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**The Public Attorney's Office:
Its Metamorphosis and Challenges as the Government of the
Philippines' Principal Free Legal Aid Office**

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The Philippines is the home of **88,574,614¹** Filipino people. **32.9%²** of them live below the poverty line. To this fraction of Filipinos is where the clients of the Public Attorney's Office (PAO) belong.

The PAO is the principal law office of the Philippine Government in extending free legal assistance to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. The PAO's workforce consists of 1,047 lawyers and 800 support staff. It has 17 regional and 258 district offices located in strategic places in the Philippines.

Pao's Progress In Metamorphosis

There was an agrarian turmoil in the Philippines in 1954. In this period of unrest the Agricultural Tenancy Commission (ATC) was born. On August 30, 1954, Republic Act No. 1199 created the ATC, which was later renamed as Tenancy Mediation Commission (TMC). With the passage on August 8, 1963 of Republic Act No. 3844, otherwise known

¹ As of August 1, 2007 (Based on the 2007 Census of Population)

² 32.9% among population \approx 27.62 million individuals, using annual per capita poverty threshold of P15,057.00 (2006 Percent below poverty line)

as the "Agricultural Land Reform Code," TMC was further strengthened and renamed as the Office of the Agrarian Counsel (OTAC) which paved the way for the creation in 1972 of the Citizen's Legal Assistance Office (CLAO) under P.D. No. 1 and Implementation Order No. 4. With the advent of the Administrative Code of 1987 (E.O. 292) on July 25, 1987, the CLAO was renamed the Public Attorney's Office (PAO).

The changes in the names of these offices happened in accordance with the growing legal needs of the Filipino people. Consequently, the agrarian related assistance provided then by the ATC, TMC, and OTAC was expanded with the inclusion of legal services in criminal, civil, labor, administrative and other quasi-judicial cases rendered by both the CLAO and PAO.

The PAO's metamorphosis in the past has somehow hinted about its future endeavors and stature. The allusion did not materialize in some distant future. It happened two (2) years ago and at present, its effects are very much felt way beyond the Central Office, regional and district offices of the PAO. On March 23, 2007, Republic Act No. 9406 (PAO Law) was approved by Her Excellency President Gloria Macapagal-Arroyo. Because of this, the PAO became an independent and autonomous office but attached to the Department of Justice (DOJ) for purposes of policy and program coordination. The signing and approval of its Implementing Rules and Regulations (IRR) subsequently happened on July 14, 2008.

Among the highlights of the PAO Law are the following, to wit:

- 1) The Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys shall not be removed or suspended, except for cause provided by law. (Sec. 6);
- 2) The clients of the PAO are exempted from payment of docket and other fees incidental to instituting an action in court and other quasi-judicial bodies. (Sec. 6);
- 3) The PAO is exempted from payment of charges on postage stamps and mail matters. (Sec. 6);
- 4) Public Attorney's positions at the ratio of one public attorney to an organized court sala (Sec. 7);

- 5) PAO lawyers have general authority to administer oaths in connection with the performance of duty. No need to apply before the courts for authority as notary public. (Sec. 8);
- 6) The Chief Public Attorney, the Deputy Chief Public Attorneys, the Regional Public Attorneys, the Provincial, City and Municipal District Public Attorneys, other PAO lawyers and officials who have direct supervision over PAO lawyers shall be granted special allowances not exceeding 100% of the basic salary of PAO officials and lawyers. (Sec. 9).

Through the years the transformation of the PAO has been marked by its change of names, broadened duties and responsibilities, as well as by its growing stability in credibility and respectability.

Serving and Thriving

In giving free legal services, the PAO applies two important criteria: *First*. The client must be indigent; and *Second*. The case must be meritorious.

Taking into consideration PAO Memorandum Circular No. 18, s. 2002, as amended, and subject to such further amendments by the Chief Public Attorney, the following shall be considered *indigent persons*:

- 1) Those without income;
- 2) Those residing in Metro Manila whose family income does not exceed ₱ 14,000.00 a month;
- 3) Those residing in other cities whose family income does not exceed ₱ 13,000.00 a month;
- 4) Those residing in all other places whose family income does not exceed ₱ 12,000.00 a month.

The following are proofs of indigency:

- 1) Latest Income Tax Return;
- 2) Certificate of Indigency from the Department of Social Welfare and Development (DSWD) having jurisdiction over the residence of the applicant together with an Affidavit of Indigency executed by the applicant; or

- 3) Certificate of Indigency from the Barangay Chairman having jurisdiction over the residence of the applicant.

The term "family income" refers to the gross income of the litigant and that of his or her spouse, but shall not include the income of the other members of the litigant's family (Rule 1, Section 2(b), Implementing Rules and Regulations of R.A. 9406).

Ownership of land shall not *per se* constitute a ground for disqualification of an applicant for free legal assistance (Rule 6, Section 23, Implementing Rules and Regulations of R.A. 9406).

A case shall be considered meritorious if an evaluation of the law and evidence on hand discloses that the legal services of the office will assist, or be in aid of, or in furtherance of justice, taking into consideration the interests of the party and those of society. In such cases, the PAO shall represent the party concerned. *A contrario*, a case is deemed unmeritorious if it appears, from an evaluation of the law and evidence on hand that it has no chance of success, or is intended merely to harass or injure the opposite party, or to cause oppression or wrong. In which case, the PAO must decline to accept said case.

Provided, however, that in criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven, hence, cases of defendants in criminal actions shall be deemed meritorious.

Provided, further, that the PAO may represent an indigent client even if the cause of action is adverse to a public officer, government office, agency, or instrumentality, as long as the case is meritorious. Caution, should, however, be exercised so that the office will not be exposed to charges of harassment, unfairness or haste in the filing of suits. (Rule VI, Section 25, Implementing Rules and Regulations of R.A. 9406)

Although the PAO's mandate is to render legal assistance to *indigent clients*, it can also provide provisional assistance even to a non-indigent when it is ordered by the court to act as counsel *de officio*. "Other persons" may also be served by the PAO, in connection with Section 3 of the new PAO Law. I will cite two (2) cases to illustrate these points, to wit: 1) the case of former President Joseph Estrada, and 2) the cases of the victims of the M/V Princess of the Stars maritime tragedy.

In 2002, the *Sandiganbayan*, the court which tries graft and corruption cases, ordered the PAO to extend provisional assistance to former President Joseph Estrada when he decided not to avail anymore of the services of his private lawyers. The former president was the highest-ranking Filipino official to be prosecuted under RA 7080 (An Act Defining and Penalizing the Crime of Plunder) as amended by RA 7659.

The nine (9) court-appointed PAO lawyers which included this humble public servant as one of the lead counsels, rendered free legal representation to former Pres. Estrada from February to May 2002. Only for this short period of time because we decided to file a Motion to Withdraw as counsels, arguing that the presence of private counsels among the court-appointed lawyers had already freed us from the duties of handling his case.

Section 3 of the PAO Law provides that "in the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations." The word "service" in the same provision refers to free legal representation, assistance and counseling in criminal, civil, labor, administrative and other quasi-judicial cases.

In connection with this, the Department of Justice was able to issue me an authority to handle the cases of all the victims and the victims' relatives in connection with sinking on June 21, 2008 of the Philippine vessel, *M/V Princess of the Stars*. We have done away with the PAO indigency test in these cases of maritime tragedy, this being a mass disaster.

The PAO Law has made it possible for us to help in bringing to court and administrative bodies the ship owners who have evaded for years their accountabilities for miserably failing in transporting both their passengers and cargoes to their respective places of destination.

Likewise, with the advent of the PAO Law, our Office has served an increasing number of clients and winning a good number of their cases as well.

In 2007, we were able to assist **4,382,611** clients and handled **599,076** cases. In 2008, we were able to assist **4,839,988** clients and handled **666,676** cases. Our efforts also helped in causing the release of **86,593** inmates in 2007 and **81,966** inmates in 2008 (*based on partial reports*).

Among the clients of the PAO are inmates who are serving their sentence in Philippine jails or confined in detention centers. For them, we have intensified our jail visitation program. Its scope has become wider. To our free legal services, we have included medical, dental, and optical services at no cost. We now call it the **PAO's free legal and medical jail visitation/decongestion program**.

Our outreach program for inmates started on April 12, 2007. The PAO Legal and Medical teams were able to visit **eighteen (18)** jails and give legal assistance to **four thousand sixty-five (4,065)** inmates in 2007. **Three thousand one hundred one (3,101)** of them were released that same year. Also in 2007, **five thousand four hundred thirteen (5,413)** ailing inmates were given free medical/dental assistance and **two thousand three hundred thirty-nine (2,339)** inmates became recipients of free reading glasses.

As of **December 16, 2008**, we have gone to **51** jails and have given legal advice to **5,337** inmates. In the **51** jails that we visited **9,818** inmates have already been released. Also during the said visits, **7,864** ailing inmates were given free medical/dental assistance and **1,415** inmates became recipients of free reading glasses. *(2008 figures cited here are based on partial reports).*

The industry, competence, and dedication to genuine public service of the whole workforce of the PAO have been recognized by different groups and offices. Among these have come from key government offices in the Philippines, and these are the following:

- 1) A Commendation was given to the Public Attorney's Office last year by the Presidential Management Staff (PMS). It commended "the PAO's endeavors in doing its duty to provide legal assistance to indigents. It also acknowledged "the PAO's efforts in the delivery of justice to the poor and powerless," which "contribute greatly to the government's mission of upholding human rights"; and
- 2) In a study conducted by the La Salle Institute of Governance, supported by the Supreme Court of the Philippines and the United Nations Development Programme (UNDP), these impressions were written about our Office, to wit: "The PAO is able to provide adequate and affordable access to justice for its poor clients despite immense resource constraints....This is not a government organization where most of the employees engage in watching the clock tick to

5. This is an organization wherein many if not most of the PAO spend their personal hours for official work.... The element of strictness that the Chief PAO exudes permeates down the line and serves the organization well.”

Remarks like these inspire us no end. But we certainly don't rest on past laurels. We know that in order to maintain our good stature in public service, we have to continuously do our mandate with the same values that made the PAO an Office that is worthy of the people's trust.

The people's trust has given the PAO a chance to handle cases of national significance and global importance. Some of these cases are the ones I handled personally in my official capacity as Chief Public Attorney. The following are the said cases as well as the legal efforts and remedies that I extended to them, to wit:

- 1) The cases of the victims of the *M/V Princess of the Stars* maritime tragedy. Forty (40) civil cases have already been filed against the owners and management of the Sulpicio Lines, Inc. (SLI) in Manila and thirty-four (34) in Cebu City. Administrative and criminal cases have also been filed against the said respondents at the Maritime Industry Authority (MARINA) and the Department of Justice (DOJ);
- 2) The case of death convicts Roberto Lara and Roderick Licayan. On January 26, 2004 I had my Oral Argument at the Supreme Court in connection with the Motion to Suspend Lara and Licayan's Execution and Reopening of their cases. The honorable justices heard our plea during the said oral argument and this helped in seeking reprieves not only to Lara and Licayan but also to more than 200 death convicts. (The death penalty was abolished by our Congress and approved by H. E. President Gloria Macapagal-Arroyo on June 24, 2006);
- 3) The release and dismissal of the cases of the 147 supporters of former President Joseph Estrada during the May 1, 2001 seige of the Malacanang in which they were charged with rebellion;

- 4) The case of the minor "Angelica" who was raped in and deported from Sabah, Malaysia, and the thousands of Filipino deportees from the said place in 2002;
- 5) The cases of former President Joseph Estrada and Senator Jinggoy Estrada as court-appointed counsel *de officio* before the *Sandiganbayan* from February to May 2002;
- 6) The hearings in Davao City Regional Trial Court (RTC) that led to the subsequent dismissal of the cases of the 199 Moro Islamic Liberation Front (MILF) suspects regarding the Motion to Suspend Proceedings and Lifting of Warrants of Arrest in connection with the Davao International Airport and Sasa Wharf bombings. After the lifting of warrants, H. E. President Gloria Macapagal-Arroyo declared ceasefire between the Government of the Republic of the Philippines (GRP) and the MILF;
- 7) The hearings before various courts in Visayas and Mindanao and subsequent release of 32 political prisoners in connection with the Oslo, Norway Communist Party of the Philippines-National Democratic Front (CPP-NDF) and GRP peace talks. Among the said political prisoners was Zenaida Llesis, an alleged ranking rebel *amazona*. I prioritized her release on recognizance, she being a nursing mother to a daughter who was suffering from a congenital heart disease;
- 8) The surrender and release of Amrodin Makasilang, Kidnapping suspect, who was listed in the Order of Battle of the National Anti-Kidnapping Task Force (NAKTAF). The case was dismissed by Judge Brigido Artemon Luna of RTC-Parañaque;
- 9) The transfer to the National Center for Mental Health and subsequent release of a battered wife named Rosalinda Pelonio who killed her own daughters while sleeping;
- 10) The release of SPO1 Ronaldo Palmares, Jr. in connection with Fathur Roman Al-Ghozi's escape from Camp Crame;
- 11) Legal assistance to 72-year-old Ms. Elena dela Paz, aide for 45 years of the late Philippine film icon, Ms. Nida

Blanca. As per DOJ Resolution dated November 11, 2008, signed by the Honorable Secretary of Justice Raul M. Gonzalez, Ms. Dela Paz was dropped as respondent in I. S. No. 2002-619, and the handling prosecutor was directed to cause her deletion from the Amended Information;

- 12) The hearings of the 130 MILF suspected beheaders of the ten marines in Basilan;
- 13) The release of Norberto Manero, Jr., who was convicted for the killing of an Italian priest, Fr. Favali;
- 14) Thousands of accused and inmates in connection with the Motion to Suspend their Execution and Reopening of their cases resulting to the reprieves of more than 200 death convicts; and the
- 15) The release of Pablo Martinez on November 21, 2007, by virtue of a presidential pardon granted to 70-year-old and above inmates. Martinez was one of the 15 military personnel who sought our legal assistance in connection with the murders of Senator Benigno "Ninoy" Aquino and Rolando Galman. While we are seeking for the reopening of this case due to newly-discovered and compelling pieces of evidence, we are also petitioning for the granting of presidential pardon to the remaining 12 incarcerated soldiers because of the following reasons, to wit:
 - a) The said soldiers have already served their sentences for more than 25 years;
 - b) They have served several years of good conduct time allowance (GCTA);
 - c) They are qualified for executive clemency since 1996, as per letter of the Board of Pardons and Parole (BPP);
 - d) Former Philippine President Corazon C. Aquino (the widow of the late Sen. Aquino), through her lawyer, has already signified her pardon for the said soldiers; and
 - e) The physicians of the Department of Health (DOH) and New Bilibid Prisons (NBP) have certified that all of them are suffering from multiple and serious diseases.

Concerns and Challenges

Meager budgetary allocation has always been a concern of the PAO. In 2008, the office had an approved appropriation of Php 767,397,000.00. However, a total amount of Php 751,280,245.00 only was released by the Department of Budget and Management which included the payment of Terminal Leaves and Retirement Gratuities of 89 retired/resigned employees amounting to Php 13,281,343.97.

Because of budgetary constraints we also have a scarcity on office equipment. The other issues which confront us are fast turnover of PAO lawyers, heavy workload, and lack of attractive retirement benefits.

In spite of all this we are hopeful that we can inspire our lawyers to stay with the PAO for a long time if not for good because our Office is doing its best to attend to their professional growth and other needs in keeping with the standard of their chosen profession. And needless to say, the framers of the newly-approved PAO Law have also their best interests in mind. Pursuant to Republic Act No. 9406 and its Implementing Rules and Regulations, the rank of incumbent public attorneys was upgraded to the rank equivalent to their respective counterparts in the National Prosecution Service. Salary differentials accruing to said qualified public attorneys were released by the Department of Budget and Management.

We remain undaunted with the challenges that confront us. In a research-study conducted about the PAO, the authors theorized that "the ability of an organization to motivate its staff rests not only on monetary terms."³ They noted that "apparently, in the PAO the psychic rewards of helping the poor are very strong... The PAO has also harped on its social responsibility to create a bond of idealism among its people."⁴

Our sense of social responsibility and idealism have always made a difference in our efforts toward the fulfillment of the PAO's mandate.

³ *2003 Assessment of the Public Attorney's Office*, (Philippine Supreme Court: 2004) p. 13

⁴ *Ibid.*, 14