



COURSE OUTLINE:

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- A. Reference Materials
- B. Statutory Law
- C. Case Law/Jurisprudence
- D. Treatises/Annotations/Commentary
- E. Electronic Sources
- F. Non-Legal Materials
 1. Directories/Finding People
 2. Government Documents
 3. News

V. Overview of International and Foreign Legal Research

- A. Introduction
- B. Defining Public and Private International Law, Comparative Law
- C. Sources of Law
 1. Basic References
 2. Primary Sources

VI. Philippine Legal Citations

VII. Legal Research Methodologies

- A. General research methodology
- B. Determination of Appropriate Research Tools

VIII. Legal Writing and Analysis

- A. Types of Legal Writing
- B. Basic Rules of Legal Writing
- C. Structures of Legal Writing
- D. The Final Paper

PRELIMINARY CONSIDERATIONS

Overview of the Government Structure

Fundamental Powers of the State

1. **Police Power of the State** – the power of the state to regulate liberty and property for the promotion of general welfare of the people.
2. **Power of Eminent Domain** – it enable the state to acquire private property, upon payment of just compensation.
3. **Power of Taxation** – power of the state to demand from the members of the society their proportionate share or contribution in the maintenance of the government.

Doctrine of Separation of Powers - each branch of the government exercises powers exclusive to it without undue influence from the two other branches.

Branches of the Philippine Government

- Executive Department
- Legislative Department
- Judiciary Department

Executive Branch

(power of the sword)

The executive power shall be vested in the president of the Philippines (Section 1 Article VII, 1987 Constitution).

Category	President	Vice President
Rank	Highest ranking official	2 nd highest ranking official
Term	6 years	6 years
Can run for re-election?	NO. unless he/she became president by constitutional succession for no more than 4 years as President	YES
To be replaced by: (in case of resignation, impeachment or death)	Vice President	Any member of Congress, validated by 3/4 of Congress voting separately



The President appoints his/her own cabinet. Malacañang Palace is the official residence of the Chief executive of the land.

Powers of the Executive

- **C**ontrol
- **R**emoval
- **A**ppointing
- **M**ilitary
- **P**ardoning
- **D**iplomatic
- **B**orrowing
- **I**nforming
- **B**udgetary

Legislative Branch

(power of the purse)

The legislative power shall be vested in the Congress of the Philippines, which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by provision of initiative or referendum. (Section 1, Article VI, 1987 Constitution)

Powers of the Legislature

- **M**ake laws
- **A**mend laws
- **R**epeal laws
- **A**lter laws

Judicial Branch

(bastion of rights and liberties of the people)

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law. (Section 1, Article VIII, 1987 Constitution)

Powers of the Judiciary

- Interpret the law
- Settle actual controversies
- Determine whether or not there has been a grave abuse of discretion amounting to lack or excess in jurisdiction on any part or any branch or instrumentality

Philippine Legal System

Sources of Law and Classifications

By Authority:

1. **Primary Authority** – main source of law.
 - a. **Mandatory Primary Authority** - is law created by the jurisdiction in which the law operates like the Philippines;
 - b. **Persuasive Mandatory Authority** - is law created by other jurisdictions but which have persuasive value to our courts (e.g. *Spanish and American laws and jurisprudence*).
2. **Secondary Authority** - are commentaries or books, treatise, writings, journal articles that explain, discuss or comment on primary authorities. Also included in this category are the opinions of the Department of Justice, Securities and Exchange Commission or circulars of the Bangko Sentral ng Pilipinas. These materials are not binding on courts but they have persuasive effect and/or the degree of persuasiveness.

Classification of Primary Authority:

1. **Statutes or statutory law** – Statutes are defined as the written enactment of the will of the legislative branch of the government rendered authentic by certain prescribed forms or solemnities are more also known as enactment of congress. Generally they consist of two types, the Constitution and legislative enactments. In the Philippines, statutory law includes constitutions, treaties, statutes proper or legislative enactments, municipal charters, municipal legislation, court rules, administrative rules and orders, legislative rules and presidential issuance.
2. **Jurisprudence or Case Law** – is cases decided or written opinion by courts and by persons performing judicial functions. Also included are all rulings in administrative and legislative tribunals such as decisions made by the Presidential or Senate or House Electoral Tribunals. Only decisions of the House of Representatives Electoral



Tribunal are available in print as House of Representatives Electoral Tribunal Reports, volume 1 (January 28, 1988-October 3, 1990) to present. They will be available electronically at the Supreme Court E-Library and as a separate CD.

For Muslim law,

the primary sources of Shariah are:

- Quran
- Sunnaqh
- Ijma
- Qiyas

Classification by Character:

1. Statute Law Books
2. Case Law Books or Law Reports
3. Combination of the Above
4. Law Finders
 - Indexes
 - Citators
 - Encyclopedias
 - Legal dictionaries
 - Legal thesauri
 - Legal digests

PHILIPPINE LEGAL RESEARCH

Research of Statute Law

Research of Statute Law

Statute laws are the rules and regulations promulgated by competent authorities; enactments of legislative bodies (national or local) or they may be rules and regulations of administrative (departments or bureau) or judicial agencies. Research of statutory law does not end with consulting the law itself. At times it extends to the intent of each provision or even the words used in the law. In this regard, the deliberations of these laws must be consulted.

1. Constitution

A written instrument enacted by direct action of the people by which the fundamental powers of the government are established, limited and defined, and by which those powers distributed among the several departments for their safe and useful exercise for the body politic. (*Justice George A. Malcolm*)

It is the supreme law of the land. It is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land must defer. (*Cruz, 1996*)

Philippine Constitutions

- Malolos Constitution
- 1935 Constitution
- 1943 Constitution (*null and void*)
- 1973 Constitution
- 1986 Constitution (*provisional*)
- 1987 Constitution

2. Statute Proper

Statutes are enactments of the different legislative bodies since 1900 broken down as follows:

4,275 ACTS – from 1900-1935

733 Commonwealth Acts – from 1935-1945

2034 Presidential Decrees – from 1972-1985

884 Batas Pambansa. – from 1979-1985

9,547 Republic Acts – from 1946-1972,
1987- April 1, 2009

The above figures clearly show that during Martial Law, both President Marcos and the Batasang Pambansa (Parliament) were issuing laws at the same time – Presidential Decrees by President Marcos and Batas Pambansa by the Philippine Parliament.

a. Legislative History

1. Legislative Process
2. Legislative Documents
3. Legislative Websites

b. Parts of Statute

c. Forms of Publication

d. Codification



- Child and Youth Welfare Code
 - Civil Code
 - Comprehensive Agrarian Reform Code
 - Coconut Industry Code
 - Code of Commerce
 - Cooperative Code
 - Corporation Code
 - Family Code
 - Fire Code
 - Forest Reform Code
 - Intellectual Property Code
 - Labor Code
 - Land Transportation and Traffic Code
 - Local Government Code
 - Muslim Code of Personal Laws
 - National Building Code
 - National Code of Marketing of Breast-milk
 - Substitutes and Supplements
 - National Internal Revenue Code
 - Omnibus Election Code
 - Philippine Environment Code
 - Revised Administrative Code
 - Revised Penal Code
 - Sanitation Code
 - State Auditing Code
 - Tariff and Customs Code
 - Water Code
- e.
- f. Finding Statutes
1. Substantive Law
 - a. Civil Law
 - b. Commercial Law
 - c. Criminal Law
 - d. Labor Law
 - e. Legal and Judicial Ethics
 - f. Political Law
 - g. Taxation Law

2. Remedial Law

Research of Case Law

1. Nature of Case Law
 - a. Parts of a Case Law
 - b. Citation Format
 - c. Finding Cases
2. Sources of Case Law
 - a. Supreme Court Decisions
 - b. Court of Appeals Decisions
 - c. Decision of Special Courts
 - d. Decision of Administrative Agencies, Commissions and Boards

LEGAL PROFESSION AND LEGAL EDUCATION

The Constitution (Sec.5) vests the Supreme Court with the power of admission to the practice of law. The judicial function to admit to the legal profession is exercised by the Supreme Court through a Bar Examination Committee. The requirements to be able to apply for admission to the bar are provided in Rule 138, sec. 2 and sections 5-6 (academic requirements). Every applicant for the admission must be a Filipino citizen and at least 21 years of age. As to the academic requirements, he should have finished a four year pre-law course and a four year law degree. The Bar Examinations are given during the four (4) Sundays of September of each year. The lists of lawyers who are allowed to practice are found in the Rolls of Attorneys of the Supreme Court and the publication of the Court entitled, Law List. The online version of the Law List, available in the Supreme Court and Supreme E-Library, includes the annual lists of additional members of the bar.

Special Bar Exams for Shari'a Court lawyers is provided for by virtue of the Court En Banc Resolution dated September 20, 1983. The exam is given every two years. Although the exam is conducted by the Supreme Court Bar Office, it is the Office of Muslim Affairs who certifies as to who are qualified to take the exam.

Republic Act No. 7662, approved on December 23, 1993, provided for reforms in legal education and created a Legal Education Board. The Board shall be composed of a Chairman who shall preferably be a former justice of the Supreme Court of Court of Appeals and regular members composed of: a representative of each of the following: Integrated Bar of the Philippines (IBP), Philippine Association of Law Schools (PALS), Philippine Association of Law Professors (PALP), ranks of active law practitioners and law students' sector. The reforms in the legal education system envisioned by Republic Act No. 7662 will require proper selection of law students, maintain the quality of law schools and require legal apprenticeship and continuing legal education. All attorneys whose names are in the Rolls of Attorneys of the Supreme Court who have



qualified for and have passed the bar examinations conducted annually, taken the attorney's oath, unless otherwise disbarred must be a member of the Integrated Bar of the Philippines. Bar Matter No. 850 was promulgated by the Resolution of the Supreme Court En Banc on August 22, 2000, as amended on October 2, 2001, providing for the rules on Mandatory Continuing Legal Education (MCLE) for Active Members of the Integrated Bar of the Philippines (IBP). The members of the IBP have to complete every three (3) years at least thirty six (36) hours of continuing legal activities approved by the MCLE Committee. An IBP member who fails to comply with the said requirement shall pay a non-compliance fee and shall be listed as a delinquent member of the IBP. A Mandatory Continuing Legal Education Office was established by the Supreme Court (SC Administrative Order No. 113-2003) to implement said MCLE. Under the Resolution of the Court en Banc dated September 2, 2008 (Bar Matter No. 1922), the counsel's MCLE Certificate of Compliance must be indicated in all pleadings filed with the Courts.

PHILIPPINE LEGAL INFORMATION AND RESOURCES

OVERVIEW OF INTERNATIONAL AND FOREIGN LEGAL RESEARCH

PHILIPPINE LEGAL CITATIONS

LEGAL RESEARCH METHODOLOGIES

www.

1. Legislative Department (Statutes)

Statutes are laws enacted by the Philippine Congress.

Ordinance refers to a law passed by a local government.

2. Judiciary Department (Case Law)

Common law is the law created by courts in the absence of enacted laws.

Case Law includes not only common laws but also law created when courts *interpret* or *apply* enacted law.

Judge Made Law in case of silence, obscurity or inefficiency of the laws. (Sec.9, NCC)

NOTE: All three may be interchangeably be used.

3. Executive Department (Administrative) Implementing Rules and Regulations or Administrative Orders are examples.

The executive branch serves as source of law in four (4) ways:

1. Treaties are entered into by the executive branch with the consent of Philippine Senate.
2. The President can issue executive orders to regulate and direct national agencies officials.
3. Executive branch exerts influence on the statute through implementing rules and regulations and these are considered as sources of laws also.
4. Local government units pass provincial, city or municipal ordinances and are considered as laws.

HIERARCHY OF LAWS IN THE PHILIPPINES

