

TAXONOMY OF SUITS*

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A lawsuit is war by other means.

Introduction

This Article is a first effort to develop a remedy-based approach to the study and comparison of legal systems, with taxonomy as a foundation. It supposes that suits in legal systems can be organized in taxonomies. It further supposes that such taxonomies will reflect many of the underlying theories, policies and histories of these legal systems. If so, and if workable taxonomies can be constructed, such taxonomies can be used to study these legal systems and compare them with each other.

The discussion in the following pages outlines a taxonomy of suits in the Philippine legal system. Although it is probably one of many possible variations, hopefully, it is the one that is most workable for purposes of study and comparison. To validate its utility in a preliminary manner, the taxonomy will be applied to study local distinctions between the following suits: ordinary civil action, special civil action, special proceeding, public action or suit, private action or suit, real action, personal action, action *in rem*, action quasi *in rem*, action *in personam*, individual suit, representative suit, derivative suit, class suit, taxpayer's suit, nuisance suit and citizen's suit. The taxonomy will also be applied to study how these suits relate to the following concepts: standing, *jus tertii* standing, injury-in-law, injury-in-fact, cause of action, real party in interest, public right, private right, public wrong, private wrong and transcendental importance.

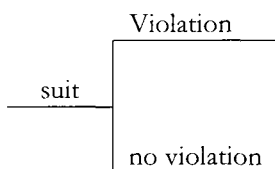
However, a more comprehensive validation of the taxonomy's descriptive and normative value within the Philippine legal system will have to await further local application. A validation of its comparative value will have to await investigation of the taxonomies of other legal systems.

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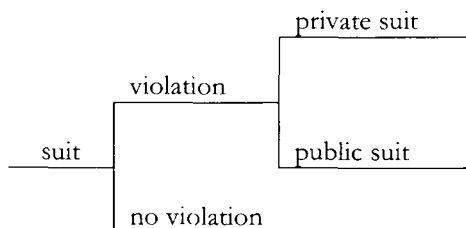
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Taxonomy

In the Philippine legal system, a suit is either based on a violation or non-violation of law. To the latter class belong suits for land registration or adoption, among others. So far, the taxonomy is as follows:



Every violation of law is deemed to cause legal injury, either to a person—including the government—and/or the public, as such. In case of a person, there is legal injury to him if his right is violated. It is synonymous to injury-in-law, cause of action,¹ violation of a private right, or a private wrong. Otherwise, the injury is to the public. It is synonymous to a violation of a public right or a public wrong. A suit to prevent or cure a private wrong is a type of private action or suit. A suit to prevent or cure a public wrong is a public action or suit. Thus:



In this type of private suit, the person who suffered or will suffer the wrong must, generally, be the one to bring the suit, in which case it is called an individual suit.² In limited instances, a representative of such person may bring the suit, in which case it is called a representative suit. Examples of the latter are suits by trustees, executors, administrators and guardians,³ derivative suits,⁴ and suits by legitimate labor organizations on behalf of their members.⁵

¹ RULES OF COURT, Rule 2, §2. *Cause of action, defined.* - A cause of action is the act or omission by which a party violates a right of another.

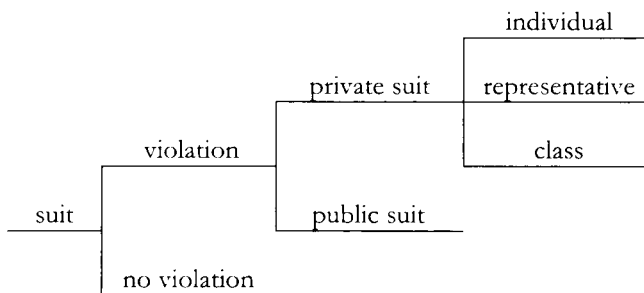
² See *Cua Jr. v. Tan*, G.R. No. 181455, 607 SCRA 645, Dec. 4, 2009.

³ RULES OF COURT, Rule 3, §3. *Representatives as parties.*-Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue

Occupying a sort of middle ground between an individual and representative suit is a class suit. It is like an individual suit because the persons who suffered or will suffer the wrong must bring it. On the other hand, it is like a representative suit because these persons are part of and represent a class.⁶ In *Liana's Supermarket v. National Labor Relations Commission*,⁷ a class suit was distinguished from a representative suit, as follows:

A "representative suit" is akin to a "class suit" in the limited sense that the phrases found in Sec. 12 of Rule 3, "one or more may sue or defend for the benefit of all," and "the parties actually before it are sufficiently numerous and representative," are similar to the phrase "may sue or be sued without joining the party for whose benefit the action is presented or defended" found in Sec. 3 of the same Rule. *In other words, both suits are always filed in behalf of another or others. That is why the two terms are sometimes used interchangeably.* (Emphasis supplied)

Thus:



or be sued without joining the principal except when the contract involves things belonging to the principal.

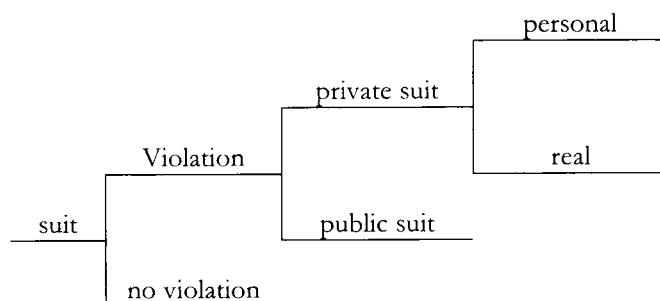
⁴ See *Republic Bank v. Cuaderno*, G.R. No. 22399, 19 SCRA 671, Mar. 30, 1967.

⁵ See *Liana's Supermarket v. National Labor Relations Commission*, G.R. No. 111014, 257 SCRA 186, May 31, 1996.

⁶ RULES OF COURT, Rule 3, §12. *Class suit*. – When the subject matter of the controversy is of common or general interest to many persons so numerous that it is impracticable to join all as parties, a number of them which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned may sue or defend for the benefit of all. Any party in interest shall have the right to intervene to protect his individual interest.

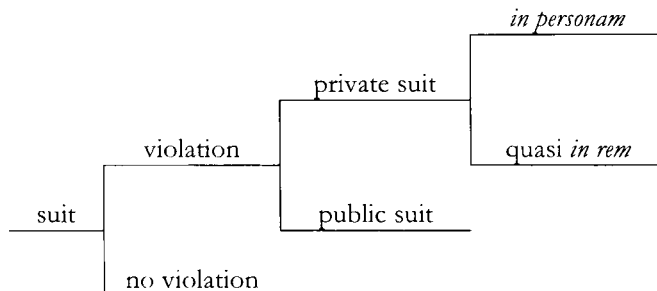
⁷ G.R. No. 111014, 257 SCRA 186, 195-96, May 31, 1996.

Alternatively, the private suit may either be a real or personal action. A real action affects “title to or possession of real property, or interest therein”.⁸ Otherwise, the action is personal.⁹ The distinction is important in, among others, determining venue.¹⁰ Thus:



Also alternatively, the suit may either be an action *in personam* or *quasi in rem*. An action *in personam* aims to impose a judgment that is conclusive on a particular person. An action *quasi in rem* aims to impose a judgment that is conclusive on a particular person outside of the State with respect to his property within the State.¹¹ The distinction is important for, among others, service of summons.¹²

Thus:



⁸ RULES OF COURT, Rule 4, §1. *Venue of real actions.* – Actions affecting title to or possession of real property or interest therein, shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.

⁹ RULES OF COURT, Rule 2, §2. *Venue of personal actions.* – All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

¹⁰ See *supra* notes 8-9.

¹¹ For an extended discussion, see *El Blanco Espanol-Filipino v. Palanca*, G.R. No. 11390, 37 Phil. 921, Mar. 26, 1918; *Sandejas v. Robles*, G.R. No. 803, 81 Phil. 421, Aug. 27, 1948.

¹² See *Banco Do Brasil v. Court of Appeals*, G.R. No. 121576, 333 SCRA 545, Jun. 16, 2000.

On the other hand, a public suit must, generally, be brought by the “proper” representative of the public. Sometimes, the proper representative is the government. An example is a criminal action involving a crime punishable by at least four years, two months and one day.¹³ Another example is a suit to abate a public nuisance.¹⁴

Sometimes, the proper representative is the person who suffered or will suffer injury-in-fact. There is injury-in-fact if a person suffered damage different from the public. An example is a taxpayer’s suit brought to challenge an illegal disbursement of public funds raised through taxation. The illegal disbursement is deemed to cause the taxpayer injury-in-fact. As stated in *Anti-Graft League of the Philippines v. San Juan*:¹⁵

Petitioner and respondents agree that to constitute a taxpayer's suit, two requisites must be met, namely, that public funds are disbursed by a political subdivision or instrumentality and in doing so, a law is violated or some irregularity is committed, and that the petitioner is directly affected by the alleged ultra vires act.

As with private suits, a representative of the person who suffered or will suffer injury-in-fact may, under special circumstances, be allowed to bring the suit. An example is *Kilusang Mayo Uno Labor Center v. Garcia*¹⁶ where an association was allowed to bring a suit on behalf of its members who suffered the injury.

Sometimes, the proper representative is any citizen, in which case the suit is called a citizen’s suit. Generally, it may be brought if there is no

¹³ See RULES OF COURT, Rule 110, § 1(a), in relation to Rule 112, § 1 (providing that if the crime involves a lesser penalty, the person who suffered injury-in-fact may bring it).

¹⁴ CIVIL CODE, art. 699. The remedies against a public nuisance are:

- (1) A prosecution under the Penal Code or any local ordinance; or
- (2) A civil action; or
- (3) Abatement, without judicial proceedings.

CIVIL CODE, art. 701. If a civil action is brought by reason of the maintenance of a public nuisance, such action shall be commenced by the city or municipal mayor.

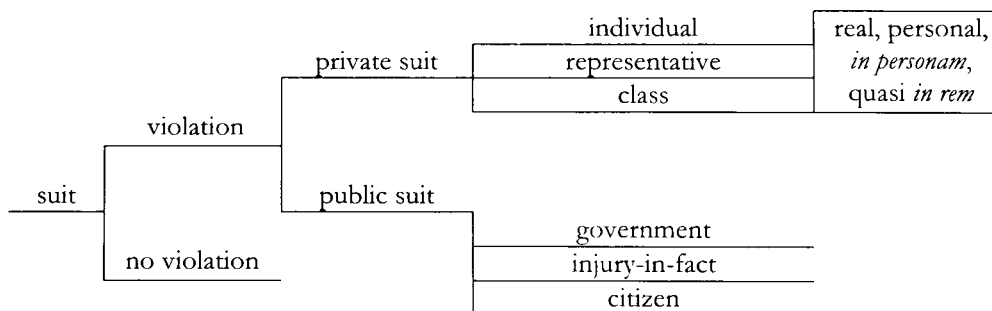
¹⁵ G.R. No. 97787, 260 SCRA 250, 253, Aug. 1, 1996. See *Pascual v. Secretary*, G.R. 10405, 110 Phil. 331, Dec. 29, 1960.

¹⁶ G.R. No. 115381, 239 SCRA 386, Dec. 23, 1994.

other proper representative to be found.¹⁷ The rationale can be discerned in *Severino v. Governor-General*.¹⁸

The Attorney-General, in compliance with the duty imposed upon him by law, appeared for the respondents in this case. It is not the duty of any law officer of the Government to appear for the relator, neither could such law officer, in his official capacity, represent the relator if he desired to do so. *No express provision is found making it the duty of any official of the Government to bring these proceedings. So, if the relator is precluded from maintaining these proceedings for the purpose of having his rights passed upon by this court, these questions could not be raised...* No reason exists in the case at bar for applying the general rule insisted upon by counsel for the respondent. The circumstances which surround this case are different from those in the United States, inasmuch as if the relator is not a proper party to these proceedings no other person could be, as we have seen that it is not the duty of the law officer of the Government to appear and represent the people in cases of this character. (Emphasis supplied)

Thus:



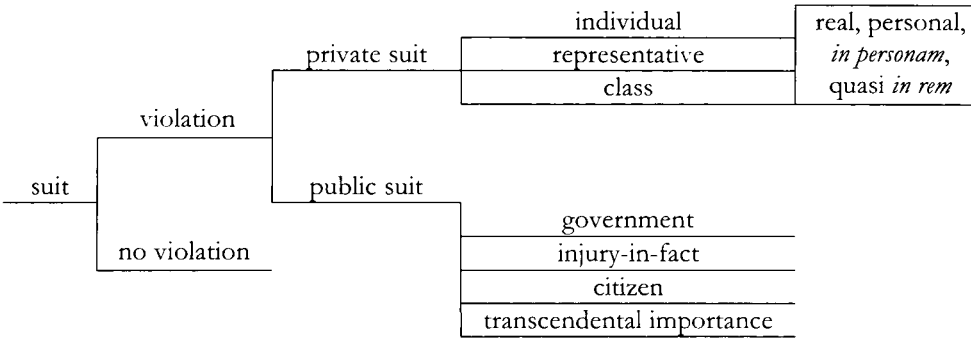
¹⁷ Sometimes, the law allows a citizen's suit, even if a proper representative could be found. See RULES OF PROCEDURE ON ENVIRONMENTAL CASES, §5; Rep. Act No. 8749, §41 (1999); Rep. Act No. 9003, §52 (2000).

¹⁸ G.R. No. 6250, 16 Phil. 366, 376, 378, Aug. 3, 1910. See *Tanada v. Tuvera*, G.R. No. 63915, 136 SCRA 27, Apr. 24, 1985.

Exceptionally, even if the person who brings a suit is not the proper representative, it may still be heard if the issues raised are of transcendental importance.¹⁹ This is so because the Philippine legal system often considers such representation as merely procedural²⁰ and, therefore, waivable. As held in *David v. Gloria Macapagal-Arroyo*:²¹

However, being a mere procedural technicality, the requirement of *locus standi* may be waived by the Court in the exercise of its discretion. This was done in the 1949 Emergency Powers Cases, *Araneta v. Dinglasan*, where the "transcendental importance" of the cases prompted the Court to act liberally. Such liberality was neither a rarity nor accidental. In *Aquino v. Comelec*, this Court resolved to pass upon the issues raised due to the "far-reaching implications" of the petition notwithstanding its categorical statement that petitioner therein had no personality to file the suit. Indeed, there is a chain of cases where this liberal policy has been observed, allowing ordinary citizens, members of Congress, and civic organizations to prosecute actions involving the constitutionality or validity of laws, regulations and rulings.

At this point, the taxonomy now looks like this:



¹⁹ Analogous terms used in Philippine cases include transcendental significance, paramount interest, far reaching consequence, and importance of the questions raised.
²⁰ Other legal systems might consider it jurisdictional and therefore substantive, e.g., the United States.
²¹ G.R. No. 171396, 489 SCRA 160, 218, May 3,2006.

A public suit may be against the government or a private person.²² When it is against the government, the proper representative to bring the suit is said to have “standing.” Similarly, a private suit may be against the government or a private person. When the suit is: (1) against the government; (2) to prevent or cure a violation of a person’s constitutional right; and (3) brought by a representative of that person, such representative is said to have *jus tertii* standing.²³ *Telecommunications and Broadcast Attorneys of the Philippines, Inc. v. The Commission on Elections*²⁴ gave the requirements for *jus tertii* standing:

Nor indeed as a corporate entity does TELEBAP have standing to assert the rights of radio and television broadcasting companies. *Standing jus tertii will be recognized only if it can be shown that the party suing has some substantial relation to the third party, or that the third party cannot assert his constitutional right, or that the right of the third party will be diluted unless the party in court is allowed to espouse the third party's constitutional claim.* None of these circumstances is here present. The mere fact that TELEBAP is composed of lawyers in the broadcast industry does not entitle them to bring this suit in their name as representatives of the affected companies. (Emphasis supplied)

A person who has standing is only a representative of the public, and is necessarily not the real party in interest. A real party in interest is one “who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.”²⁵ In a private suit based on a violation of law, it is the person who will or has suffered the wrong. In a public suit, it is the public. For example, in *Severino v. Governor-General*,²⁶ the

²² An example of the latter is a criminal action and a suit to abate a public nuisance.

²³ Third-party standing is the standing held by someone claiming to protect the rights of others. See BLACK’S LAW DICTIONARY (9th ed. 2009).

²⁴ G.R. No. 132922, 289 SCRA 337, 344, Apr. 21, 1998.

²⁵ RULES OF COURT, Rule 3, § 2.

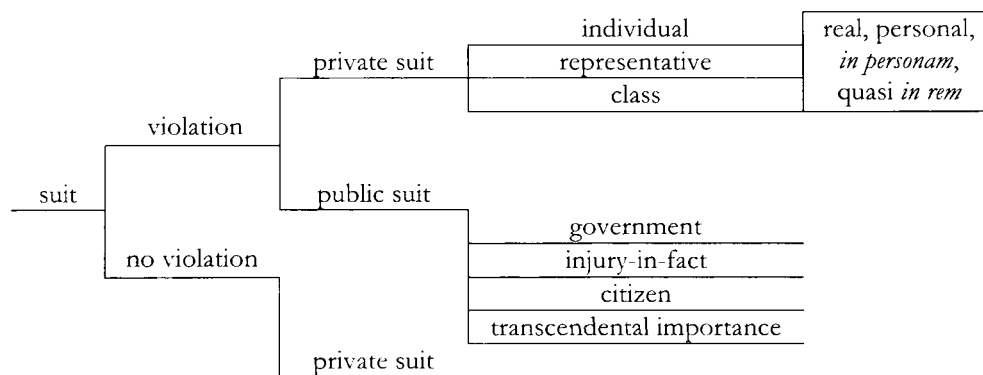
²⁶ 16 Phil. at 374-75. See also *David v. Macapagal-Arroyo*, G.R. 171396, 489 SCRA 161, May 3, 2006 (where the public was also considered as the real party in interest in a citizen’s and taxpayer’s suit. However, there is an implication in *Kilosbayan v. Morato*, G.R. No. 118910, Nov. 16, 1995, that the term “real party in interest” applies only to private suits. This should be examined in the light of the aforesaid cases).

public was deemed the real party in interest in what was effectively a citizen's suit:

It is true, as we have stated, that the right which he seeks to enforce is not greater or different from that of any other qualified elector in the municipality of Silay. *It is also true that the injury which he would suffer in case he fails to obtain the relief sought would not be greater or different from that of the other electors; but he is seeking to enforce a public right as distinguished from a private right. The real party in interest is the public, or the qualified electors of the town of Silay.* Each elector has the same right and would suffer the same injury. Each elector stands on the same basis with reference to maintain a petition to determine whether or not the relief sought by the relator should be granted. (Emphasis supplied)

So far, the discussion has involved suits based on a violation of law. But even without a violation, a suit may still be brought if the law allows it. This too is a type of private suit. Examples are suits for escheat, land registration or adoption. Many of these suits are treated as actions *in rem* or something analogous to it.²⁷ An action *in rem* aims to impose a judgment conclusive on all persons, even those outside the State.

Thus:

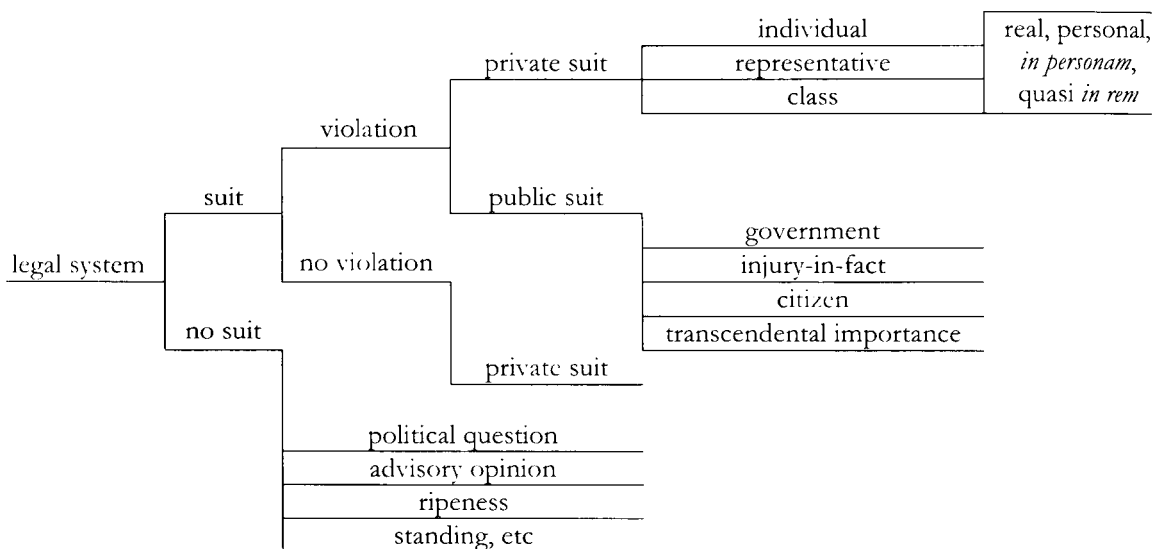


²⁷See *Ellis v. Republic of the Philippines*, G.R. No. 16922, 7 SCRA 962, Apr. 30, 1963; *Caballes v. Court of Appeals*, G.R. No. 163108, Feb. 23, 2005; *Alimpoos v. Court of Appeals*, G.R. No. 27331, Jul. 30, 1981. See also *Lam v. Rosillosa*, G.R. No. 3595, 86 Phil. 447, May 22, 1950.

The Rules of Court classifies civil suits into ordinary civil actions, special civil actions, and special proceedings. Generally, a public or private suit based on a violation of law, when subject to ordinary rules of procedure, is an ordinary civil action.²⁸ When subject to special rules, it is a special civil action.²⁹ A suit not based on a violation of law is a special proceeding.

To round off the taxonomy, there are times when a suit cannot be brought, even if a law has been violated. For example, when the issue raised is strictly a political question, a suit is not allowed. So too, courts will not render an advisory opinion absent a real case or controversy. Other factors taken account of in taking cognizance of a case includes the issue of ripeness, standing, mootness, prescription, estoppels, statute of frauds, among others.

Thus:



²⁸ RULES OF COURT, Rule 1, §1. *Ordinary civil actions, basis of.* Every ordinary civil action must be based on a cause of action.

RULES OF COURT, Rule 2, §3. *Cases governed.* These Rules shall govern the procedure to be observed in actions, civil or criminal, and special proceedings.

(a) A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.

A civil action may either be ordinary or special. Both are governed by the rules for ordinary civil actions, subject to the specific rules prescribed for a special civil action.

²⁹ RULES OF COURT, Rule 1, §3.

Epilogue

A remedy-based approach is not meant to supersede but only to supplement other approaches to the study and comparison of legal systems. A suit is essentially a conflict-resolution mechanism. ***It is war by other means.*** In war, there is truth. It reduces participants to an elemental level as cherished dogmas confront the necessities of survival. How people wage their wars will say much about who they are as persons, societies and as a species. Hence, the suits of a legal system can give deep insight into that legal system. But the inquiry must be done in a methodical fashion. For this reason, taxonomy may serve as a foundation for a remedy-based approach.

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