as what is mandated in the 1935 Constitution.

8. Section 5(6) should also be removed and the power transferred to the Judicial Commission as it an administrative power that is beyond the competence of the court to exercise.

9. The Sandiganbayan which is "one of the biggest judicial anomaly" as it is both a trial court and an appellate court, should be abolished. The Sandiganbayan has not prevented cases of graft and corruption. Some cases have been sitting in the Sandiganbayan for 15 years. The powers of the Sandiganbayan should be transferred to the district trial courts.

#### **INTERPELLATION OF COMMISSIONER APOSTOL**

Commissioner Apostol noted that the lawyers abuse the due process clause of the Constitution, which has become the cause of delays. Commissioner Lambino concurred in the observation but such problem may be remedied by more simple procedures to shorten the period of hearing.

Commissioner Apostol mentioned that the court recognizes the Lupong Tagapayapa. Commissioner Lambino stated that the Lupong Tagapayapa does not decide on cases; it only encourages the arbitration of cases.

Further, Commissioner Apostol noted that the calendar system in disposing of cases is one of the problems. He cited that Singapore has a continuous trial system. He pointed out that the Philippine courts are clogged

with cases because the system of calendaring is not efficient.

In this connection, the Chair pointed out that there is a US study that shows why the US, which is a bigger country than the Philippines, has a more efficient judicial system. She noted that there is one Supreme Court that sits en banc all the time. She added that 95% of the cases get settled, while only 5% goes to trial. There is also a limit to the appeals granted. The Chair suggested that this should also be applied in the Philippines.

The Chair stressed that it is not a matter of changing the Constitution; it is a matter of changing court procedures. Commissioner Pedrosa mentioned that there is already one proposal made by Abaya regarding mediation in which the same principle is involved.

#### **PROPOSAL BY COMMISSIONER PEDROSA**

Commissioner Pedrosa stated that the Judiciary should assume a more important role if there is a shift to the parliamentary system. She suggested that a study of the judicial system of countries with parliamentary system of government be made. And she volunteered to prepare a presentation of the study of these constitutional courts.

#### **INTERPELLATION BY COMMISSIONER GARCIA**

Commissioner Garcia noted that the major cause of delay is not in the system, but a "manpower problem." He stated that the Philippines lacks lawyers and defenders; it needs 160,000 lawyers. He cited that in the US, the ratio of lawyer to the population is 1:450.

Apart from the "manpower problem," he said that the discontinuous trial adds to the problem, as he stressed the need

for more judges, more prosecutors, and more lawyers.

Commissioner Garcia stated that the proposed amendment reducing the jurisdiction of the Supreme Court is risky. He instead suggested the reform of the justice system.

#### **INTERPELLATION OF COMMISSIONER VARELA**

Commissioner Varela asked how the abuses of the prime minister or the president can be checked. Commissioner Lambino replied that Commissioner Varela's concern could be answered by the present provision, specifically in Section 5(2) of Article VIII.

#### **INTERPELLATION OF COMMISSIONER NAVAL**

Commissioner Naval stated there must be a definition of judicial power. He mentioned that Section 1(2) of Article VIII of the 1987 Constitution merely defines judicial power and does not specify which court will exercise this power. Commissioner Lambino replied that the power of judicial review is one of the political issues.

Commissioner Naval stated that the courts do not decide political issues like on "cases of grave abuse of discretion amounting to lack or excess of jurisdiction." He reiterated the need to define judicial power especially when it involves grave abuse of discretion. He inquired what remedy is available if there is no provision in the Constitution. The Chair replied that "certiorari" addresses this issue.

Commissioner Naval noted that judicial power is vested in all courts from the Supreme Court to the lowest level. Commissioner Lambino stated that it is even more dangerous as there should be remedies first before one applies

"certiorari." He added that with the provision in Section 1, one can go directly to the courts without exhausting the remedies. Commissioner Naval expressed his disagreement as it applies to cases of "grave abuse of discretion."

Commissioner Abueg stated that it is what makes the Supreme Court distinct from the legislative and executive branches; it is also what makes it superior to the two.

Commissioner Apostol suggested that Section 1(2) should be deleted as it conflicts with jurisdiction.

#### **DELETION OF SECTION 1(2) OF ARTICLE VIII**

Upon motion of Commissioner Rodriguez, the Committee, with eight (8) Members voting for, one (1) Member against, and two (2) Members abstaining, approved the deletion of Section 1(2) of Article VIII of the 1987 Constitution.

#### **AMENDMENT SUGGESTED BY THE CHAIR**

As suggested by the Chair, there being no objection, the Committee approved the substitution of the term "Congress" in Section 2(1) of Article VIII with the word "Parliament."

#### **PROPOSAL OF COMMISSIONER APOSTOL**

Upon motion of Commissioner Apostol and seconded by Commissioner Garcia, the Body unanimously approved that appropriations for the Judiciary may be reduced because of budget ceilings.

#### **RETAINING THE NUMBER OF SUPREME COURT JUSTICES**

The Chair noted that the provision regarding the number of Justices is a contentious one. Commissioner Garcia pointed out that the increase in the population of Filipinos, from only 14 million Filipinos in 1935 to 85 million Filipinos in 2005, should be taken into account. He added that people are now more aware of their rights than before.

Commissioner Rodriguez suggested that a federal system similar to the U.S. would help in the declogging of cases.

Commissioner Apostol recommended the increase in the number of Justices to 21 who will be divided into specialized categories – e.g. one division for labor cases, one division for criminal cases, etc. He noted that currently, labor cases clog the courts.

Commissioner Ortega stated that it is prudent not to reduce or increase the number of Justices. He recommended the retention of the current 15 Justices. He then noted that there are three (3) choices – decrease, increase or retain the number of Justices

Commissioner Adamat inquired how the 15 Justices could be geographically apportioned.

Commissioner Garcia however noted that the functioning of the court inhibition would immensely help solve the problem.

Submitted to a vote, with eight (8) Members voting for the retention of 15 Justices, one (1) Member voting for an increase in the number of Justices, and four (4) Members voting for a reduction of the number of Justices to 9, the Committee adopted the retention of 15 Justices as stated in Section 4(1) of Article VIII of the 1987 Constitution.

## PROPOSALS OF THE CHAIR

In connection with Section 4(1) of Art. VIII of the 1987 Constitution, the Chair proposed that the Supreme Court Justices sit *en banc* at all times as there is a problem regarding the conflicting ruling of the Supreme Court on same issue.

Commissioner Lambino concurred with the Chair, as he added that Justices are trained in the judicial system not as managers or administrators.

Commissioner Rodriguez objected stating that it would cause more clogging of cases. He noted that in the administration of justice, one of the primary aims is to dispose cases in a fast way.

With eight (8) Members voting in favor and five (5) Members voting against, the proposal of the Chair was approved by the Committee.

Also as proposed by the Chair, there being no objection, the Committee approved the revision of Section 4(2) of Article VIII.

## PROPOSALS OF COMMISSIONER LAMBINO

Upon motion of Commissioner Lambino and there being no objection, the Committee approved the retention of Section 4(3) of Art. VIII with the deletion of the word "provided" and the revision of the phrase "except by the court sitting *en banc*" to "except by a vote of 2/3."

Further, Commissioner Lambino recommended that the phrase "or death penalty" be added to Sec. 5 Par. 2 of Art. VIII. The said provision states that "all criminal cases in which the penalty imposed is reclusion perpetua or

higher." He stated that life imprisonment is a higher penalty than reclusion perpetua.

Commissioner Ortega suggested that the word "higher" be deleted and the phrase "at least" be added before "reclusion perpetua".

In reply to Commissioner Rodriguez' query, the Chair stated that the maximum penalty imposed is 40 years.

Commissioner Ortega then recommended that the word "higher" be retained.

Commissioner Lambino noted that if "death penalty" is not added, an automatic review of death penalty may be done.

Upon motion of Commissioner Lambino, there being no objection, the Committee approved the insertion of the phrase "or death penalty" in Section 5(2) of Art. VIII of the 1987 Constitution.

At this point, Commissioner Lambino noted that Members may have a copy of the Solicitor General's response to the petition of party lists regarding the constitutionality of the Consultative Commission. Commissioner Lambino informed the Body that a motion for leave would be filed soon.

## ADJOURNMENT OF MEETING

The Chair announced that the Judiciary Committee would meet on Tuesday, November 15, 2005 at 2 p.m.

Thereupon, the meeting was adjourned.

*It was 4:35 p.m.*