THE PROBLEM OF DELAY IN THE PHILIPPINE COURT SYSTEM

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I. INTRODUCTION

The primary duty of courts of justice is, precisely, to dispense justice. The ends of justice, however, may easily be subverted in a judicial system punctuated with delays in the processing of cases filed in court and marked by congested court dockets.

The harm that delay poses to the administration of justice is grave and, in some instances, irreparable. The problem of docket congestion is seriously disabling and affects all facets of the judicial process. This paper attempts to identify some of the major causes of delay as they affect the judicial process in the Philippines and to note some of the measures taken to address the problem.

A. *Scope and Limitations*

The factors which occasion and ultimately produce unjustified delay in the judicial system are varied: complexities brought about in society by technological development and advancement, the increase in the local population and concurrent decline in the standard of living, the rise in the incidence of criminality, and the apparently litigious nature and temperament of many Filipinos contribute, in varying degrees, to the continued existence of the problem. As a practical matter, however, this paper will limit itself to causes and effects of delay more directly related to the judicial process and the participants therein.

B. *A Note on Terminology*

"Delay", "congestion", and "backlog" are terms which usually surface, and are often used interchangeably in any discussion of the condition of court dockets and calendars. While there does exist some degree of similarity between these terms, as concepts in caseflow management,[1] however, they differ significantly in both meaning and context.

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[1] That is, the management of the continuum of operations and resources necessary to move a case from initial filing to final disposition. Benipayo, *Delays in the Disposition of Civil Cases and Some Suggested Remedies,* 1987 JUDGES J. 3, 5 (citation omitted).

As used here, delay refers to the excessive or abnormal lapse of time which results from a breakdown in the series of judicial operations necessary to move a case from its filing in court to final disposition.[2] Congestion, on the other hand, refers to the condition of a court overburdened with a heavy volume of cases, a condition which may exist without regard to the time-lag between filing and disposition thereof, and irrespective of whether or not such cases are at any time hindered from moving forward towards final determination.[3] Finally, backlog refers to an accumulation of pending cases, that is, cases at varying stages of processing.

II. PHILIPPINE COURTS

A. *Organization*

The court system in the Philippines is composed of six (6) regular courts[4] and three (3) specialized courts,[5] among which a total of 1,977 judicial positions are distributed.

The 1987 Philippine Constitution, like previous Philippine Constitutions, vests judicial power in one Supreme Court and in such lower courts as may be established by law.[6] The power and authority of the Supreme Court thus rest on the Constitution though elaborated in statutes. Lower courts derive their existence and authority wholly from statute.

The Supreme Court of the Philippines is the country's highest judicial tribunal. The Court has a complement of fifteen (15) Members — i.e., the Chief Justice and fourteen (14) Associate Justices — and presently sits both *en banc* and in three (3) Divisions of five (5) Justices each.[7]

Second in the hierarchy of courts is the Court of Appeals, which is headed by a Presiding Justice and has a total membership of forty-nine (49) associate justices.[8]

Regional Trial Courts, which exercise general trial jurisdiction, account for seven hundred twenty (720) judicial positions. Municipal Trial Courts, Metropolitan Trial Courts, and Municipal Circuit Trial Courts, upon the other hand, account for one thousand, one hundred and twenty-four (1,124) judicial positions. These courts occupy the bottom rung of the hierarchy and exercise petty trial jurisdiction.

Membership in the specialized courts is as follows: fifty-six (56) in the *Shari'a* (Muslim) District and Circuit Courts; nine (9) in the *Sandigan-*

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2 *Ibid.*
3 *Ibid.*
4 The Municipal Trial Courts, Municipal Circuit Trial Courts, Metropolitan Trial Courts, Regional Trial Courts, the Court of Appeals, and the Supreme Court.
5 The Sandiganbayan (created by Pres. Dec. No. 1486 [1978]); the Court of Tax Appeals (created by Rep. Act No. 1125 [1954] as amended); and the Shari'a District and Circuit Courts (created by Pres. Dec. No. 1083 [1977]).
6 CONST., art. VIII, sec. 1.
7 CONST., art. VIII, sec. 4(1).
8 Batas Pambansa Blg. 129 (1981), sec. 3.

bayan, a court specially constituted to try cases of graft and corruption filed against public officials and employees; and three (3) in the Court of Tax Appeals.

It might be helpful to note here that Philippine courts are courts of both law and equity. Judges are triers of both facts and law and render decisions independently of any jury, which historically has not been part of the Philippine judicial system.

B. *Constitutional Limitations on Length of Processing Time*

The 1987 Constitution of the Philippines provides for maximum periods within which Philippine courts are to dispose of cases which have been submitted for decision. On this matter, Section 15 of Article VIII (on the Judicial Department) of the 1987 Constitution provides:

> SEC. 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.
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> (2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.
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> (3) Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.
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> (4) Despite the expiration of the applicable mandatory period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay.

In quick summary, cases become ripe for decision upon filing of the last pleading required by the Rules of Court or by the court itself. Cases which reach ripeness must be decided within three (3) months by a trial court; and within twenty-four (24) months by the Supreme Court. We have no constitutional limitation on the period for ripening, as it were, and in the nature of things, there can scarcely be any, except, of course, in criminal cases where the accused has a constitutional right to a speedy trial.[9]

III. KINDS OF DELAY, IN GENERAL

Delay, in relation to court process and caseflow management, is generally classified into: (1) court system delay; (2) lawyer-caused delay; and (3) delay caused by agencies independent of, but which interact with, the court system.[10]

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[9] CONST., art III, sec. 14(2).

[10] D. Martinez, *Congestion and Delay in Metro Manila Trial Courts: Extent, Causes and Remedies,* 134-5 (1977).

A. *Court System Delay*

Delay caused by the court system results from the court's failure to act promptly and adequately, without any fault on the part of litigants or their counsel, on matters concerning the processing of actions filed in court until the same are finally resolved. This kind of delay is essentially a question of organization and management.

The inability of trial judges to control proceedings effectively at trials and to manage trial calendars properly[11] has often been singled out as a major contributor to this type of delay. Among other things, these shortcomings have reinforced the practice of the great majority of Philippine trial courts of conducting trials on a piece-meal basis.[12] Piece-meal trials, admittedly, are the off-shoot of several factors: indiscriminate absence or tardiness at scheduled hearings on the part of either or both judges and lawyers; leniency of judges in the granting of postponements and laxity in the enforcement of rules of procedure; abuse by lawyers of rules of procedure, etc. Clearly, judges, as sole arbiters in cases argued before them, remain chiefly responsible for the emergence and persistence of piece-meal trials.

Finally, judges should endeavor to equip themselves adequately with prudence, and to keep abreast diligently with developments therein, also contributes significantly to the occurence of unjustified delay.[13] Lack of familiarity with rules of procedure oftentimes unnecessarily prolongs trial proceedings; the consequences of a judge's ignorance of substantive law can be more forbidding. Incompetence in the handling of cases is of course deplorable and, in aggravated cases, has been severely censured by the Supreme Court.[14]

There is also the problem regarding judicial writing, that is, a judge's ability to prepare adequate court decisions, resolutions and other legal orders. It is unfortunately not unusual to find judgments wanting not only in clarity and coherence, but in accuracy as well. Furthermore, full and complete discussion of facts, issues and applicable law and jurisprudence, is sometimes foregone by judges in their decisions. Cases disposed of in such summary and cryptic fashion, when elevated for review on appeal, usually compel appellate courts to spend additional time rediscovering and reevaluating facts and evidence, activities which could have been avoided altogether.

Additionally, there are the problems regarding the adequacy and competence of support personnel of courts, the adequacy of existing court facilities, and the efficient management of such personnel and facilities.[15] This

[11] This entails the scheduling of cases for trial on a systematic and rational basis.
[12] This is a practice whereby, instead of trying cases continuously until completion, hearings are conducted intermittently, often and unnecessarily prolonging the trial period by months, and in many instances, by years.
[13] Benipayo, *op cit. supra,* note 1 at 15.
[14] *Ibid.*
[15] *Id.,* at 12.

class of delay obviously generates dissatisfaction of litigants with the courts and tends to erode their trust and confidence in the whole court system.

B. *Lawyer-Caused Delay*

Lawyers, as counsel for litigants, participate directly in the judicial process. Their influence on the conduct of court proceedings is substantial and unavoidable. It is thus inevitable that they should constitute a "rich" source of delay.

It has been frequently observed that a substantial amount of the court's time may be wasted as a result of failure on the part of some lawyers to prepare themselves adequately for trial. Coming to court unprepared may occasionally be condoned, as in the case of inexperienced or *novato* lawyers. It is quite disheartening to note, however, that even experienced lawyers may tend to lapse into this vice, as it were.

Absence or tardiness of lawyers at trials, if not intentional, is due mainly to lawyers' inability to manage their own schedules effectively.[16] In the case of law firms, the sheer number of clients and volume of work, coupled with a less than fully efficient support staff, may account for this. Single practitioners, for obvious reasons, probably tend to suffer from this problem in greater degree.

The lawyer's penchant for dilatory maneuvers is well known. Resort to such tactics is often the result of counsel's procrastination, self-interest and lack of preparation. Abuse of rules of procedure to delay court proceedings is prevalent among ill-prepared or generally inept lawyers, and among those who simply wish to prolong a case in the hope that a client's position may somehow improve as the case drags on. In this connection, motions for postponement are a favored resort, especially in the case of lawyers whose fee structure is built around the number of court appearances undertaken. There is likewise the propensity of some lawyers to conduct unnecessarily long-drawn examinations of witnesses, to file varied and needless motions, or to seek review of a court's interlocutory orders by filing petitions for certiorari, prohibition or mandamus with either the Court of Appeals or the Supreme Court, all of which may serve to paralyze in the meantime the proceedings in the main case.[17]

C. *Delay Caused by Court-Related Agencies*

Efficient operation of the judicial process also requires the cooperation of several agencies which, though not strictly part of the court system, must necessarily come into frequent contact therewith. As examples: jurisdiction over the person of a defendant is acquired either through his voluntary

[16] *Id.*, at 19.
[17] *Ibid.*

appearance in court and submission to its authority, or by service of summons upon him by the sheriff or by any person specially authorized by the judge of the court issuing summons. The importance of the sheriff's role in the administration of justice is thus evident as defective service of summons could forestall movement of a case and cause unnecessary delay in the prosecution and disposition thereof. Defective writs of attachment or of execution can have the same effect. Inefficiency of the postal service in delivery of court pleadings and processes has similar effects, both in civil and criminal suits. Furthermore, unjustified inaction or delayed action in criminal cases on the part of law-enforcement authorities and of public as well as private prosecutors may result in the prolonged detention of accused persons who are unable to post bail or who are charged with non-bailable offenses.[18]

IV. EFFECTS OF DELAY, IN GENERAL

A. *Upon the Court and the Judge*

Congestion of court dockets is the natural result of delay, especially where courts are unable to dispose of more cases than are filed. Repeated postponements and prolonged trials require adjustments in trial calendars, rational scheduling of which, in turn, becomes increasingly difficult as docket congestion worsens. Piece-meal trials thus become a "necessary evil."[19]

The task of the judge becomes more burdensome. As a result of piecemeal trials, trial judges are forced to consume valuable time repeatedly reviewing the facts and issues of their assigned cases, hearings of which had been calendared weeks, even months apart. The danger is substantial that judges (who are not accustomed to the extensive taking of notes) might no longer be able to recall with accuracy particulars of cases tried by them (e.g., the demeanor of witnesses at the witness stand) when they sit down to prepare their decisions. Even worse, judges may resign, retire, be transferred or removed from office before they are able to dispose of all cases pending in their courts. Consequently, the problems of their successors are two-fold: whether or not such inherited cases can be resolved by them immediately and, more importantly, whether or not just and fair resolution of such cases can still be achieved.

B. *Upon the Case Itself*

It has been observed in some instances that the longer it takes to terminate trial proceedings finally, the more likely it becomes for litigants and their witnesses to lose interest in their cases. While this eventuality may unwittingly aid in the decongestion of court dockets (e.g., where a case is abandoned in court and resort to extra-judicial settlement is instead preferred), the same cannot be said of cases where settlement is resisted by

[18] *Id.*, at 13-14.
[19] *Id.*, at 17.

one or the other party. In the latter case, postponements tend to multiply or lengthen — especially where judges are lenient — and such cases needlessly remain pending in court dockets for long drawn-out periods of time.

Just and fair resolutions of actions filed in court may also become difficult to achieve as records and exhibits on file and transcriptions of stenographic notes physically deteriorate in (non-temperature controlled) storage or get misplaced or lost as the period of delay lengthens into years. This poses a substantial problem indeed not only for trial courts, but for appellate courts, as well.

C. *Upon Litigants and Parties in Interest*

The effect of delay upon litigants can be viewed from two (2) differing perspectives: from the standpoint of parties prejudiced by the delay, upon the one hand, and from the standpoint of parties who have benefitted from the same, upon the other hand. Understandably, no complaint will be aired by those thereby advantaged. The accused in criminal cases, however, are effectively denied their constitutional right to a speedy trial. Litigants disadvantaged by delay in civil cases frequently feel they have been denied justice completely.

D. *Upon Lawyers*

As in the case of judges, prolonged delay in the trial stage — as when piece-meal trials are held — will require lawyers repeatedly to review their cases pending trial if they hope to get the best results for their clients. This poses a substantial problem for lawyers handling several cases, which are simultaneously undergoing trial.

Lawyers who belong to large law firms, however, may not be as adversely affected by delay as single practitioners might be. One difference is that in large law firms, any member or associate thereof may temporarily be assigned to attend hearings of a client's case if the firm's regular attending attorney happens to be tied down at the scheduled date of hearing with other equally pressing matters. Such luxury is not enjoyed by single practitioners, who oftentimes have to hurry from one courtroom to another to be able to attend trials of different clients' cases; the more conscientious lawyers are thus moved to refuse new clients and even to drop from their existing caseloads former or present clients. Moreover, single practitioners may personally stand to lose more in terms of professional reputation, should they prove themselves unable to cope satisfactorily with delay. The risk involved for lawyers associated with law firms is perhaps not as great.

On the money aspect of things, lawyers whose fees are based on the number of court appearances or the length of time spent in litigation tend to gain monetarily from delay. In contrast, lawyers who charge clients on

the basis of results of litigation may of course have to suffer through the entire period of delay before they can realize their fees.

V. DELAY IN THE TRIAL COURTS

Regular trial courts in the Philippines include Municipal Circuit Trial Courts, Municipal Trial Courts, and Metropolitan Trial Courts. Regional Trial Courts, which also exercise limited appellate jurisdiction, are likewise included under this category.

A. *Some Preliminary Statistics*

As of 31 January 1987, a total of 331,100 cases were found pending in the dockets of Philippine trial courts nationwide, distributed as follows:

Trial Court	*Cases Pending*
Regional Trial Courts	172,507
Metropolitan Trial Courts	45,407
Metropolitan Trial Courts (in cities)	29,021
Municipal Trial Courts	52,325
Municipal Circuit Trial Courts	31,840
TOTAL	331,100

To date, there have been three (3) notable studies dealing with the subject of delay as it occurs in Philippine trial courts. Of these, the study submitted in 1977 by Prof. Daniel T. Martinez[20] (presently the Clerk of Court of the Supreme Court of the Philippines) and the 1985 study by the Institute of Judicial Administration (IJA)[21] are the more comprehensive. The findings of those studies, while not necessarily reflective of all the various types of situations obtaining in different trial courts nationwide, nevertheless, are quite informative.

Based on the data gathered by the 1977 study, only 30% of all cases filed in court go through a full-blown trial, and the cases which do go through a full trial consume 78% of a Judge's total working time.[22] It was also found that the lengthiest phase of the processing of cases was the trial period: in criminal cases, the trial period ranged anywhere from 175 to 894 days, or approximately 61% to 93% of total case-processing time; while in civil cases, the trial period ranged from 148 days to 913 days, or 41% to 95% of the total case-processing time.[23]

The 1977 study by Prof. Martinez determined that postponements of court hearings accounted for 23.3% to 63.34% of total delay occurring in

[20] *Op. cit.*, note 10.
[21] D. Raval and R. Legada, *Administration of Justice: Project Report on Modules I and III*, 1987 JUDGES J. 30.
[22] Martinez, *op. cit.*, note 10 at 207.
[23] Benipayo, *op. cit. supra*, note 1 at 10 (citation omitted).

criminal cases during the trial period. Of this amount of delay, postponements directly attributable to lawyers accounted for 56%; those caused by the court system accounted for 14%, while those caused by court-related agencies accounted for 7%. The remaining 23% was attributed to miscellaneous other factors (e.g., inclement weather, regular and special public holidays, agreement between litigants, etc.).[24]

The more recent IJA study, upon the other hand, found that 62.92% of postponements in criminal cases were attributable to lawyers, 17.66% to the court system, 2.83% to court-related agencies, and 16.59% to other factors.[25]

With respect to civil cases, according to Prof. Martinez, postponements accounted for 15.5% to 83.64% of total delay occurring at the trial phase of litigation. Of this amount of delay, postponements directly attributable to lawyers accounted for 72%, those brought about by the court system accounted for 6%, while court-related agencies accounted for 6% thereof. Other factors were responsible for 16% of all postponements in civil cases.[26]

The IJA study again registered somewhat different results in this regard: 66.24% of postponements in civil cases were attributable to lawyers, 16.34% to the court system, .50% to court-related agencies, and 16.92% to other factors.[27]

While there are substantial differences in procedure regarding court processing of civil and criminal cases, it is nevertheless safe to assume that delays arising from one and the other type of proceeding are not radically different in nature and origin. Causes of delay in civil cases are much the same as those in criminal cases.

B. *Pre-Trial Conference*

Under Section 1, Rule 20 (entitled "Pre-Trial") of the Rules of Court, after the last pleading has been filed in civil actions, the trial court shall direct the parties and their respective attorneys to appear before the court for a pre-trial conference to consider the following:

> "(a) The possibility of an amicable settlement or of a submission to arbitration;
> (b) The simplification of the issues;
> (c) The necessity or desirability of amendments to the pleadings;
> (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
> (e) The limitation of the number of witnesses;
> (f) The advisability of a preliminary reference of issues to a commissioner;

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24 See Raval and Legada, *op. cit., supra,* note 21 at 34 (citing Martinez).
25 *Ibid.*
26 *Ibid.*
27 *Ibid.*

> (g) Such other matters as may aid in the prompt disposition of the action."

The apparent objectives of a pre-trial conference are (1) to promote amicable non-judicial settlement between disputants, or in the alternative, (2) to shorten the period of trial by simplifying matters to be taken up at trial. Even before a case is formally tried, therefore, Rule 20 seeks to ensure that only the most irreconcilable of disputes proceed to the trial stage.

Experience has shown, however, that many trial judges do not observe strictly the requirements of the Rule on pre-trial and, presumably, prefer to see cases filed in court go through the full route of trial. As pointed out by a member of our Court of Appeals:

> "x x x it is unfortunate that in most cases, the judge merely admonishes the parties to try to settle. Some judges do not even lift a finger to help the parties in arriving at a compromise solution. They come to the pre-trial conference unprepared without a sufficient understanding of the issues involved in the case. This is perhaps due to the feeling of some judges that the pre-trial is just a waste of time since it degrades the exalted position of the judge from an adjudicator to a mere referee."

C. *Postponements and Continuances*

As earlier indicated, postponements — whether caused by the court system, lawyers, court-related agencies, or other miscellaneous factors — have been singled out as a primary cause of delay at the trial phase of litigation. The pertinent legal provision on this matter in the Rules of Court states that a court "shall have no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice of the Supreme Court."[28]

While this rule does present a deterrent to delay caused by continuances, the Supreme Court itself, however, in *Barrueco vs. Abeto*,[29] construed this provision to be "merely directory", and not mandatory upon courts. The effect of the Supreme Court's ruling in that case has been that many members of the bar and the bench alike have tended to be quite relaxed in the observance of said rule. This attitude, along with other factors, has resulted in the emergence of what we have referred to as the piece-meal trial.

D. *Piece-Meal Trials*

Presentation of evidence at trial hearings over a spread-out period of time — any one (1) hearing usually consisting of the examination of only one (1) witness for no more than an hour, examination to be continued

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[28] RULES OF COURT, Rule 22, Sec. 3.
[29] 71 Phil. 7, 12 (1940).

at future hearings for "lack of material time" — is the hallmark of the piece-meal trial, or what is also known as the segmented or split trial. "Lack of material time", as a ground for postponement of court hearings, is brought about by the fact that the available number of hours reserved for trial on any particular day is limited and has to be apportioned among all cases scheduled for trial on that day. Consequently, due to the number of cases scheduled for hearing, cases are postponed, more often than not, and set for future hearing one (1) month or more later, depending upon the calendar of the court concerned and the condition of its docket. This practice — for which lawyers, litigants and judges must all be held responsible — produces damaging results in the long run.

IV. DELAY IN THE COURT OF APPEALS

A. *Jurisdiction of the Court of Appeals*

Under existing Philippine law, the Court of Appeals exercises:

> "(1) Original jurisdiction to issue writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, and *quo warranto*, and auxiliary writs and processes, whether or not in aid of its appellate jurisdiction;
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> (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948."[30]

The Court of Appeals may try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, and may grant and conduct new trials and further proceedings. Such power of the Court of Appeals, however, does not extend to decisions and interlocutory orders issued under the Labor Code[31] and those issued by the Central Board of Assessment Appeals.

B. *Transmission of Records on Appeal*

We noted earlier that under the 1987 Constitution of the Philippines, cases submitted for decision to the Court of Appeals must be decided or resolved by the Court within twelve (12) months from the date of such submission, unless a shorter period is fixed by the Supreme Court. This is the same period prescribed under the 1973 Constitution.[32] No such period was imposed under the 1935 Constitution.

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[30] Batas Pambansa Blg. 129 (1981), sec. 9.

[31] That is, decisions and orders of Labor Arbiters, the Bureau of Labor Relations, the National Labor Relations Commission, the Employees Compensation Commission, the Secretary of Labor, and the President of the Philippines.

[32] CONST. (1973), art. X, sec. 11(1).

To date, there have been no firm statistics gathered concerning delay at the Court of Appeals. It has been observed, however, that a primary cause of delay in the Court of Appeals is the fact that records of cases elevated on appeal are frequently incomplete. For instance, it is a common discovery that stenographic notes have not been transcribed or, worse, transcripts thereof have been lost altogether. To dramatize the point: as of 28 February 1987, a total of 8,329 civil actions were pending with the Court of Appeals. Of this number, 2,961 were then ready for decision; hence, the greater portion of 5,368 cases (64%) sat in the court's docket simply awaiting completion of records and submission of briefs.

VII. DELAY IN THE SUPREME COURT

A. *Jurisdiction of the Supreme Court*

Under Article VIII, Section 5 (1) and (2) of the 1987 Constitution, the Supreme Court shall:

> "(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:
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> (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* [life imprisonment] or higher.
> (e) All cases in which only an error or question of law is involved."

The judicial power and authority vested in the Supreme Court and other courts of justice has been broadly described in Article VIII, Section 1, paragraph 2 of the 1987 Constitution which provides:

> "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."

Courts are thus authorized to review, in appropriate cases brought before them, decisions, resolutions, orders, and other processes rendered and issued by constitutional and administrative bodies in the performance of judicial and quasi-judicial functions.

B. *Caseload of the Supreme Court*

As of 31 January 1987, the Supreme Court had in the dockets 2,111 cases submitted for decision (this number was reduced to 1,972 by year's end). As for that same date, 3,577 cases filed with the Court were still awaiting submission of briefs or memoranda or other pleadings; hence, the total number of pending cases filed with the Supreme Court, as of 31 January 1987, was at 5,688.

Statistics gathered by the Office of the Clerk of Court of the Supreme Court show that during the period from 1 January 1987 to 31 December 1987, the Supreme Court was able to dispose of 4,342 cases by way of brief and extended resolutions (3,546) and signed decisions (796). The Court's total output of cases disposed of in 1987 represents a 23% increase over the output of the Court for the previous year. These quantitative figures on the Court's performance for 1987 are the highest in its history.

Finally, the figures show that, including the 4,739 new cases which were filed in 1987, the Supreme Court, as of 31 December 1987, had a grand total of 7,050 cases pending in its docket.

C. *Ageing of Cases*

No formal studies have so far been carried out to determine the extent and specific causes of delay and docket congestion in the Supreme Court. The Supreme Court is not a trier of facts. Only a few cases are heard on oral argument before the Court, whether sitting *En Banc* or in Division,[33] and then only once. The problems of delay associated with trial proceedings are not, of course, found in respect of proceedings before the Supreme Court. The average age of cases existent before the Supreme Court — from initial filing to final disposition — has not been studied and determined but that average age is probably several years, if one is to hazard a guess from the backlog inherited by the Supreme Court at the time of the change of government in February 1986.

Delay in the disposition of cases filed with the Supreme Court appears to be the product of a variety of factors. Some of these are: the large number of new petitions filed daily with the Court;[34] motions for extensions of time to file pleadings presented by parties litigants; failure on the part of litigants to submit essential attachments or annexes to their pleadings; failure on the part of lower courts immediately to forward the record of cases appealed to the Supreme Court; and so forth. Other causes of delay in the Supreme Court relate to the manual, and less than efficient, systems of filing, calendaring and recalling cases which are presently used in the Court. It may be added here that the Court has recently taken steps

[33] The Court may sit *en banc* or, in its discretion, in divisions of three, five or seven members. CONST., art. VIII, sec. 4(1).

[34] In 1987, an average of 18.8 new petitions were filed every working day of the Court.

towards the computerization of the case administration system within the Supreme Court. A program has been developed with the assistance of outside consultants and is scheduled to undergo prototyping utilization.

Another source of delay in the disposition of cases before the Supreme Court is, in the perception of the present Members of the Court, the following provision in the 1987 Constitution of the Philippines.

> "ARTICLE VIII
>
> JUDICIAL DEPARTMENT
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> x x x x x x x x x
>
> Sec. 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.
>
> *No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.*" (Emphasis supplied.)

The Court disposes of cases in its docket either by way of signed decisions or resolutions, or by unsigned resolutions. In the past, before the effectivity of the 1987 Constitution, the Court had been able to dispose of a significant number of cases through the medium of unsigned minute resolutions. In minute resolutions, the Court did not set out any discussion of the facts or of the legal issues underlying the denial or dismissal of petitions for review or petitions for certiorari. The minute resolution was thought most useful in situations where the Court refused due course to petitions. The constitutional provision quoted above, however, which provision had not formed part of the two (2) earlier Philippine Constitutions, appears to have rendered unavailable the minute resolution as a mode of summarily disposing of cases which the Court does not feel warrant prolonged consideration or the grant of certiorari or some other extraordinary remedy. Thus, the present Court feels compelled to put in the additional hours of work necessary to set down even a brief statement of facts and of the legal reasons behind denial or review or dismissal of a petition for certiorari, additional hours of work which would seem more productively spent doing something else. The constitutional provision quoted above may seem particularly applicable to trial courts, which are all courts of record and whose decisions may be reviewed either on a petition for review on certiorari or on a special civil action for certiorari before the Supreme Court or the Court of Appeals. When applied, however, to the decisions of the Supreme Court itself, the utility of the constitutional provision is not self-evident. It seems pertinent to recall that in many jurisdictions including that of the Supreme Court of the United States, a simple "certiorari denied" is regarded as quite adequate as a basis for refusing to accept a case for consideration by the Supreme Court.

VIII. Measures Undertaken to Reduce Delay

A. *Reorganization of the Judiciary*

On 10 August 1981, the Philippine Legislature (then known as the *Batasang Pambansa*) enacted into law *Batas Pambansa Bilang* 129, entitled "An Act Reorganizing The Judiciary, Appropriating Funds Therefor, and for Other Purposes." Among the salient features of this law, insofar as they concern the subject of delay, are: membership in the Court of Appeals[35] was increased to fifty (50) members,[36] the number of trial judges and branches of trial courts nationwide was likewise increased; the concurrence of jurisdiction between Regional Trial Courts[37] and lower trial courts was eliminated; and the jurisdictional amount of lower trial courts was raised.[38] Furthermore, B.P. Blg. 129, in Section 36 thereof, laid the foundation for the present Rule on Summary Procedure which has been helpful in promoting expeditious disposition of cases falling within the Rule's coverage.

B. *Conciliation as an Alternative Mode of Dispute Resolution*

Presidential Decree No. 1508 (commonly known as the *Katarungang Pambarangay Law*), which took effect in December of 1978, establishes a non-judicial, non-litigious mode of dispute settlement at the *barangay* (town) level. The law is aimed at discouraging parties from indiscriminately filing in court cases which could otherwise be settled amicably out of court. Decongestion of court dockets is thus the main thrust of the Decree.

The conciliation procedure provided under P.D. 1508 is mandatory where parties actually reside in the same *barangay,* city or municipality.[39] The *barangay Lupong Tagapayapa* and *Pangkat ng Tagapagkasundo,*[40] however, have no authority in the following instances:

(1) Where one party is the government, or any subdivision or instrumentality thereof;
(2) Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;
(3) Offenses punishable by imprisonment exceeding 30 days, or a fine exceeding P200.00;
(4) Offenses where there is no private offended party;
(5) Such other classes of disputes which the President may in the interest of justice determine, upon recommendation of the Secretary of Justice and the Secretary of Local Government.

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35 The Intermediate Appellate Court under Batas Pambansa Blg. 129 (1981).
36 Batas Pambansa Blg. 129 (1981), sec. 3.
37 Formerly the Courts of First Instance.
38 Batas Pambansa Blg. 129 (1981), sec. 32(2).
39 Pres. Dec. No. 1508 (1978), secs. 3 and 6.
40 These are the councils duly authorized to undertake conciliation or arbitration under Pres. Dec. No. 1508 (1978), sec. 1.

(6) Where parties actually reside in barangays of different cities or municipalities, except where such barangays adjoin each other; and
(7) Disputes involving real property located in different municipalities.[41]

Amicable settlement is sought to be encouraged by the Decree which requires that "no complaint, petition, action, or proceeding involving any matter within the authority of the Lupon x x x shall be filed or instituted in court x x x for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached x x x, or unless the settlement has been repudiated." The fact that parties had attempted but failed eventually to arrive at a settlement of their disputes before the *barangay* Lupon is manifested in a Certification to that effect issued by the appropriate *barangay* official. Except in cases where the requirement has been effectively waived by either or both parties concerned, the Certification must be presented to the trial judge concerned before any judicial action is taken on the complaint. Parties, however, may go directly to court: where the accused is under detention; where a person has otherwise been deprived of his personal liberty and seeks *habeas corpus;* in actions coupled with provisional remedies (i.e., attachment, preliminary injunction, delivery of personal property, receivership, and support *pendente lite*); and where the action may otherwise be barred by the Statute of Limitations.[42]

C. *The 1983 Rule on Summary Procedure*

The express objective of the Rule on Summary Procedure, in relation to processing of cases covered thereunder, is "to achieve an expeditious and inexpensive determination [of such cases] without regard to technical rules [of procedure]." The Rule governs the procedure in all lower courts (with the exception of Regional Trial Courts) in the following instances:

"A. Civil Cases:

(1) Cases of forcible entry and unlawful detainer, except where the question of ownership is involved, or where the damages or unpaid rentals sought to be recovered by the plaintiff exceed twenty thousand pesos (₱20,000.00) at the time of the filing of the complaint;
(2) All other civil cases, except probate proceedings, falling within the jurisdiction of the above-mentioned courts, where the total amount of the plaintiff's claim does not exceed ten thousand pesos (₱10,000.00), exclusive of interest and costs.

B. Criminal Cases:

(1) Violation of traffic laws, rules and regulations;
(2) Violations of the rental law;
(3) Violations of municipal or city ordinances;
(4) All other criminal cases where the penalty prescribed by law for the offense charged does not exceed six months' imprisonment, or a

[41] Pres. Dec. No. 1508 (1978), secs. 2 and 3.
[42] Pres. Dec. No. 1508 (1978), sec. 6.

> fine of one thousand pesos (₱1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom; Provided, however, that in offenses involving damage to property through criminal negligence, this Rule shall govern where the imposable fine does not exceed ten thousand pesos (₱10,000.00)."[43]

In civil cases, the only pleadings allowed under the Rule are the complaint and the answer (to the complaint, counterclaim or crossclaim). In lieu of direct testimony, affidavits of witnesses, other pieces of evidence, and position statements are also submitted, after which judgment may be rendered even without a formal hearing. Should there be need for further clarification on any material point raised by the parties, the trial judge shall set the case for hearing for that purpose. The order setting the case for hearing, however, shall specify the witnesses who shall be called to testify and the matters on which they shall be examined.[44]

In criminal cases, affidavits of witnesses must accompany the complaint or information filed in court. Affidavits submitted shall state only facts of direct personal knowledge of the affiants which are admissible in evidence, and shall show affiants' competence to testify on the matters stated therein.[45] The trial judge may order the outright dismissal of the complaint or information if, upon consideration thereof and the affidavits submitted by both parties, there exist no valid grounds to hold the defendant for trial; otherwise, the court shall set the case for arraignment and trial.[46] Before trial, however, the court may still hold a preliminary conference where parties may explore the possibility of entering into a stipulation of facts, to consider the propriety of allowing the defendant to plead to a lesser offense, or to clarify the issues so as to ensure speedy disposition of the case.[47]

In order that proceedings in the main action are not unnecessarily delayed, the Rule specifically prohibits filing by parties of the following pleadings: (1) motions to dismiss or to quash, for a bill of particulars, for a new trial, for reconsideration or reopening of trial, for extension of time to file pleadings, or for declaration of default; (2) memoranda, replies, interventions, third-party complaints, dilatory motions for postponement; and (3) petitions for relief from judgment or for certiorari, mandamus, or prohibition against any interlocutory order issued by the court.[48] Finally, to avoid the deleterious effects of piece-meal trials, the Rule commands that hearings "must be finished on the same date set therefor, insofar as prac-

[43] Resolution of the Supreme Court *En Banc*, Providing for the Rule on Summary Procedure in Special Cases before Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts (1983), sec. 1 [hereinafter referred to as the Rule on Summary Procedure].

[44] Rule on Summary Procedure (1983), sec. 8.

[45] Rule on Summary Procedure (1983), sec. 16.

[46] Rule on Summary Procedure (1983), sec. 10.

[47] Rule on Summary Procedure (1983), sec. 13.

[48] Rule on Summary Procedure (1983), sec. 15.

ticable" and that judgments in cases falling under the Rule "must be rendered within fifteen (15) days from termination of the trial."[49]

D. *Establishment of the Institute of Judicial Administration (IJA)*

The Institute of Judicial Administration of the Philippines was established on 1 September 1983 by a Joint Memorandum of Agreement between the Supreme Court of the Philippines and the University of the Philippines (UP). The principal objectives and purposes of the Institute are:

> 1. To conduct, encourage and coordinate research and study of the operation of the court system in the Philippines and to stimulate and coordinate such research and study on the part of other public and private persons and agencies;
> 2. To develop and present for consideration by the Supreme Court recommendations for the improvement of the administration and management of Philippine courts;
> 3. To assist in the provision of research and planning aid to the Supreme Court;
> 4. To conduct programs of education and training for members of the judiciary and its personnel in the following fields: orientation of new judges; continuing judicial education; opinion-writing; case management, including the avoidance of delay and clogged dockets; and technology in the courts.

The IJA operates primarily as a school for judges and was originally conceived to be part of the University of the Philippines in order that it might be provided with an academic environment. Supervision and control over the Institute are vested in the Supreme Court. Technical resources and facilities, upon the other hand, are provided by the UP Law Complex. Funds for projects and activities of the IJA are taken basically from appropriations for both the University and the Supreme Court.

The Institute performs its function of "educating" judges by conducting live-in seminars, which usually last for three (3) days. A number of seminars have been conducted by the Institute in the University of the Philippines campus in Quezon City, Metropolitan Manila. For the benefit of judges stationed in the provinces, seminars have also been held in regional centers around the country where judges from the region gather and are able to avail themselves of such services.

The IJA seminars offer a variety of courses — e.g., courses on legal research and writing, caseflow management, and recent decisions by the Supreme Court — which are designed and prepared by *ad hoc* planning committees, appointed by the IJA Governing Board, after having taken into consideration suggestions of judges themselves. At the end of each seminar,

[49] Rule on Summary Procedure (1983), sec. 17.

participants are asked to fill out evaluation sheets, which are subsequently submitted to seminar lecturers and organizers who, in turn, utilize the same in planning future seminars.

Through the activities sponsored by the IJA, judges are afforded continuing opportunities to upgrade their skills and increase their competence not merely as adjudicators, but as court managers and administrators as well. Success of the Institute in its tasks will definitely ease substantially the problems of delay plaguing our courts.

E. *Recent Guidelines from the Supreme Court*

Under Section 5, Article VIII of the 1987 Constitution of the Philippines, the Supreme Court has the power to:

> "x x x x x x x x x..
>
> (5) 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." (Emphasis supplied)

Section 6 of the same Article states further that "[t]he Supreme Court shall have administrative supervision over all courts and the personnel thereof." Section 12, Article XVIII of the 1987 Constitution also imposed a special task upon the Supreme Court:

> "Sec. 12. The Supreme Court shall, within one year after the ratification of this [1987] Constitution, adopt *a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court or the lower courts prior to the effectivity of this Constitution.* A similar plan shall be adopted for all special courts and quasi-judicial bodies." (Emphasis supplied.)

Acting under these mandates, the Supreme Court has issued several Administrative Circulars and Resolutions directed at members of both the bench and bar to help solve the problems of delay and docket congestion.

1. *Administrative Circular No. 1, 28 January 1988*

On 28 January 1988, the Supreme Court issued Administrative Circular No. 1, addressed to all regular and specialized courts below the Supreme Court, in compliance with Section 12, Article XVIII of the 1987 Constitution. The directives and guidelines under the Circular, as far as they are relevant to the topic on hand, are the following:

a. *On effective docket control*

Presiding Judges of trial courts, upon assumption of office and every semester thereafter, must conduct a physical inventory of their dockets to determine the actual number of cases pending in their respective salas (branches). The number of cases pending trial, those submitted for decision, and those which have been archived shall be identified, a list of which shall be submitted to the Supreme Court within thirty (30) days from receipt of said Administrative Circular No. 1 and the Inventory Form. An updated inventory shall be submitted to the Supreme Court every six (6) months thereafter. Furthermore, records of cases shall be marked so as to indicate the date of actual inventory. Cases submitted for decision or resolution before effectivity of the 1987 Constitution are to be given preference in disposition.

b. *On effective court management*

Judges are enjoined to observe strictly rules on punctuality and daily minimum number of hours at work, effective use of pre-trial and discovery procedures, effective management of trials, and the availment of annual conferences. Judges are likewise required to formulate a strict policy on postponements and to adhere faithfully to Rule 22 of the Rules of Court.

Presiding Judges are required to supervise closely their clerks of court in the preparation of court calendars. In this respect, a rational calendar plan should be followed in order that cases filed are assured of hearing on scheduled days for trial. Finally, Presiding Judges must have a calendar of cases submitted for decision, noting the exact date, month and year when the ninety (90)-day period under the 1987 Constitution for disposition of such cases is to expire.

c. *On enforcement of executory judgments*

The Supreme Court takes judicial notice of the fact that "[i]t has become a common practice for litigants to file *dilatory* petitions for certiorari and prohibition with prayer for restraining order or writ of preliminary injunction in order *to delay or thwart enforcement of final and executory judgments* of both the Regional Trial Court or of other inferior trial courts"; hence, courts should exercise *"greatest restraint"* to avoid delay in the enforcement of such judgments. Petitions so filed are to be given due course "only if *'sufficient in form and substance,'* " as required under the Rules of Court. Similarly, restraining orders or preliminary injunction "should *not* be issued *without prior notice* and *hearing* and *showing of a clear right thereto.*"

d. *On case redistribution*

Executive judges of multi-sala stations should promptly effect equitable redistribution to other salas of pending cases then handled by judges who

have since retired, been promoted, or otherwise been removed from the station. The Court Administrator is to be informed of any problems arising related to this matter.

e. *On judicial writing*

All Presiding Judges "must observe *scrupulously*" the periods for disposition of cases prescribed in Section 15, Article VIII of the 1987 Constitution.

In their decisions, judges should (1) "make complete findings of fact," and (2) "scrutinize closely the legal aspects of the case in the light of the evidence presented." In this respect, judges are reminded that the Supreme Court may order their removal from office even without any formal investigation whenever any decision rendered by them indicates, on its face, gross incompetence, gross ignorance of the law or gross misconduct, under the notion of *Res ipsa loquitur.*

f. *On motions and other interlocutory matters*

All Presiding Judges are enjoined to act promptly on all motions and interlocutory matters pending before their courts. Unless authorized under the Rules of Court, "and only in situations of extreme urgency," no motions or other applications for relief shall be acted upon *ex parte.*

All courts are reminded that, except in the Supreme Court, "*no* motion for *extension* of time to *file a motion for new trial or reconsideration of judgment* or *final order* shall be allowed." Orders granting such prohibited motions "shall not preserve the judgment or order from becoming final and executory for lapse of the period of appeal."

g. *On public confidence in the courts*

"All judicial efforts should be addressed towards maintaining public confidence in the courts." Judges are thus enjoined to conduct themselves strictly in accordance with mandates of existing law and the Code of Judicial Ethics.

The Supreme Court realizes that public confidence in the court system may be strengthened if courts make conscious efforts to reduce their caseloads; hence, "[a]ll efforts should be exerted so that case disposals should exceed case inputs." Problems arising in this regard and which require remedies beyond the control or capability of judges should immediately be brought to the attention of the Supreme Court by the Presiding Judge concerned.

h. *On deadlines for rendering decisions*

All courts are reminded of and directed to comply with the mandatory provisions of Section 15, Article VIII of the 1987 Constitution.

2. *Resolution Adopting Policy and Procedural Guidelines for the Supreme Court in the Implementation of Section 12, Article XVIII of the 1987 Constitution, 7 April 1988*

The Supreme Court recently approved on 7 April 1988 a Resolution concerning mainly the processing of petitions for review, and other motions incident thereto, filed with the Supreme Court and Court of Appeals. The policy and procedural guidelines adopted under said Resolution apply to the Supreme Court and, in appropriate cases, to the Court of Appeals as well.

In the Resolution, judicial notice is taken of the fact that litigants never seem to accept adverse judgments unless every court in the country has tried the same case and has had its say on the matter. To discourage this practice, the Resolution expressly provides:

> "Petitions for Review of decisions and final orders of the Court of Appeals and other lower courts shall be *strictly scrutinized as to their substantial merits,* bearing in mind that a review is not a matter of right so that there shall be a strict adherence to Rule 45, Section 4, of the Rules of Court delineating the grounds for allowance of a review to avoid delays in the enforcement of final judgments and orders of lower courts. This is particularly applicable in *collection* and *ejectment or detainer* cases and *manifestly dilatory petitions for review.*"

Before such petitions for review may even be entertained, the same "must state *specifically* the question of substance on the questioned decision or order that has not heretofore been determined by the Supreme Court or that has been decided probably not in accord with a *specific* provision of law or with *specific applicable decisions* of the Supreme Court or the specific accepted and usual course of judicial proceedings from which the questioned decision has departed," as required under Section 4, Rule 45 of the Rules of Court which provides that "[a] Review is not a matter of right, but of sound judicial discretion and will be granted only when there are special and important reasons therefor x x x."

As a matter of general policy, extensions of time to file (1) petitions for review, and (2) a required pleading or comment, with the Supreme Court or Court of Appeals shall not be granted for a period of more than thirty (30) days, unless valid and compelling reasons exist.

Furthermore, especially in collection and ejectment or detainer cases, no motion for extension of time to file a motion for reconsideration shall be granted after the Court has rendered judgment. Where said judgment has been declared immediately executory, no such motion shall even be entertained. Finally, where a motion for reconsideration has been denied with finality by the Supreme Court [or Court of Appeals], no motion for

leave to file a second motion for reconsideration shall be entertained [where applicable].

F. *Proposals of the Integrated Bar*

The Integrated Bar of the Philippines (IBP) Committee on Administration of Justice on 2 February 1988, submitted to the IBP Board of Governors a paper which deals with the problem of delay in trial courts. The paper was subsequently adopted by the Board as the official position of the IBP on the subject.

The IBP paper focuses on delay caused by the court system and lawyers. The recommendations contained in the paper are aimed primarily at easing delays during the trial phase of litigation and are summarized below.

The main proposal of the IBP is simply to eliminate piece-meal trials whenever possible. In this respect, continuous trial — i.e., trial of one case at a time until finished — should be adopted as far as practicable. Should this not be feasible, piece-meal trials may be held but only for a limited period not exceeding three (3) months, which period should be considered mandatory.

The number of cases scheduled for trial on the merits in a single day should be limited to a maximum of only five (5) cases; each case should, in turn, be allotted at least an hour of trial hearing. Whenever possible, this number should be reduced further to allow judges at least three (3) continuous hours in a working day to study and prepare decisions and resolutions. The total number of cases to be heard in a month should likewise be limited to a manageable number, such that trial of each case will not last longer than three (3) months.

The IBP also proposes that trial courts be given a one-year transition period within which to adjust from the existing practice of piece-meal trial to a system of either continuous trial or shortened piece-meal trial (not exceeding three months). Furthermore, all cases not yet decided within three (3) months from submission for decision are to be decided within the said transition period.

On case dispositions, the IBP suggests that judges, at any one time, should handle a maximum of thirty (30) cases for decision, and only those cases heard personally by them — either completely or partially — and which were thereafter submitted to them for decision. Cases in excess of this number should be returned to the Executive Judge for equal distribution by raffle to the other branches of the courts concerned.

Adoption of a Master Calendar system is also proposed, especially in congested multi-sala courts. Under this system, cases for pre-trial are segregated from those ready for trial on the merits, each type of case to

be handled separately by pre-trial and trial judges, respectively. It is only after a pre-trial judge has been unable to effect non-judicial settlement that such case is transferred, one at a time, to a designated trial judge, who proceeds to try the case continuously until trial is terminated. At that point, said trial judge is transferred to the group of pre-trial judges in order that he may focus his efforts on writing his decision. Such transfer of the judge — i.e., from the group of trial judges to the group of pre-trial judges — is done presumably because a judge's task at the pre-trial stage is not quite as hectic or demanding of his time and concentration as it is at the trial stage. After the judge has rendered his decision, he is thereafter reassigned to the group of trial judges.

Finally, within the last six (6) months prior to their retirement, judges should be required to devote only 20% of their working hours to trial work — including issuances of interlocutory orders — and 80% thereof to deciding cases submitted for judgment.

IX. CONCLUSION

The problem of delay from which Philippine courts of justice suffer is perplexing but, one may suppose, not unique. There exists no single global solution to the problem, whose origins and causes are as varied as its effects on the whole judicial system. The types of measures which may be taken to mitigate the problem are, happily, finite. The following simple listing may be useful:

A. *Increase and Improve Court Resources*

Undoubtedly, increasing the number of courts, judges and court personnel, equipping courts regularly and seasonably with needed supplies and equipment, and upgrading periodically court facilities will go a long way in reducing delay, more specifically, delay caused by the record system. This will necessarily entail adjustments and increases in the national budgetary allocations for the judiciary. Although there appear to be some positive developments in this respect, on a practical note, however, our system will have to do with whatever resources are presently available.

B. *Decrease the Demand for Court Resources*

The demand for judicial processing of disputes may possibly be reduced by (1) reducing the jurisdiction of courts, as a whole, and (2) referring special cases, which would otherwise have been filed in court, to non-judicial bodies or specialized administrative agencies for disposition. Amendatory legislation is required to effect the changes envisioned in both instances. In the first instance, there is additionally the concurrent need to decrease the appellate jurisdiction of regular courts — most especially that of the Supreme Court — over decisions and resolutions of said specialized agencies;

preferably, appeals from such agencies should either be limited strictly only to review of legal and jurisdictional questions, or eliminated altogether.

In the second instance, resort to alternative modes of dispute settlement may be considered. In this respect, parties and their attorneys might consider amicably settling their disputes before non-judicial tribunals and/or through essentially non-litigious and non-adversarial proceedings. As earlier pointed out, the barangay conciliation procedure under P.D. 1508 presents one alternative to court litigation. Although no data are available on the effectiveness of conciliation under P.D. 1508 (vis-a-vis decongesting court dockets), such alternative, however, is definitely a step in the right direction, if one is to trust the ability of non-judicial entities to effect just and fair settlement of disputes presented before them for determination.

C. *Increase Productivity of Courts*

Considering that a substantial amount of a judge's official working time is spent in the courtroom conducting trials, judges should endeavor to increase the number of hours devoted by them to hearing cases submitted and scheduled for trial, if only to reduce case backlogs and decrease congestion of dockets. Particular attention should be given to both the nature and number of cases filed in court requiring hearing and trial; consequently, judges should deliberately plan their calendars to minimize the protracted delays of piece-meal trials. Furthermore, repeated postponements should not be countenanced by judges, who should be more discriminating in granting motions therefor. In this respect, strict compliance with Section 3, Rule 22[50] of the Rules of Court needs to be exacted: only in clearly exceptional cases should application of the Rule be relaxed.

Finally, judges should endeavor to equip themselves adequately with skills necessary to perform their duties as dispensers of justice and administrators of their courts. Court personnel should likewise continuously upgrade their professional skills and, at all times, faithfully and conscientiously assist judges in the latter's efforts to facilitate the smooth and expeditious delivery of justice to the general community.

[50] On postponements and adjournment.