

**CONSULTATIVE COMMISSION**  
**Committee on Judiciary**  
MINUTES of the Meeting  
05 December 2005

**CALL TO ORDER**

At 1:28 p.m., the Co-Chairperson, Rita Linda V. Jimeno, called the meeting to order.

**ROLL CALL**

Upon suggestion of the Co-Chairperson, the Committee dispensed with the roll call. The following members were present:

Apostol, Sergio A.F.  
Bautista, Andres D.  
Jimeno, Rita Linda V.  
Naval, David C.  
Rodriguez, Oscar S.

*Ms Karen Jimeno, UP law graduate, was guest of the Committee.*

**PROPOSED AMENDMENTS TO  
ARTICLE VIII OF THE  
1987 CONSTITUTION**

The Committee members went through a review of the document on Article VIII of the 1987 Constitution and the proposed amendments thereto.

The Committee agreed on retaining the first paragraph. It likewise agreed with Commissioner Naval's suggestion to remove the second paragraph but will not include the paragraph on the creation of the Constitutional Court, as proposed earlier by Justice Puno and Com. Carmen Pedrosa, until such time that the country shall go into the federal form of government.

Commissioner Bautista suggested the retention of Section 2, with some changes in the first paragraph to read as follows:

*The **Congress/Parliament** shall have the power to define, prescribe and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction in Section 5 hereof.*

The Committee likewise agreed on retaining the original text of Section 4 except for the second paragraph where **majority** should be changed to **two-thirds**.

On Section 5, there were some questions raised on the addition of the word **foreign** preceding the **ambassadors** in the first paragraph as suggested by Commissioner Lambino in a previous meeting. Commissioners Bautista and Rodriguez said that it should be removed because the Philippines and its Supreme Court do not have jurisdiction over **foreign ambassadors**.

Accordingly, the Committee agreed on retaining the original text because the proposed amendment created more confusion. The Chair pointed out that nobody raised an objection when Commissioner Lambino introduced the amendment so everyone might have presumed it was right.

The Chair then read the amendment to Section 6:

*The Supreme Court through the Office of the Court Administrator shall have administrative jurisdiction over all courts and the personnel thereof.*

Commissioner Rodriguez proposed adding the word **lower** before **all courts**, to avoid confusion that the latter may also include the Supreme Court. However, Commissioner Bautista said that the Office of the Court Administrator would have jurisdiction even over the Supreme Court and so the amendment should be retained. However, the Committee decided to defer action on the proposed amendment to Section 6 for referral to the Plenary.

The Committee then decided to strike out the second paragraph referring to the composition of the Office of the Court Administrator. Commissioner Bautista said that the courts should be left to decide on the composition of the Office of the Court Administrator. The accompanying annotation was also deleted because it referred to another provision.

The Committee agreed on retaining Section 7 but suggested using **Congress/ Parliament** instead of **Parliament** only in the second paragraph.

On Section 8, Commissioner Bautista said that the removal of paragraph (5) was controversial because it removed the power of the Judicial Bar Council (JBC) to nominate a Supreme Court Justice and reallocated that power to the Commission on Appointments.

Commissioner Rodriguez said that he has long been critical of the JBC for not publicizing appointments and not providing an opportunity for those who want to oppose nominations.

In the discussion of the revisions to the first paragraph of Section 8, the Chair inquired whether the revised provision covers only Supreme Court Justices. Commissioner Bautista said that the revised provision would include lower collegiate courts but not shariah courts. Commissioner Naval proposed the removal of the word **lower** and the addition of the word **other** in the phrase **all collegiate lower courts**.

Upon motion of Commissioner Naval, there being no objection, the first paragraph of the proposed Section 8, Article VIII was amended to read:

*The Supreme Court and the justices of all **other** collegiate courts...*

Commissioner Bautista also proposed the removal of the phrase **the justices of** from the first paragraph, which amendment was approved by the Committee, so the phrase would read: *The Supreme Court and **all other** collegiate courts...*

The Chair said that a Chief Justice who is also a member of the JBC would be wearing two hats. Commissioner Bautista suggested instead that a retired Chief Justice be nominated as ex officio Chairman of the JBC. He said that having the incumbent Chief Justice as Chairman conflicted with the JBC's wish to be independent of the Supreme Court. The Chair added

that members of the JBC have previously complained about Chief Justices telling them discreetly whom to nominate.

Commissioner Bautista said that the first sentence of Section 8 (1) should be retained with revisions. He said that the second paragraph should be revised to read:

*A Judicial and Bar Council is hereby created composed of seven members: a retired Supreme Court Justice as ex officio Chairman...*

He added that the JBC need not be composed of seven members and suggested that the members be limited to five to lessen the costs.

Upon motion of Commissioner Bautista, there being no objection, Section 8 (1), Article VIII was approved with amendments to read:

*A Judicial and Bar Council is hereby created composed of **seven members: a retired Supreme Court Justice as ex officio Chairman, two representatives** from the Integrated Bar, and **two professors** of law.*

The Chair suggested that the words “independent” and “autonomy” be added somewhere to emphasize the JBC’s independence both financially and from the Supreme Court. It added that the JBC no longer wants to be beholden to the Supreme Court for their budget.

Commissioner Bautista suggested that JBC’s fiscal autonomy be stated in Section 8 and cited the provision on the fiscal

autonomy of the Ombudsman as an example. He also suggested revising JBC’s name to the Judicial and Bar Commission.

Upon motion of Commissioner Bautista, seconded by Commissioner Naval, there being no objection, the Judicial and Bar Council was renamed **Judicial and Bar Commission**.

Upon motion of Commissioner Bautista, there being no objection, a paragraph was added to Section 8, Article VIII which states:

*The Judicial and Bar Commission shall enjoy fiscal autonomy. Its approved annual appropriations shall be automatically and regularly released.*

On Section 9, the Chair said that the requirement for three nominations was removed from for flexibility. Commissioner Bautista suggested adding the proviso **Such appointments need no confirmation**. Commissioner Naval suggested revising the phrase **shall issue the appointments** to **shall appoint judges**.

Upon motion of Commissioner Bautista, there being no objection, Section 9, Article VIII was revised to read:

*The Prime Minister shall **appoint judges of the lower courts** from among the list submitted by the Judicial Bar Commission within (90) days from the submission thereof. **Such appointments need no confirmation**.*

Upon suggestion of the Chair, there being no objection, Section 10, Article VIII was revised to read:

*The salary of the Chief Justice and of the Associate Justices of the Supreme Court, and of judges of lower courts, shall be fixed by law. During their continuance in office, their salary shall not be decreased and **upon** retirement they shall be covered by a uniform retirement plan prescribed by law.*

On Section 11, the Chair asked the members whether they were agreeable to setting the retirement age of the members of the Trial Courts (except for those in the Supreme Court) at 75. Commissioner Naval said that the old provision of 70 years old was better. Commissioner Bautista added that this revision would enable the members of the trial courts to collect their retirement.

Upon motion of Commissioner Naval, there being no objection, the last sentence of Section 11, Article VIII was revised to read:

*The members of the Regional Appellate Court, the Shariah Appellate Court and other Lower Trial Courts shall hold office during good behavior until they reach the age of **seventy (70)** or become incapacitated to discharge the duties of their office.*

The Chair pointed out that the revisions to Section 15 shortened the time required to resolve cases and imposed a penalty for failure to resolve on time. She said that the sanction was included to put some teeth to the provisions.

Commissioner Bautista suggested that the cases should be decided within nine months rather than eight months from the date of submission to the Supreme Court.

Commissioner Apostol said that the problem of undecided cases was not in the manpower but in the jurisdiction. He said that the national Supreme Court, in the case of a federal system, is very limited.

Commissioner Bautista then said that the cases be decided within 12 months instead.

Upon motion of Commissioner Bautista, there being no objection, Section 15 (1) was revised to read:

*All cases or matters filed after the effectivity of this Constitution must be decided or resolved within **12 months** from date of submission...*

Commissioner Bautista said that the paragraph on the sanction of the judges should be amended so that the phrase **mandatory period shall be** would be changed to **“mandatory period herein provided shall be.”** He also proposed making this the last paragraph of Section 15.

Commissioner Apostol commented that the problem was that there were more Regional Trial Courts than City Courts and that the jurisdiction of the City Courts was increased. He also suggested that court justices and judges should be sanctioned rather than removed for failure to render decisions.

Upon motion of Commissioner Bautista, there being no objection, the last paragraph of Section 15, Article VIII, was amended to read:

*The failure to render a decision or resolution within the mandatory period herein provided **will** be a ground for the impeachment of the **responsible Supreme Court Justices or sanctions including removal of the collegiate court justices or judges responsible.***

Commissioner Naval then told the Committee that during a seminar of the RTC judges, this penalty was questioned. He said that the RTC judge from Visayas said that this period constraint makes them decide without knowing whether their decisions are correct. Commissioner Bautista said that this may not be such a bad thing, that it at least showed that justice was moving. Commissioner Naval said that there should be a section requiring an explanation as to why the court justice or judge was unable to render a decision on time.

The Chair referred the Committee to Section 15 (3) on certification.

Commissioner Rodriguez said that removal, as a sanction, should be included in the paragraph for penalties. He also said that the word **shall** should be replaced by **may** so that only unjustified failures would be sanctioned.

Commissioner Bautista clarified that failure to render a decision on time would render a penalty but that a certification, as defined in Section 15 (3), would soften the sanction.

The Chair then suggested the revision of Section 17 to read:

*The Judicial and Bar Commission shall have the power to discipline judges of all lower courts or order their dismissal.*

Commissioner Rodriguez commented that putting this power outside of the Supreme Court could be dangerous. Commissioner Bautista added that the power to discipline is part of administrative supervision.

Upon suggestion of the Chair, there being no objection, Section 17, Article VIII was deleted by the Committee.

#### **SUGGESTED FORMAT OF THE COMMITTEE REPORT**

Commissioner Bautista suggested including a letter explaining the revisions in the Committee Report.

#### **ADJOURNMENT OF MEETING**

Upon motion of Commissioner Naval, there being no objection, the meeting was adjourned.

*It was 2:45 p.m.*