RANDOM REFLECTIONS ON THE BAR, CORRUPTION AND THE PRACTICE OF LAW*

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Editorial Note

Justice Feliciano has been consistently adamant about the importance of progressively raising the intellectual, academic and professional standards for admission to the Bar. This article explores this widespread and profound concern in the quality and integrity of our judiciary, and the relation between raising the standards in the Bar examinations and the good moral character of prospective lawyers to the practice of law. Justice Feliciano provided the Journal Editors with copies of these dissenting opinions rendered during his tenure at the Supreme Court and two addresses delivered at University of the Philippines foundations, the first in 2001 and the second in 2011. A list of these items follows:

1. Re: 1989 Bar Examination Results, dated March 15, 1990, with Justice Feliciano dissenting. He was joined in this dissent by Justices Melencio-Herrera and Gutierrez, Jr.
2. *Bar Matter No. 580*, Re: 1990 Bar Examination Results, dated April 16, 1991, with Justice Feliciano dissenting for the second time. He was again joined in this dissent by Justices Melencio-Herrera and Gutierrez, Jr.
3. Re: Applications to Take the 1993 Bar Examinations, August 24, 1993, with Justice Feliciano delivering a third dissenting opinion.

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4. *Some Perspectives on the Problem of Corruption*, which is an address delivered at the Induction Ceremony of officers and members of the International Honor Society Phi Kappa Phi at the UP Film Center on April 18, 2001.
5. Commencement Address delivered to the UP College of Law Centennial Batch/ Graduating Students on April 18, 2011.

In both his dissenting opinions in *Re: 1989 Bar Examination Results*, and *Re: 1990 Bar Examination Results*, Justice Feliciano opines that the Supreme Court's "strange proceeding" of adjusting the passing scores obtained by Bar Examinees makes it extremely difficult, if not virtually impossible to raise the standards for admission to the Bar.[1] He insists that there is no vested right to pass the Bar examinations and that there is only the vested interest of the nation and the community to a Bar consisting of men and women with the highest professional and moral standards.

Aside from his vehement opposition to this "strange proceeding", Justice Feliciano also expresses concern over the fact that the Court has failed to take adequate consideration of the importance of the element of good moral character as a requisite for applicants to admission to the legal profession. This sentiment is embodied in his dissenting opinion in *Re: Applications to Take the 1993 Bar Examinations.*

Lastly, Justice Feliciano confronts the problem of judicial corruption in both his addresses delivered 10 years apart: *Some Perspectives on the Problem of Corruption* in 2001 and *Address to the Centennial Batch/Graduating Students of the UP College of Law* in 2011. He asks us to bear in mind that legitimacy is a "wasting asset," a delicate and fragile asset that once lost will take decades to regenerate. Taking from an ancient injunction, he emphasizes that from those to whom much is given, much is expected. We took the three dissenting opinions and the two addresses and consolidated them, utilizing the words of Justice Feliciano verbatim and distributing them under a number of subtopics. We found that the five pieces, despite having been written over a period of about

[1] Under Sec 14, Rule 138 of the Rules of Court, the passing average is fixed at 75%. Until very recently, the passing averages were lowered to admit more lawyers (i.e. 70% in 2007, 72.5% in 2008, 71% in 2009 and 72.5% in 2010).

20 years, are strongly internally coherent. Accordingly, we simply put their respective substantive themes together subsequently and appended footnotes 2,4-6 basically to document the fact that the problems here dealt with are not a monopoly of our country. Justice Feliciano examined and edited what we had crafted and approved the result. We present the result below.

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Raising the Bar[2]: Reshaping the Raw Material of the Judiciary

There is a widespread misconception that the bar examinations given yearly by the Supreme Court are an indicator of the quality of the legal education dispensed by the dozens and dozens of law schools, public and private, in our country, and are moreover a predictive instrument so far as it concerns the quality of the lawyers who pass those examinations. Each year, the law schools who provided the highest scores, publish in our metropolitan newspapers very conspicuous advertisements identifying those fortunate young people. But passing the bar examinations is surely the minimum, the barest minimum, requisite for entering the venerable profession of the law. Passing the bar examinations says nothing about how loyal and true the new lawyers will be to the law itself and to the courts as officers thereof and as dispensers of the justice and truth embedded in the law.

Each year, or almost every year, after the bar examinations results have been reported to the Supreme Court by the member of the Court who had presided over the examiners and all and sundry having to do with the examinations, a strange proceeding takes place. Believing that the percentage of the examinees who obtained the average passing mark of 75% is too low – say, anywhere from 11% to 16%, the Chairman of the Bar Examinations Committee petitions the Supreme Court to reduce the "passing mark" of 75% to a more "realistic" figure of say, 70 or 71% so that a more "realistic" total number of successful examinees would emerge. More often than not, and

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[2] *See generally* Kristin Booth Glenn, *When and Where We Enter: Rethinking Admission to the Legal Profession*, 102 Colum. L. Rev 6 (2002) (criticizing the existing bar exam regime which tests only a few of lawyering skills and proposing a new, alternative, experientially-based bar exam); Edwin C. Goddard, *Admission to the Bar*, 16 Mich. L. Rev. 4 (1918) (the author believes that "preparation for admission to the bar is long and difficult, but that the protection of the public requires that no one be permitted to practice till he has traveled that way and acquired that equipment." Hence, he is proposing changes in the law curriculum and examinations). William C. Kidder, *The Bar Examination and the Dream Deferred: A Critical Analysis of the MBE, Social Closure, and Racial and Ethnic Stratification*, 29 Law & Soc. Inquiry 3 (2004) (explaining why more than a dozen states have recently enacted more stringent bar exam passing standards and why others are considering similar changes).

possibly after some discussions about an "overly strict" examiner or two, the Court would grant the petition.

For example, during the deliberations of the Court *en banc* on the 1989 Bar Examination, the majority of the Court resolved to add 5% in Political and International Law and 5% in Labor and Social Legislation since the corrections of the answers in these two subjects were "rather strict." Thus, 639 examinees or 21.26% made the grade of 75% and above as compared to the original number of 486 examinees or 16.17% who did not have the additional points in the aforementioned subjects. However, the issue placed before the Court *en banc* relates to the fact, as reported by the Chairman of the 1989 Bar Examinations, that two (2) examiners reported "large" percentages of failing marks; "large" that is, compared with the reports submitted by the other examiners. The proposal made before and without decoding the identification numbers of the 1989 Bar examinees – that is to say, on a blind basis – is that a certain number of percentage points should be added to the scores of all the examinees in one or both the subjects handled by the aforementioned two (2) examiners. Without any adjustment of any of the scores of any of the examinees in any of the subjects, the total percentage of successful examinees was, as orally reported to the Court, 16+%. By adding a certain number of percentage points to the scores of all the examinees in <u>one</u> of the subjects involved, the total percentage of successful examinees would rise to 18+%. Should adjustment be made by adding a certain number of percentage points to the scores of all the examinees in <u>both</u> the subjects involved, the total percentage of passing examinees would rise further to 21+% of the total number of examinees.

The following year, the majority of the Court refused to adjust the scores given by one of the examiners and resolved to approve the extraordinarily high scores, i.e., 95.6% with 0% disqualifications, despite the recognition that it was statistically impossible, assuming that the standard applied by the examiner involved was anywhere near the same standard applied by the other examiners.

Both actions should not have been resorted to by the Court. As regards the 1989 Bar Examination results, the Court should have disregarded the circumstance that one or more of the examiners may have reported a "large" percentage of failing grades, in relation to the percentage of failing marks reported by the other examiners, instead of upwardly adjusting the scores of the examinees, As to the 1990 results, the Court should have made a

compensating adjustment for the extraordinary percentage of passing reported by the examiner so as to *reduce* the scores obtained by Bar examinees. The approval of an extraordinarily high percentage of passing in a particular subject is essentially equivalent to lowering the minimum passing grade of the Bar examinations. For 1989, the Court was willing to adjust upward the scores obtained by Bar examinees which action had the effect of *reducing the passing grade* in the subject involved and the overall effect of increasing the number of successful examinees. For 1990, the Court has refused to reduce the number of successful examinees in the one (1) subject involved. In a sense, the action of the Court this year is quite consistent with its action last year. Both actions, regrettably, have an unfortunate effect upon the intellectual and academic standards for admission to the Bar.

This strange proceeding does not appear to be replicated in other professions in our country – say, medicine, dentistry, civil engineering, etc, at least so far as publicly available information goes. Upon the other hand, information from members of international bar associations reveals that in East Asia, more specifically in Japan and South Korea, the average percentage of successful bar examinees is in the range of 5% to 10%. In our country, it may well be that there are historical and sociological explanations for what takes place in the legal profession. It is thus interesting to find out why we in the Philippines should be happy and satisfied with observably lower standards for entering the legal profession than those prevailing in Japan and South Korea.

Year in and year out, the Chairmen of the Bar Examination Committee have, with great care, chosen examiners not merely on the basis of their absolute integrity and discretion but also because, in the evaluation of the respective Chairmen, they were possessed of considerable even specialist experience in and understanding of the subject assigned to them and that many of the examiners have had some teaching experience. Different examiners will, of course, have different standards of evaluation but we must assume that examiners who report a "large" percentage of failing marks had to do so because they applied more exacting standards than those applied by their unknown co-examiners. To add percentage points to the scores that they have given to the examinees whose examination papers they had scrutinized and graded, is to deprecate the ability of such examiners to evaluate the answers

given by the examinees. Moreover, this is to impose unnecessary humiliation upon the examiner or examiners involved.

But there is a more fundamental reason for this view: to so adjust the scores obtained by Bar examinees – which is arithmetically equivalent to reducing the passing grade – is to make it extremely difficult if not virtually impossible to raise the intellectual, academic and professional standards for admission to the Bar. No one disputes the reality and immediacy of the need to raise the standards for admission to the "ancient and learned profession of the law."[3] Indeed, imposing higher standards for passing the Bar is only a partial answer to the broad problem of improving the general level of quality professional work at the Bar. So also, the professional quality of members of the Bar is a function of, among other things, the quality of the law school and college education that they have had.

We must begin somewhere, and it is earnestly suggested that we should begin here and now. The Bar examinations compromise an area that has traditionally been subject to the jurisdiction and control of the Court, along with the authority of the Court to discipline those already admitted to membership in the profession. It is not necessary or possible for the Court to wait until the general level of college education and of legal education in our country has appreciably improved before we may reasonably exact higher standards from those whom we would admit to membership in the Bar.

It is merely a platitude to say that there is no vested right to pass the Bar examinations and that there is no vested right of a "reasonable" proportion of any batch of examinees to pass the Bar examinations. There is in my submission, only the vested interest of the nation and the community to a Bar consisting of men and women with the highest possible standards – professional and moral – that our people are capable of producing and maintaining. A semi-literate lawyer is at least as dangerous to the peace, tranquility and general welfare of the community at large as a half-baked physician is to the physical and mental health of the general public.

The Court should thus progressively make the Bar examinations more difficult to pass and to raise the standards for admission to the Bar by reducing

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[3] Macias v. Malig, 157 SCRA 762, 776 (1988).

the percentage of successful examinees, while simultaneously addressing the problem of improving the legal and pre-legal education available in our country. Mme. Justice Ameurfina M. Herrera notes that it was for many years the policy of the Court not to lower the minimum passing grade in the Bar examinations. I respectfully urge that we must go back to this policy and re-affirm and reinforce it.

Good Moral Character as a Prerequisite to Taking the Bar[4]

In 1993, the Court allowed three students from the Ateneo de Manila University Law School to take the Bar Examinations, notwithstanding the fact that these applicants were dropped from the roster of bar reviewees and from the roster of Ateneo De Manila Law School alumni with concomitant denial of all privileges as such and manifesting the refusal of the Law School to issue a Certificate of Good Moral Character to each of the applicants. The Certificate of Good Moral Character is required under Rule 138, Section 2 of the Rules of Court, which reads as follows:

> Sec. 2. Requirements for All Applicants for Admission to the Bar. – Every applicant for admission as a member of the Bar must be a citizen of the Philippines, at least 21 years of age, **of good moral character**, and a resident of the Philippines; and **must produce before the Supreme Court satisfactory**

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[4] *See generally* Marshall Scott May, *Partin v Bar of Arkansas: The Good Moral Character Requirement for Arkansas Bar Applicants*, 49 Ark. L. Rev. 829 (1997) (the author submits that in "an age where the misdeeds of lawyers often crowd the front page, and the majority of the public views attorneys with distrust, the Arkansas Supreme Court acted wisely by enforcing a stringent good moral character requirement for bar entrance."); Michael K. McChrystal, *A Structural Analysis of the Good Moral Character Requirement for Bar Admission,* 60 Notre Dame L. Rev. 67 (1984) (explaining that "good moral character" can be a basis for the denial of admission to the bar. However, a line must be drawn "between applicants whose past conduct portends future misconduct as a lawyer and those who have erred in the past but deserve the opportunity to practice law because their error was unrelated to the requirements of law practice or not symptomatic of their present character and behavior"); Brendalyn Burrell-Jones, *Bar Applicants: Are their Lives Open Books?,* 21 J. Legal Prof. 153 (1996) (explaining that "when it comes to the determination of what is considered good moral character, the Bar is not limited to current moral character").

> **evidence of good moral character**, and that no charges against him, involving moral turpitude had been filed or are pending in any court in the Philippines. (Emphasis supplied)

The process of applying for admission to the Bar begins with the application to take the Bar Examinations. It appears clear, therefore, that one who seeks admission to the Bar must possess the above requirements not only at the time that he takes his oath as a member of the Bar and inscribes his name in the Roll of Attorneys, but also at the time he applies for permission to take the Bar Examinations.

Section 2 of Rule 138 sets forth a number of requirements; only two (2) of these requirements are pertinent to the applications at bar:

(a) that the applicant "must be . . of good moral character . . ." and "must produce before the Supreme Court satisfactory evidence of good moral character"; and
(b) that "no charges against [the applicant], involving moral turpitude, have been filed or are pending in any court in the Philippines."

Requirement (a) is separate and distinct from requirement (b) and both requirements must be complied with. Failure to comply with requirement (b) may very well constitute evidence of failure to comply at the same time with requirement (a). However, compliance with requirement (b) does not constitute compliance with requirement (a). Only requirement (a) is addressed below.

In the past, the requirement that an applicant for admission to the Bar Examinations must produce "satisfactory evidence of good moral character," was treated in a notably relaxed manner. Affidavits of lawyers who may well have hardly known an applicant for admission to the Bar Examinations have many times been accepted as a matter of course and without inquiry as to whether the affiant was in fact in a position to make a reliable statement on the moral character of the applicant. In the 1993 Bar Matter, the Committee Report of the Ateneo De Manila University Law School, signed by the Dean thereof, was in effect a formal and considered statement on the part of the School that the persons named therein did not possess the moral character that a Bar Examination applicant must have. The Committee, after an extended investigation and hearing and evaluation of the evidence presented, found them culpable for physical assault against another person resulting in the latter's hospitalization for about ten (10) days.

The law school of which a Bar applicant is an alumnus is in a very good position, and perhaps in the best position, to certify to the moral character exhibited by a particular Bar applicant during the time he was a student in that school. This premise cannot be assailed successfully. It is, therefore, very difficult to understand why the majority are in effect disregarding that Report or statement or formal disclaimer on the part of the Ateneo De Manila University Law School in respect of the named applicants who were students in that Law School for four (4) years. Upon the assumption that the herein applicants had submitted earlier affidavits of lawyers purporting to attest to their good moral character, it seems that the Report or statement of the Ateneo Law School that the applicants here are guilty of physical brutality and violence, must be given much heavier, countervailing, weight than the casual affidavits.

No one disputes that the proceedings before the Committee of the Ateneo Law School are not the technical equivalent of criminal proceedings before our courts. This is really beside the point, however, since this was not a petition for certiorari and since it is requirement (a) above, rather than requirement (b), that presses so sharply in the applications at bar. It is earnestly submitted that the Report or statement of the Ateneo Law School is a document of very high relevance in the task of assessing the good moral character of the would-be lawyers here involved.

A "conditional admission" to the Bar Examinations is not a sufficient response to the issue at hand. It is admission to the law profession that we are here concerned about; the Court does not require further evidence of good moral character *after* an applicant has passed the Bar Examinations and *before* he takes the lawyer's oath. There is very little need to underscore once more the necessity for higher standards both of professional competence and of moral character in the legal profession as it exists today. It appears widely believed that there is a substantial number of judges who have failed to measure up to the moral and professional standards required from judges. It is, therefore, important to recall that judges are recruited exclusively from the legal profession and that if there is indeed a substantial number of judges who are not fit to be so, it must be because there is an equally substantial number of

lawyers who do not comply with the standards of the law profession in the first place.

The members of the Integrated Bar of the Philippines and members of the voluntary bar associations are thoroughly familiar with the difficulties involved in policing their own ranks and in maintaining the standards which our community demands from the legal profession. It is certainly much easier to require compliance by being rigorous and exacting in the initial stages of the process of admission to membership in the Bar, than later. It is hardly necessary to stress that membership in the Bar and hence admission to the Bar Examinations is not a right, but merely a privilege which is subject to regulation in the best interests of the community the profession is sworn to serve.

The action taken by the Court in the 1993 Bar Matter shows the Court's failure to take adequate consideration of the importance of the element of good moral character as a requisite for applicants to admission to the legal profession. It is time to reject the casual approach we have heretofore exhibited in the matter of good moral character as a requisite for admission to the Bar Examinations.

The Pathology of Judicial Corruption[5]

The presentation of a certificate of good moral character before being allowed to take the Bar Examinations and the subsequent four-week Bar examinations tend to ensure but of course cannot guarantee that the members of the learned profession of law will be of high integrity and competence. This special attention given to judges in community prayers in some church parishes evinces an increasingly widespread and profound concern in our country about

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[5] *See generally* Maria Dakolias & Kim Thachuk, *Attacking Corruption in the Judiciary: A critical Process in the Judicial Reform*, 18 Wis. Int'l L.J. 353 (2000) (explaining that "corruption poses the greatest threat to judicial independence; it touches both individual independence and institutional independence); Stratos Pahis, *Corruption in our Courts: What it Looks Like and Where it is Hidden*, 118 Yale J.L. 1900 (2009) (showing that judicial corruption is a significant problem in the US by exposing incidents of judicial bribery and ineffectiveness of anti-judicial-corruption institutions); Edgardo Buscaglia, *An Analysis of Judicial Corruption and its Causes: An Objective Governing-based Approach*, 21 Int'l Rev. L. & Econ. 233 (2001) (exploring the main causes of "systemic corruption within the court systems from an empirical approach).

the quality and integrity of judicial decision making, which is reflective of the quality of lawyers in the bench and bar. In one parish, towards the end of the mass, the officiating priest invited the parishioners to join in special prayers for special intentions. One of these special intentions went like this: *"that the judges in our country will decide cases brought before them fairly, without bias and without regard to any consideration other than law and justice."* This is certainly the first time in any of the Churches where we have been hearing mass for the last 50 years or so—that this special prayer was offered. Corruption is one of the obstacles to national development – perhaps the single most formidable impediment to the sustainable progress of our nation. To understand it more fully, some considerations of a fairly general nature which bear upon corruption—particularly, judicial corruption—and legal reform and good governance may be explored. Necessarily, this exploration will tend to be impressionistic, although, so it is hoped, not so impressionistic as to be irrelevant.

First, whatever else it may be, and it is often referred to as a social and economic and institutional problem, judicial corruption is, in the end, a personal and moral problem. From this perspective, a judge's response to a corrupt promise of some sum of money or of higher office or of any of the multitude of things that commonly are objects of human desire, will be affected by, *inter alia*, the judge's personal conception of his relationship with the rest of the universe. Given the ultimate nature of the problem of judicial corruption, judicial reform must realistically draw upon the wellspring and methods of moral reform and these of course include social, religious, and spiritual resources and methods. One lesson that history teaches us is that movements aimed at basic moral and social reform are often accompanied by religious fundamentalism and revivalism. This was true in the Reformation of the late medieval Christian Church in the 15th century by Martin Luther and the Counter-Reformation of St. Ignatius of Loyola. Recall, in more recent times, the role of fundamentalist Islam in the revolution against and eventual overthrow of the Shah of Iran, of the so-called "liberation theology" of many Catholic priests in Central and South America during the decade of 1960's, 1970's and 1980's. Recall also the strategic role of the Catholic Church in the Philippines in the 1986 revolution against the Marcos regime and in the recent upheaval against the Estrada administration.

A second general point that may be worth making is that corruption in the judiciary is a reflection of corruption in the general civil service of a country. The latter is in turn frequently a symptom of corruption in the private sector and in the society itself. Significant corruption among judges does not, and commonly cannot, exist autonomously where the rest of the civil service and the general community are substantially free from corruption and in a healthy condition. The related observation should also be made that because the bulk of the bribes originate from the private sector of the community – encompassing both the professional and business groups – efforts at significant reform cannot be limited to addressing the civil service and the judiciary. Such effort must address as well private sector reform. Moreover, private sector reform must seek to control not just private to public but also private to private, corruption, such as the use of "kickbacks" in corporate procurement, the recourse to "insider trading" and false or misleading representations in stock and commodities exchanges, the use of defective or substandard raw materials or components in manufacturing, construction, and so on.

The third consideration is partly a trite one: it is that corruption, public and private, has existed, and does exist, in all forms of human society as we know it from history. Even so, certain factors in a particular society may bear significantly upon the incidence and growth of, corruption in general and judicial corruption in particular, in that society. Culture may also condition the amenability of corruption in a society to legal and social controls. Examination of the relationship of culture to corruption is clearly a task for social anthropologists, but certain fairly familiar features of Philippine culture may be noted in this regard.

We may note several cultural tenets that appear to be contributory to corruption in our society. For instance, (a) deference to authority is widely regarded as a Philippine trait, and is commonly deemed as desirable insofar as generating habits of law-observance is concerned. However, it also makes it difficult for private citizens to file complaints against or to report or denounce dishonest or incompetent public officials. (b) *Pakikisama* – one aspect of which relates to submission to demands for group harmony and reluctance to "offset the official applecart" – is important in a society like ours which prizes consensus-building. At the same time, such reluctance frequently renders problematical the discovery and investigation and prosecution of official or private wrongdoing. Whistle –blowers" of the genuine and sincere variety are conspicuously few in number in our society and limited in their degree of

success. (c) The concept of gratitude as constitutive of a personal social debt or obligation seems of central relevance. Gratitude for what? Among other things, gratitude for securing or assistance in securing a judicial, or a private corporate, appointment or promotion. For many Filipinos, an imputation of ingratitude is a devastating reprimand and one goes to great lengths to avoid such an imputation.

Most generally put, the relevant point appears to be that the agenda of judicial reform must include, among other things, the gradual modification of the system of identifications and loyalties prevailing in our society. Effective identification with national ideals and institutions will need to be deliberately cultivated. Loyalties to family clan or linguistic tribe or religious or business or professional subgrouping will need to be reconstructed and modernized. However, it is conceded that statements of this level of generality are likely to mean little, if indeed they would mean anything at all, unless translated to more operational propositions and programs of action. The wide ranging competencies essential for that task certainly have to be looked for with diligence and passion and intelligence.

The fourth general submission—that judicial corruption is particularly deleterious in its consequences for the institutions of government and for the body politic on general. Corruption of any public officer or employee is bad enough; corruption of a judicial officer is, in my view, infinitely worse.

The judicial process is often described as a mode of delivering justice and as one system for the resolution of disputes in society. In responsible and representative governments, both the delivery of justice and the resolution of disputes are to be carried out in the basis of and in accordance with law. From this perspective, one effect of judicial corruption may be seen to be the substitution of the private exclusive interest of one of the parties to the dispute, and of the judge, as the effective determinant of decision, instead of the inclusive interest of the general community, as expressed in law. In this very basic sense, judicial corruption subverts the role of law as the authoritative instrument of peaceful and legitimate change in society.

The fifth general submission is that if corruption in the judiciary is sufficiently widespread, or (what may be functionally equivalent to reality) if

the public perception is that such corruption is widespread, the other institutions of government – legislative, executive, administrative – may be substantially weakened and the government's claim to legitimacy or official rectitude, significantly undermined. In our community, erosion and eventual loss of legitimacy must be carefully and self-consciously guarded against. Legitimacy is a finite and exhaustible resource of democratic governments that may be squandered by widespread corruption which, in the belief of the public, is uncontrolled and unchecked for a prolonged period of time. This is one of the lessons that may be derived from the political developments in our own country as recent as last January 2001, culminating in the rejection and forced resignation of a president who was originally, democratically elected. The Philippines, of course, is not the only country where recent political history offers illustration of the painful consequences of loss of legitimacy – one may, for instance, look at the contemporary, still unfolding events in Venezuela and in Pakistan.

The sixth broad submission relates to the fact that our community relies heavily, almost instinctively on legal (i.e., statutory) prohibition and criminalization as modes of control of socially undesirable types of behavior. The resulting legal prescriptions naturally require judicial interpretation and application. Our judiciary is further empowered to intervene decisively in the process of government by striking down legislative measures as unconstitutional and executive and administrative acts as either unconstitutional or simply illegal. In other words, the judiciary, in our system of government, has a very large and important role to play. By intervening, or failing to intervene under certain circumstance, or by the quality of its intervention, the judiciary can in measure affect the course and direction and the pace of social and economic and political development of our country. This is a principal reason for believing, as I do, that the bribing of judges is a particularly malignant practice with grave structural implications for our country. It is also a principal reason for insisting that judges must accept and live by more rigorous, more exacting, moral standards than those by which the rest of the bureaucracy, indeed, the rest of our people, live and work.

Thus, the last general consideration is that there is a close nexus between legal and judicial reform and control of corruption on the one hand, and national development processes on the other hand. Corruption clearly aggravates problems of poor economic growth and underdevelopment. For the government sector, a major impact of corruption is a loss of scarce budgetary resources needed to meet development priorities. For the private business

sector, corruption is the bite of a hidden tax on property and investments and tends to depress domestic investment and to drive away foreign investment. The effects of corruption are most severe on precisely the most vulnerable and poorest sector of society. It diminishes the quantity and quality of available public goods and services. Corruption has emerged as an important international criterion for allocating scarce development aid resources. Countries are increasingly judged, both by donor countries and multilateral organizations, by the reality and effectiveness of their commitment to fight corruption, which diverts development funds from public treasuries to private pockets. The May 2000 Report which, interestingly enough, former President Estrada had asked the World Bank to prepare in order to assist the government fight corruption in our country provides:

> Perhaps the most pernicious impact of corruption is its social damage. The costs go far beyond losses to the Treasury and lost opportunities for development. It leads to a corrosion of values and a breakdown of social norms, resulting in a perverse [situation] where the honest are discriminated against and the role model is one whose success is predicated not on hard work but on skill in 'fixing' deals. Corruption thereby acts as a disincentive for hard work and competition, cutting the roots of a competitive, market economy that relies on the rule of law, transparency and the enforcement of honest contracts.[6]

Confronting and Treating the Lesion of the Body Politic

Combating corruption, within the judiciary, the civil service generally and the private sector, is truly a formidable task. But it is not beyond our grasp. If our judicial system exhibits a substantial and still growing number of incompetent and corrupt judges, whose responsibility is it to put a stop to this putrefying condition of our justice system? It is the special responsibility of future lawyers, and that of every member of the bar. Remember the fundamental fact that there cannot be bad judges if there are no bad lawyers,

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[6] The World Bank, Philippine Country Management Unit, East Asia and Pacific Region, *Combating Corruption in the Philippines*, 1 (2000) *available at* http://www1.worldbank.org/publicsector/anticorrupt/FlagshipCourse2003/PhiliCombatCorrupt.pdf (last checked Mar. 12, 2012).

because judges are recruited exclusively from members of the bar. There will be no bad judges if no lawyers try to conceal or justify exorbitant fees by telling their clients, falsely many times, that the judge deciding their case is demanding a bribe. There will be no bad judges if their intended victims and their lawyers went before the appropriate authorities to bring to light the extortionate demands or insinuations. Of course, this is a complex matter and requires a substantial amount of effort and intestinal fortitude on the part of lawyers and bar associations.

Whatever else is needed for success in this task of reducing corruption to more tractable levels, to the level which do not threaten the very continuation of the body politic, determined, committed and principled leadership of strong moral character and reputation and enjoying the trust of the general community is indispensable. This fundamental factor must translate itself into intelligently-designed anti-corruption measures, enforced and implemented uniformly and vigorously, but always in accordance with the requirements of the rule of law. Absent such leadership and support, the very future of our country may be thrown into serious question. The future of the great bulk of our continuously burgeoning population may become dismal indeed – a steadily declining rate of national development and continuing descent into a dehumanizing mass poverty. We must urgently reject such a future and take our destiny into our own hands. In this great undertaking, the members of the legal profession and of other learned professions must accept a special burden of responsibility under the ancient injunction: from those to whom much is given, much is expected.

Concluding remarks:

A nation tends to get the kind of judiciary it deserves. The humiliatingly low rating our country routinely gets in international indexes of corruption is a clear indication of what has become of our institutions. It is hoped that before this generation passes on, our judicial and other governmental institutions will have earned a more distinguished place in public corruption indexes.

The law is an ancient and respected profession and lawyers must keep it that way. That will, of course, require prodigious efforts, and the future generations of lawyers should have the energy and capability to carry out that task. To ensure this, it is equally the task of the Bar committees and the Supreme Court to insist on and safeguard heightened standards for admission

to practice in the legal profession. By strictly implementing passing rates and requirements for moral probity in the Bar examinations, we have a chance to cast doubts as to the statement that the number of lawyers is inversely correlated to the development level of the country. If the guardians of the judiciary are both morally-sound and technically competent in the practice of the law, then there is hope for our country.

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