

National Report (Featuring the Organizational Report of the Public Attorney's Office, the Philippine Government's Main Provider of Free Legal Aid)

The Public Attorney's Office: Scaling Greater Heights and Embracing a Wider Breadth in the Fulfilment of Its Mandate

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The Public Attorney's Office (PAO) is an agency of the Philippine government founded on October 23, 1972¹ and mandated "to render, free of charge, legal representation, assistance, and counselling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases."² The PAO is an independent and autonomous office, attached to the Department of Justice (DOJ) only for purposes of policy and program coordination.³

¹ The Office is formerly called Citizens Legal Assistance Office (CLAO) which was created thru Letter of Implementation No. 4, s. 1972 issued pursuant to Presidential Decree No. 1 September 24, 1972. On July 25, 1987, CLAO was renamed Public Attorney's Office under Executive Order No. 292, otherwise known as the "Revised Administrative Code of 1987".

² Section 14, Chapter 5, Title III, Book IV, Revised Administrative Code of 1987 as amended by Republic Act No. 9406

³ *Ibid.*

Compared to one which is under departmental supervision and control or administrative supervision, an attached agency has a larger measure of independence from the department to which it is attached. Attachment refers to the lateral relationship between the Department or its equivalent and the attached agency or corporation for purposes of policy and program coordination. Matters of day-to-day administration or all those pertaining to internal operations are left to the discretion or judgment of the executive officer of the agency or corporation.⁴

The independence of the PAO decision-making and carrying out of its functions is further guaranteed by the fact that the law grants security of tenure to its officers. The law explicitly provides that “the Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys shall not be removed or suspended, except for cause provided by law”⁵.

Following the mandate of the law, the Public Attorney’s Office is headed by the Chief Public Attorney. She is aided by two Deputy Chief Public Attorneys (DCPAs) - one designated as DCPA for administration, and the other as DCPA for Operations.

⁴ Section 38, Chapter 7, *Id.*

⁵ Section 16-A, Chapter 5, *Id.*

Likewise, part of the organizational structure of the PAO are the six (6) line services of the Central Office. Under the supervision of DCPA for Administration are three (3) of the line services namely, the Administrative, Financial Planning and Management, and the Executive Support Staff. The remaining three services, which are the Special and Appealed Cases, Legal Research, and the Field Services and Statistics, are under the supervision of the DCPA for Operations.

Below the structure are the seventeen (17) regional offices, two hundred ninety-two (292) district offices, five (5) sub-district offices, two (2) regional special and appealed cases units, and one (1) annex and (1) satellite offices. A total of three hundred eighteen (318) offices outside of the Central Office are located at strategic places across the country to effectively and efficiently deliver free legal aid services to indigent and other qualified clients.

At present, the Public Attorney's Office has one thousand five hundred twenty-two (1,522) public attorneys and one thousand sixteen (1,016) non-lawyer employees who carry out its mandate. All the cases of the PAO are handled by public attorneys who are employed by the Office. Hence, a hundred percent of the cases presently taken by PAO are handled by in-house lawyers.

Since the approval of Republic Act No. 9406 or the PAO Law on March 23, 2007, the Office has been consistently serving more or less

five million (5,000,000) clients and handling more or less five hundred thousand (500,000) cases per year. Remarkably, these figures leaped to **6,735,603** clients and **710,457** cases in the year 2012, and in 2013, the PAO's number of clients and cases soared even more to **7,126,565** clients and **746,161** cases, respectively. These statistical data could serve as a barometer regarding public awareness on the free legal services of the PAO, and even the people's level of trust and confidence to the Office.

The millions of clients of the PAO are part of the estimated 99.52 million⁶ population of the Philippines, 24.9%⁷ of which are living below the poverty line. The country has gross domestic product amounting to Php 11,548.191 billion⁸, which is equivalent to US\$272.018 billion⁹.

PAO's Funding and Free Legal Services

As per the General Appropriations Act for 2014, the legal aid funding for the PAO from the Philippine Government is Php1.8 billion. 95% of which goes to the payment of the salaries of the personnel and the remaining 5%, to the Maintenance and Operating Expenses of the Office. The Office has minimal operating expenses owing to the fact

⁶ Estimated population for the year 2014 based on the 2010 Official Population Count of 92.34 million at 1.89% annual population growth rate. Source: http://www.nscb.gov.ph/secstat/d_popn.asp.

⁷ As of the 1st semester of 2013. Source: <http://www.nscb.gov.ph/#>.

⁸ Gross Domestic Product (GDP) for the year 2013 based on the National Statistical Coordination Board estimates. Source: http://www.nscb.gov.ph/sna/2014/1st2014/tables/1Q1-Rev_Summary_93SNA.pdf.

⁹ GDP, current prices for the year 2013. Source:

<http://www.imf.org/external/pubs/ft/weo/2014/01/weodata/weorept.aspx?pr.x=97&pr.y=13&sy=2013&ey=2019&scsm=1&ssd=1&sort=country&ds=.&br=1&c=566&s=NGDPD%2CNGDPDPC%2CPPPGDP%2CPPPPC&grp=0&a>
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that a lot of local government units extend financial and other support in the form of honoraria, free office space, equipment, furniture, stationery, manpower to the Office in faithful adherence with the provision of Sec. 16-E of R.A. No. 9406. Local government units also defray utility expenses of these offices.

PAO clients are exempted from payment of docket and other fees incidental to instituting an action in court and other quasi-judicial bodies, either as an original proceeding or an appeal.¹⁰ This basically covers the filing fees required to be paid when instituting a case or filing an appeal. However, other court or government charges as well as costs awarded against the legal aid recipient are not covered by the exemption, and are payable by the client.

- *Judicial and Non-Judicial Services*

The services offered by PAO is divided into two broad categories: Judicial and Non-Judicial.

Judicial services refer to legal representation in court or quasi-judicial bodies. One of the mandates of the Public Attorney's Office is to render free legal representation to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. Thus, the Office handles criminal and civil cases, whether ordinary or special, falling within the jurisdiction of the regular courts, as well as labor,

¹⁰ Sec. 16-D, *Id.*

administrative and other quasi-judicial cases recognizable by special courts or quasi-judicial bodies. The Office handles these types of cases from their institution up to finality of judgment, including the appeals, subject to existing PAO law, rules and regulations.

Non-judicial services refer to the instant services and outreach activities of the Office. The instant services include legal counselling and documentation (i.e. preparation of affidavits, notices, etc.), administering oaths, and mediation and conciliation of disputes. On the other hand, outreach activities include police custodial investigation and inquest proceedings, jail visitations and *barangay* (the basic political unit in the Philippines) outreach programs.¹¹ These services are likewise available subject to existing PAO law, rules and regulations.

- *Application Procedures and the Criteria of Granting Legal Aid*

Persons seeking legal assistance undergo interview with a public attorney or personnel to ascertain their qualification.¹² In this regard, a prospective client is required to accomplish an interview sheet.

In evaluating the qualification for legal aid of a prospective client, the Office applies the Merit and Indigency Tests.

A case shall be considered meritorious, if an assessment of the law and evidence on hand, discloses that the legal services of the office will assist, or be in aid of, or in the furtherance of justice, taking into

¹¹ Sec. 1, Art. X, PAO Operations Manual.

¹² Sec. 1, Art. VIII, *id.*

consideration the interests of the party and those of society. A *contrario*, a case is deemed unmeritorious, if it appears that it has no chance of success, or is intended merely to harass or injure the opposite party, or to work oppression or wrong.¹³

However, in case the prospective client is the defendant or respondent in a pending civil or administrative case, the Office can still represent or extend legal assistance to the client in order to protect his rights, notwithstanding the determination as to the merit of the case. Similarly, in criminal cases, the cases of the accused-defendants are considered meritorious taking into consideration the presumption of innocence granted by the Constitution.¹⁴

As to the Indigency Test, the Office adopts the following standards:

Taking into consideration recent surveys on the amount needed by an average Filipino family to (a) buy its “food consumption basket” and (b) pay for its household and personal expenses, the following shall be considered indigent persons:

1. If residing in Metro Manila, whose net income does not exceed P14,000.00 a month;

¹³ Sec. 2, Art. II, *Id.*

¹⁴ *Ibid.*

2. If residing in other cities, whose net income does not exceed P13,000.00 a month; and
3. If residing in all other places, whose net income does not exceed P12,000.00 a month.

The term “net income” as herein employed, shall be understood to refer to the income of the litigant less statutory deductions.

“Statutory deductions” shall refer to withholding taxes, GSIS, SSS, Pag-ibig, Health Insurance and Philhealth premiums as well as mandatory deductions.

For this purpose, ownership of land shall not per se, constitute a ground for disqualification of an applicant for free legal assistance, in view of the ruling in *Juan Enaje vs. Victorio Ramos, et al.* (G.R. No. L-22109, January 30, 1970), that the determinative factor for indigency is the income of the litigant and not his ownership of real property.

To ensure that only those qualified shall be extended free legal assistance, the applicant shall be

required to execute an Affidavit of Indigency, and to submit any of the following documents:

1. Latest Income Tax Return or pay slip or other proofs of income; or
2. Certificate of Indigency from the Department of Social Welfare and Development, its local District Office, or the Municipal Social Welfare and Development Office having jurisdiction over the residence of the applicant; or
3. Certificate of Indigency from the Barangay Chairman having jurisdiction over the residence of the applicant.¹⁵

The free legal aid services, particularly handling of cases, are also subject to determination whether a conflict of interest would exist. Thus, where both the complainant and respondent apply for legal assistance and both are qualified, the first to seek assistance shall be given preference.¹⁶ Where the PAO is precluded from accepting the case under the conflict of interests rule, the applicant shall be duly

¹⁵ Sec. 3, *Id.*

¹⁶ Sec. 3.1, Art. VIII, *Id.*

informed and advised to seek the services of a private counsel or legal aid organization.¹⁷

- *Rules and Procedures of Assigning Approved Cases*

The assignment of approved cases, which denotes that the client passed the Merit and Indigency Tests of the Office and there is no conflict of interest, depends on whether the case is already pending in a specific court or quasi-judicial body.

Cases which are yet to be filed, or those already filed but not yet raffled to a specific court or quasi-judicial body, are assigned to public attorneys through rounds system. Thus, a lawyer who receives a case will receive another case only after all the lawyers in the concerned district office or service division are given their respective cases.

However, the assignment of cases which are already pending in a designated court or quasi-judicial body is different. Under the *PAO Operations Manual*, public attorneys are given specific court assignments.¹⁸ The public attorney assigned to a specific court handles all the cases in that court. Hence, cases which are already pending in a designated court are assigned to the resident public attorney of such court or quasi-judicial body.

¹⁷ Sec. 3.2, *Id.*

¹⁸ Sec. 2, *Id.*

- *Services or Standards for Disadvantaged Groups*

Recognizing the specific needs of certain disadvantaged groups, the PAO designed and adopted special rules and standards to promptly and adequately address their concerns.

In the case of women who are victims of violence falling under the Anti-Violence against Women and their Children Law, the Office may render legal assistance regardless of the indigency requirement.¹⁹

In the case of children in conflict with the law (CICL), the *PAO Operations Manual* prescribes specific rules and procedures to be observed by public attorneys from the initial contact with the CICL, to custodial investigation, inquest proceedings or preliminary investigation, arraignment, trial up to the promulgation of judgment and discharge of the CICL if applicable.²⁰ The prescribed rules and procedures ensure that every right and remedy available under the law is afforded to the CICL.

For farmer-beneficiaries of land covered by the Agrarian Reform Law, there is a subsisting Memorandum of Agreement between the Department of Justice and the Department of Agrarian Reform with respect to legal assistance and representation of farmer-beneficiaries in agrarian-related civil or criminal cases pending before the courts, and in cases against farmer beneficiaries pending before the courts or the

¹⁹ Sec. 1, Art. V, *Id.*

²⁰ Art. IV, *Id.*

Department of Agrarian Reform Adjudication Board where one of the parties is already represented by a lawyer from the Department of Agrarian Reform.²¹

For refugees, a Memorandum of Understanding was signed between the Public Attorney's Office and the Office of the United Nations High Commissioner for Refugees regarding access to free legal assistance, counselling and representation of refugees, stateless persons, and those seeking recognition as refugees and/or stateless persons in the Philippines.²²

The Office is also tasked to assist certain specialized groups and/or cases.

Victims of torture may seek free legal assistance from the Public Attorney's Office. The Office is mandated to render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party.²³

Similarly, the Office is directed by law to provide legal representation and consultation services for *barangay* health workers in cases of coercion, interference, and in other civil and criminal cases

²¹ Memorandum of Agreement dated May 8, 1991 between DAR and DOJ.

²² Memorandum of Understanding dated January 8, 2013.

²³ Sec. 11, Republic Act No. 9745

filed by or against *barangay* health workers arising out of or in connection with the performance of their duties as such.²⁴

Included also among the so-called special clients of the Office are: persons with disabilities, senior citizens, land and sea-based overseas Filipino workers, those who are members of indigenous groups, and those with cases relative to the Comprehensive Dangerous Drugs Act (Republic Act No. 9165).

Hiring of Public Attorneys, Evaluating Their Performance and Monitoring the Quality of Their Service

The hiring of public attorneys is strictly based on merit and fitness in accordance with the Constitution of the Philippines and pertinent laws and rules concerning civil service. Hence, applicants for the position of public attorneys are required to go through stringent process which includes written examination on laws and their knowledge about the rules and regulations being observed by the Public Attorney's Office, psycho-neurological test, panel interview, and computer skills test.

To monitor and evaluate their performance, the Office requires public attorneys to submit monthly and semestral reports of their cases and accomplishments. The semestral report also serves as a score card with respect to the performance of a public attorney. The semestral report contains the evaluation of the immediate supervisor/head of the

²⁴ Sec. 6(d), Republic Act No. 7883

concerned district office or service and other higher ranking officials of the Office regarding the performance of a particular public attorney. The score card grades the efficiency of a public attorney as well as his behavioural conduct.

Every client of the Office is likewise given a survey form which indicates his or her level of satisfaction or dissatisfaction, as the case may be, to the service provided by the public attorney and other office personnel. Lines for comments and recommendations are likewise provided in the survey form. These survey forms are dropped in a sealed box and reviewed by the head of the district office or service.

The Office also monitors the quality of its free legal aid services via a system of review. Before filing in court, a complaint, petition, motion, memorandum, position paper, brief, and other court document and pleading prepared by a public attorney, the said documents are reviewed by a senior public attorney, which is usually designated as a section head, and the head of the district office or service. This system ensures that the papers or pleadings prepared by the Office for its clients are checked before they are filed in court.

PAO's Outreach Program to Communities and Information Dissemination Activities

The Public Attorney's Office conducts *barangay* outreach programs. This activity aims to reach out to the people and inform them of the free legal services offered by the Office.

The PAO also makes use of the mass media and the internet to inform a greater number of people about the free legal services it offers. The Office, likewise, utilizes these information tools to render free legal advice and mediation on television.

For more than two (2) years, *Public Atorni*, a reality-mediation show, hosted by the Chief Public Attorney had given legal advice to warring parties and promoted out-of-court settlement of their disputes. The said show provided an avenue for alternative dispute resolution (ADR). (*Public Atorni* was produced at no cost to PAO. Its producer then was the Associated Broadcasting Company (ABC/TV5), one of the biggest television networks in the Philippines.)

Public Atorni's efficacy in mediating and administering justice to warring parties on air earned accolades for both the show and the host (the Chief Public Attorney) from reputable award-giving bodies in the Philippines like the Filipino Academy of Movie Arts and Sciences, the Philippine Movie Press Club, and the Catholic Mass Media Awards, as well as the USA-based, Gawad Amerika Foundation.

The PAO has also made use of radio programs (where PAO officials or other authorized public attorneys are interviewed or are invited as resource persons) to publicize its legal aid services. It also maintains a website: <http://www.pao.gov.ph/>.

The PAO, through the Chief Public Attorney, likewise maintains regular columns/segments with several newspaper publications where queries from readers concerning the law are answered. Currently, the Chief Public Attorney has four (4) *pro bono* columns in leading newspapers in the Philippines. These are: *Dear PAO* (published daily by *The Manila Times*); *Magtanong kay Attorney* (published daily by *Bulgar*); *Say Mo Attorney?* (published every Monday, Wednesday & Friday by *People's Tonight*); and *Attorney First* published every Monday, Wednesday & Friday, as well, by *Pinoy Parazzi*). The Chief Public Attorney has also published a book on legal aid entitled, *Legal Eagle's Counsel: Solutions to Everyday Legal Problems*.

- *Mediation: PAO's Assistance to the Courts and the Public*

To help reduce the number of cases reaching the courts and aid in declogging court dockets, the Office offers mediation and conciliation of disputes service.²⁵ This provides an avenue for the disputing parties to discuss their conflicting claims and try to settle the same without

²⁵ Sec. 4, Art. X, PAO Operations Manual.

going to court. This mediation service is generally available in disputes which are civil in nature.

Mediation is one of PAO's non-judicial services. While the Supreme Court of the Philippines conducts court-annexed mediation through the Philippine Mediation Center, the PAO carries out mediation for disputes not yet filed in court. For the period covering January to December 2013, it handled a total of **449,611** disputes and resolved a total of **333,630** thereof.

PAO'S Participation in Legal Reforms and Education

The Public Attorney's Office participates in legal reforms by sending representatives to conferences both in the Philippines and abroad (such as the ones being conducted by the International Legal Aid Foundation and International Corrections and Prisons Association), as well as to organized committees, like the Criminal Code Committee which is an inter-agency body mandated to review the existing penal laws of the country and to draft a simple, modern, and organic *Criminal Code of the Philippines*.²⁶

The work of the Committee and its members involves regular expert group meetings, focused group discussions, presentations and special lectures, roadshow consultations, and writeshops including submission of policy papers when needed.

²⁶ <http://www.doj.gov.ph/criminal-code-committee.html>.

In connection with this, the Chief Public Attorney was invited by the Hanns Siedel Foundation to be a part of the Philippine delegation which attended an activity on *Crafting a Modern Criminal Code of the Philippines*, held in 2011 in Berlin, Germany.

In 2012, through the efforts of the members of the Code Committee composed of representatives from the Supreme Court, Philippine National Police and the Department of Justice, including the Public Attorney's Office, the Committee finished the first phase of the project which is the completion of the draft of Book I of the proposed Code of Crimes. After polishing the draft and roughly two (2) years after the Committee started its work, the proposed amendments to Book I of the present Revised Penal Code were submitted to Congress for deliberation in August 2013. The bill was docketed as House Bill No. 2300, entitled, "An Act Instituting the Philippine Code of Crimes to Further Strengthen the Criminal Justice System, Repealing for the Purpose Book One of Act No. 3815, As Amended, Otherwise Known as the Revised Penal Code of the Philippines and other Special Laws on Crimes," or "The Philippine Code of Crimes." A year after the proposed amendments to Book I of the present Revised Penal Code were submitted to Congress, the draft for the remaining half of the Revised Penal Code or Book II was completed.

With regard to PAO's involvement in legal education, the Chief Public Attorney, who, herself, is a law professor and reviewer, allows public attorneys to teach and share their legal knowledge to students. The privilege to teach is subject to the requirement that the concerned public attorney first secures an authority to teach to ensure that the same does not impede or impair the ability of the Office to deliver legal aid services to the general public.

In 2008, the Ateneo de Manila University Law School, one of the premier law schools in the country, requested the Chief Public Attorney to teach *Seminar on Public Legal Assistance*. The Chief Public Attorney, together with the administration of the said law school, designed it as an elective course aimed to enhance law students' knowledge about legal aid and expose them to this noble practice. The course is taught through a combination of theoretical instruction and field exposure to give law students first-hand experience in rendering legal aid to those who have less in life. The Chief Public Attorney taught the said course for two (2) years. Consequently, there have been students in the said subject who have joined the Public Attorney's Office.

The partnership of the Public Attorney's Office and the Ateneo de Manila University Law School in promoting legal aid, further bloomed in 2011, when a Memorandum of Agreement was signed between the two institutions, allowing the latter's law students to take their

internship course at the Public Attorney's Office. The said agreement enabled the PAO to reach out to law student interns, give them an opportunity to experience practicing in the field of legal aid, and motivate them to support and actively participate in the administration of the free legal assistance of the Office. The Public Attorney's Office internship program is also open to all qualified applicants from other schools.

Adoption of the United Nations Legal Aid Principles and Guidelines in Policies and Services

The Philippine Constitution expressly declares that the country adopts the generally accepted principles of international law as part of the law of the land.²⁷ The Philippines adheres to the doctrine of incorporation where rules of international law form part of the law of the land and no further legislative action is needed to make such rules applicable in the domestic sphere.²⁸ As such, rules of international law may be directly used as a source of rights. Even so, domestic law, rules and practices would show that the UN legal aid principles and guidelines are espoused by the Philippine legal system.

- *On Responsibilities of the State*

The Philippine Constitution guarantees that free access to the courts and quasi-judicial bodies and adequate legal assistance shall not

²⁷ Sec. 2, Art. II, Constitution.

²⁸ Sec. of Justice vs. Lantion, G.R. No. 139465, January 18, 2000.

be denied to any person by reason of poverty.²⁹ To fulfil this provision, the Public Attorney's Office was created to provide free legal assistance to indigent persons and other qualified persons in criminal, civil, labor, administrative and other quasi-judicial cases. To effectively carry out its role, the office was established as an independent and autonomous office attached to the Department of Justice for purposes of policy and program coordination.³⁰

- *On the Right to Legal Aid of Accused in Criminal Cases*

To protect the rights of an accused, the Constitution likewise guarantees the right to counsel from the start of the criminal investigation until the finality of judgment. The Constitution provides that any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.³¹ Hence, government officials, particularly law enforcement officers, investigating a person for commission of a crime are mandated to inform him or her of the right to counsel, and if the latter does not have the capacity to secure one, then the

²⁹ Sec. 11, Art. III, Constitution.

³⁰ See *Note 1*.

³¹ Sec. 12, Art. III, Constitution.

investigating authority must provide an independent and competent counsel to the person under investigation.

This Constitutional mandate is reinforced by Republic Act No. 7438 by making such violation criminal in nature. The said law imposes a penalty of imprisonment or fine, or both on any arresting public officer or employee, or any investigating officer, who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have a competent and independent counsel preferably of his own choice. Thus, erring government officials may be subject to criminal sanctions in addition to administrative penalties.

For its end, the Public Attorney's Office has adopted an inquest duty system where inquest lawyers and assistants are assigned to be on duty for the purpose of responding to requests for legal assistance at police stations/precincts and jails particularly during custodial investigation, inquest investigation proceedings and jail visitation activity even beyond office hours, and during holidays, Saturdays and Sundays.³² Regional public attorneys and district public attorneys are also mandated to ensure the availability of office telephone lines during office hours and mobile phones at all times even beyond office hours and during holidays, Saturdays and Sundays to station commanders to

³² Memorandum Circular No. 002, Series of 2008, PAO, April 8, 2008.

facilitate efficient coordination and orderly referral of requests for inquest and custodial investigation assistance.³³

Upon reaching the court, the Constitution grants the accused the right to be presumed innocent until the contrary is proved and to be heard by himself and counsel during the prosecution of his or her criminal case among other rights.³⁴ To make the right effective, the *Revised Rules on Criminal Procedure* supplements the constitutional provision at different stages of trial.

Before arraignment, the said law instructs judges to inform the accused of his right to counsel and ask him if he desires to have one. Unless the accused is allowed to defend himself in person or has employed counsel of his choice, the court must assign a counsel *de oficio* to defend him.³⁵ In appointing a counsel *de oficio*, the court shall consider the gravity of the offense and the difficulty of the questions that may arise and appoint as counsel *de oficio* only such members of the bar in good standing who, by reason of their experience and ability may adequately defend the accused. But in localities where such members of the bar are not available, the court may appoint any person, resident of the province and of good repute for probity and ability, to defend the accused.³⁶

³³ *Ibid.*

³⁴ Sec. 14, Art. III, Constitution.

³⁵ Sec. 6, Rule 116, Revised Rules on Criminal Procedure.

³⁶ Sec. 7, *Id.*

At the trial stage, the *Revised Rules on Criminal Procedure* states that the accused shall be entitled to be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment. The accused may, however, be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his rights without the assistance of counsel.³⁷

Should the case reach the appellate courts, it is the duty of the clerk of court to ascertain from the appellant, if he be confined in prison, whether he desires the Court of Appeals or the Supreme Court to appoint a counsel to defend him *de officio*.³⁸ In the affirmative, the clerk of the Court of Appeals shall designate a member of the bar to defend him or her.³⁹

To assist the court and to provide prompt legal aid service to persons, the Public Attorney's Office is allowed to accept cases, albeit provisionally, pending verification of the applicant's indigency and evaluation of the merit of his/her case, in the following instances:

1. When a warrant of arrest has been issued, and assistance is needed in filing a Motion to Post Bailbond or Reduction thereof for his/her provisional liberty;

³⁷ Sec. 1, Rule 115, *Id.*

³⁸ Sec. 13, Rule 122, *Id.*

³⁹ Sec. 2, Rule 124, *Id.*

2. When a person is arrested and/or detained, and appropriate immediate legal action is necessary to protect his/her rights;
3. When a pleading has to be filed immediately, to avoid adverse effects to the applicant;
4. When an appeal or petition for certiorari or prohibition has to be perfected or filed immediately;
5. When the Public Attorney is appointed by the court as counsel de oficio, to represent the defendant during the trial of the case, provided, however, that if a subsequent investigation discloses that the client is not indigent, the lawyer should request the court to relieve him/her by filing a Motion for Withdrawal of Appearance from the case;
6. Where the Public Attorney is designated on the spot, as counsel de oficio for the purpose only of arraignment, pre-trial or promulgation of decision;
7. In cases involving Children In Conflict with the Law (CICLs), where there is an immediate need of counsel;⁴⁰

Should the Office be constrained to deny the case for legal reasons, such as conflict of interest or if later investigation reveals that

⁴⁰ Sec. 4, Art. II, PAO Operations Manual

the client is not indigent, then office policy and practice dictate the attending lawyer to refer the person to other legal aid offices such as the legal aid office of the Intergrated Bar of the Philippines, legal aid clinics in law schools, or appropriate non-government organizations.

- *On the Right to Legal Aid of Victims of Crime*

The mandate of the Public Attorney's Office is to provide legal assistance to indigent and other qualified persons in criminal, civil, labor, administrative and other quasi-judicial cases. It does not distinguish whether the indigent persons is the complainant or defendant in the case. Thus, the Office may lawfully represent victims of crime. Where both the complainant and respondent apply for legal assistance and both are qualified, the first to seek assistance shall be given preference.⁴¹

In the event, however, where the case is forwarded to the court, the prosecution of the case shall be turned over to the National Prosecution Service of the Philippines in accordance with law.

- *On Other Rights*

Republic Act No. 10389 institutionalized recognizance as a mode of granting the release of an indigent accused person who is held in custody. As defined in the law, recognizance is a mode of securing the release of any person in custody or detention for the commission of an

⁴¹ See Note 11.

offense who is unable to post bail due to abject poverty.⁴² This law aims to equalize entitlement of an accused to the right to bail, which essentially translates to the right to be released while the criminal case is being heard in court, giving the poor and marginalized an effective and reasonable means to avail the same.

To this end, the Public Attorney's Office assists persons in filing a motion to post bail bond or reduction thereof, or recognizance whenever applicable. Thus, those found to have been held in custody beyond the period equal to or more than the maximum/minimum imposable penalty for the offense charged are informed that through a proper motion, they could be released pending trial or appeal or be released on a reduced bail or on their own recognizance, as the case may be. The discovery of such a situation should be relayed to the counsel *de parte* of the detention prisoner or the PAO resident lawyer for immediate action.⁴³

Diversion programs and schemes also abound in the Philippine legal system. Persons who have been adjudged guilty beyond reasonable doubt may, instead of appealing the case, file a petition for probation under the Probation Law⁴⁴ to ask the court to be released subject to conditions imposed by the court and to the supervision of a

⁴² Sec.3, Republic Act. No. 10389.

⁴³ Sec. 6.2, Art. X, PAO Operations Manual.

⁴⁴ Presidential Decree No.968.

probation officer. Moreover, the grant of probation is subject to the criteria and disqualifications mentioned in the law.

Similarly, under the Indeterminate Sentence Law⁴⁵, a convicted person may file an application for parole after serving his minimum sentence subject to the conditions set by law. This grants a convicted person the privilege to be released on parole and avoid the need to serve his maximum sentence in prison.

The Juvenile Justice and Welfare Act⁴⁶ also promotes diversion programs for children in conflict with the law. The diversion system includes mediation, family conferencing and conciliation, rehabilitation program, counselling for the child in conflict with the law and the child's family, attendance in trainings, seminars and lectures, participation in education, vocation, life skills and community-based programs including community service, and institutional care and custody.

To ensure that CICL clients of the Public Attorney's Office are afforded their rights, the *PAO Operations Manual* specifically details the prescribed rules and procedures to be observed by public attorneys in handling CICL cases. The Manual details the protocol from the initial contact with the CICL, to custodial investigation, inquest proceedings or

⁴⁵ Act No. 4103.

⁴⁶ Republic Act. No. 9344.

preliminary investigation, arraignment, trial up to the promulgation of judgment and discharge of the CICL if applicable.

Concerning alternative dispute resolution, such mechanisms are encouraged in the country. Prior to filing a case in court, disputes between parties who reside within the same city or municipality are required by the Local Government Code⁴⁷ to undergo conciliation in the *barangay* where respondent resides, subject to certain exceptions.

The Alternative Dispute Resolution Act⁴⁸ provides alternative dispute resolution system, rules and procedures as a means of settling dispute other than by adjudication of a presiding judge of a court or an officer of a government agency. This includes arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or a combination of the foregoing.

Even cases reaching the courts or quasi-judicial bodies are encouraged to go to mediation. The Supreme Court of the Philippines issued guidelines⁴⁹ to expand the coverage of court-annexed mediation and judicial dispute resolution. Similarly, the Labor Code⁵⁰ prescribes that all issues arising from labor and employment shall be subject to mandatory conciliation-mediation. The Labor Arbiter or the appropriate Department of Labor and Employment agency or office that has

⁴⁷ Chapter VII, Republic Act No. 7160. Local Government Code,

⁴⁸ Republic Act No. 9285.

⁴⁹ Resolution A.M. No. 11-1-6-SC-PHILJA.

⁵⁰ Presidential Decree No. 992 as amended by Republic Act No. 10396.

jurisdiction over the dispute shall entertain only endorsed or referred cases by the duly authorized officer.

With a similar end in view, as mentioned above the Public Attorney's Office likewise offers mediation service⁵¹ as part of its non-judicial services to provide an additional avenue for parties with conflicting claims to discuss and try to amicably settle their dispute.

Challenges in Fulfilling the PAO's Mandate

For the Public Attorney's Office to be more effective in the performance of its mandate, there is a need for a faithful compliance and fulfilment of the provision on Republic Act No. 9406, which provides that "there shall be a corresponding number of public attorney's positions at the ratio of one public attorney to an organized sala and the corresponding administrative and support staff thereto"⁵²

As of now there are **1,522** public attorneys who actively handle criminal and civil cases in more or less **3,000 courts** nationwide. About **61** of them devote themselves to appealed cases before the Court of Appeals, the Supreme Court and the Office of the President. However, the handling of criminal and civil cases, where they represent clients in courts is only a part of the functions of public attorneys. They also appear in and handle administrative and labor cases, the so-called

⁵¹ See Note 20.

⁵² Sec. 7.

quasi-judicial cases and such other limited and special cases. Aside from all these, as mentioned above, they also render non-judicial services.

In view of the disparity in the number of public attorneys and the courts, and the heavy workload of the former, the creation of additional *plantilla* items for public attorneys and staff is of utmost necessity for the Public Attorney's Office. Nonetheless, even in its current predicament, the Office has continuously thought on how to better serve its clientele and the public through its legal aid innovations like its *Legal, Medical, Dental, Optical Mission and Jail Decongestion Program; Victims' Assistance Unit*; and, the *PAO Forensic Laboratory*.

Since the creation of the PAO, jail visitation has been one of its regular outreach activities. However, the Chief Public Attorney deemed it necessary to widen the scope of this program for the welfare of the inmates and the progress of the criminal justice system in the Philippines. Hence, on April 12, 2007, medical (with dental and optical) services were included to the regular legal assistance of the Office.

This outreach program for inmates was cited by the Office of the President in its *Technical Report* for His Excellency President Benigno S. Aquino III's 2012 State of the Nation Address. The Office of the President noted that a total of **40,969** inmates were freed from overcrowded jails and prisons nationwide through the PAO's jail visitation and decongestion program from July 2010 to April 2012.

Two years after this citation, on July 13, 2014, the PAO Jail Visitation Team which is headed by the Chief Public Attorney, received the *Excellence Award in Criminal Justice* from the Filipino Academy of Movie Arts and Sciences (an institution in Philippine movie production which also honors worthy endeavors outside of the film industry). It recognized the contributions of the PAO Legal, Medical, Dental, Optical Mission and Decongestion Program in alleviating the plight of inmates in various jails, detention centers, and correctional facilities in the Philippines.

The PAO's Victims Assistance Unit was created on July 12, 2012 to address the needs of victims of mass disasters, natural calamities, torture, massacres, extrajudicial killings, and Violence Against Women and their Children, children in conflict with the law and other similar cases of persons who have requested legal assistance from the Public Attorney's Office, on first come first served basis. Providing medico-legal and forensic assistance to clients who seek the help of the PAO Victims' Assistance Unit is the PAO Forensic Laboratory. The latter was launched on January 27, 2010, and since then it has made Forensic Science an accessible tool in seeking justice, especially for the poor.

In 2012, one of the beneficiaries of these two complementing legal aid innovations was PAO client, Bonita Baran, a former household

helper who was allegedly maltreated by her previous employers until she lost her right eyesight. Her case helped in creating awareness and drawing support to a bill for domestic workers that was approved by President Benigno S. Aquino III on January 18, 2013 and is now known as Republic Act No. 10361 or the *Domestic Workers Act*.

All of these and the seeds of dedicated public service and zealous protection of the rights of its clients through the years have yielded good fruits for the Public Attorney's Office. Recently, its Central Office, and most of its Regional and District Offices have all garnered a final descriptive rating of *Excellent* in the delivery of public service in the *Anti-Red Tape Act Report Card Survey* conducted by the Civil Service Commission in 2013.

In the midst of the challenges of public service, the Public Attorney's Office will continue scaling greater heights and embracing a wider breadth in rendering free legal aid in the country and even beyond the Philippine national borders for as long as it is within the ambit of its mandate.

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