

PHILIPPINE JOURNAL OF PUBLIC ADMINISTRATION

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of the Philippines Diliman, the Association of Schools of Public Administration in
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Bautista An Analysis of Development Frameworks
for Children

de Jesus Postmodern's Discourse Theory
and the New PA

Ricote Indigenization in Philippine
Public Administration

Briones The Political Economy and Civil Service
Reform

Sy Rethinking the Five Pillars of the Criminal
Justice System

Document Section

Convention on the Rights of the Child

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CONTENTS

	<i>Page</i>
An Analysis of Development Frameworks for Children Victoria A. Bautista	205
Finding Parallelism Between Postmodern's Discourse Theory and the New Public Administration's Minnowbrook Perspective. Leonila D. de Jesus	245
Indigenization as "Refounding" in Philippine Public Administration and Governance Eleazar E. Ricote	264
Political Economy and Civil Service Reform Leonor M. Briones	279
Rethinking the Five Pillars of the Criminal Justice System Geronimo L. Sy	310
<i>Document Section</i>	
Convention on the Rights of the Child.	325
2005 Index.	350

Editor's Notes

The analysis and evaluation of public administration and development paradigms provides the broad stroke that connects the articles in this issue of the journal.

"An Analysis of Development Frameworks for Children," by Victoria A. Bautista, extensively evaluates five development frameworks for advancing children's rights that are either recognized internationally or conceptualized and used in the Philippines. In specific terms, these frameworks are conventions or treaties that serve as programs of action for initiatives geared towards the realization and protection of the human rights of children. The areas of convergence, divergence, strengths, coverage, targets and challenges are analyzed to illustrate how each framework values children as human beings and how it is likely to affect their lives. The study serves as a guide to policymakers and those who will be implementing the instruments for successful execution of the programs of action spelled out in each framework.

Public Administration as a field of scholarship and praxis is analyzed in the articles of Leonila D. de Jesus and Eleazar E. Ricote. In "Finding Parallelism Between Postmodern's Discourse Theory and the New Public Administration's Minnowbrook Perspective," de Jesus juxtaposes the New Public Administration and Discourse Theory. The author traces the historical and social origins of the two theories to come up with an instructive evaluation of the strengths of each paradigm and its implications to the study and practice of the field. As a conclusion, however, the author veers away from the comparison of the two theories, saying that good governance is propelled not by paradigmatic shifts alone. Speaking in general terms, the author states that administrative thoughts will find no meaning unless they are translated into action for the common good.

The transformation of the local Public Administration field is also the focus of Eleazar E. Ricote's article "Indigenization as 'Refounding' in Philippine Public Administration and Governance." Ricote traces the colonial roots of PA in the Philippines and presents the factors that rendered it insufficient to address the needs of an emerging democratic nation. As the author finds it, indigenization, the logical progression of this realization, led to the discarding of colonial influences while it gradually directed its thrust towards the contextualization of democracy.

The author, nevertheless, looks back at the United States as he argues that the indigenization of PA in the Philippines is remarkably similar to the "Refounding Movement" in American Public Administration.

Leonor M. Briones, in her article "Political Economy and Civil Service Reform," presents an incisive analysis of civil service reforms in the Philippines. She observes that studies of reforms in the civil service tend to focus on internal, legalistic and formal aspects, while investigative reports on abuse of economic and political power clearly show that civil service is intricately linked to the political, social and economic systems that sustain it. The author suggests a shift to the framework of political economy to better understand why reforms succeed or fail. Citing studies previously done by other scholars, she stresses that civil service reforms cannot succeed unless political institutions stabilize and economic growth is sustained. The author likewise underscores the crucial role of the media, private sector and civil society in achieving this goal.

Geronimo L. Sy in his article "Rethinking the Five Pillars of the Criminal Justice System: Towards a New Model" proposes a deviation from the existing model of the Philippine criminal justice system. Using empirical and anecdotal evidence, the author maintains that many flaws of the justice system are direct consequences of a faulty "Five Pillars" theory. One major flaw identified by the author is that the present model did not carefully identify the components of a functional criminal justice system. Stating that the model is problematic in both theory and application, he presents the "Gavel Model," which is a radical departure from the present system. The author suggests that this model embodies the rational application of check-and-balance.

An Analysis of Development Frameworks for Children

VICTORIA A. BAUTISTA*

Children have rights just like any other human being. Efforts in making sure their rights are protected have been extensively carried out all over the globe and development frameworks have been created to address the problems affecting them. This analysis evaluates and compares five development frameworks for children (three globally committed and two Philippine-devised). It aims to guide policymakers in crafting a more clear-cut design of policies and action plans to help effect their successful implementation/execution. The frameworks are analyzed according to their goals and target beneficiaries, time frame, rationale, principles, general framework, program components, mechanisms, and indicators. Issues that demand attention, such as, consistency of their commitments, effective delegation of responsibilities, availability of measurable indicators, participatory governance, capacity to fulfill targets, and new services for children's needs, and immediate measures that can be undertaken are also discussed.

Introduction

Development frameworks are important instruments that set the direction and steer the commitment of stakeholders towards the formulation of concrete action plans to fulfill the goals, objectives, targets and approaches embodied in these instruments. They serve as expressions of agreements of various institutions or individuals against which their respective networks are able to deliver or fulfill the commitments embodied in these statements.

Children constitute one of the sectors in the community that have been given much attention by global, regional and national institutions. Globally, children total 2.149 billion and make up 36 percent of the world's population (of 6.042 billion) in year 2000 (UNICEF 2002). Of the total population below 18 years old, under five children comprise 28 percent (with a population of 285 million) (UNICEF 2002).

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In the Philippines, the burden of a young population is bigger than the global picture as the population under the age of 18 years translates to 33.385 million or 44 percent of the total population of 75.653 million, as of year 2000 (UNICEF 2002). In the case of under-five children, the total is smaller than the global scenario as this group is 23.4 percent (9.832 million) of the total population under-18 years old.

In this study, five development frameworks are analyzed in order to determine the areas where they converge. It also aims to identify in what aspects they differ from one another. It is important to thresh them out in order to guide policymakers in refining these directives and instruments to avoid confusion among those who will be tasked to execute these different instruments.

Of the five frameworks, three are global commitments—the Convention on the Rights of the Child (CRC), a World Fit for Children (WFC) and the Millennium Development Goals (MDGs). CRC and WFC were both passed in the United Nations (UN) General Assembly. CRC was issued on 20 November 1989 and WFC on 10 May 2002 in a special session on children. MDG was an agreement in a Special Session of the United Nations General Assembly, known as the Millennium Summit, which adopted the Millennium Declaration on 5 September 2000. The Millennium Declaration paved the way for the formulation of the goals embodied in the MDG.

Two other instruments are from the Philippines. The first is the Philippine National Strategic Framework for Plan Development for Children, or popularly labeled as "Child 21," because of the legacy of the document to Filipino children in the 21st century. This strategic framework was officially released by the Council for the Welfare of Children (CWC) and concretizes the Philippines' response to the CRC. It departs from an earlier development framework for children, the Philippine Plan of Action for Children (PPAC), passed on 26 July 1990. CWC recognizes that the formulation of Child 21 was made possible through the involvement of various sectors from government (i.e., social welfare, health, education, labor and employment, agriculture, and nutrition), the legislature, and civil society (i.e., nongovernment organizations [NGOs], academe, and religious groups). More importantly, this Plan is marked by the engagement of the target beneficiaries, the children, as participants in crafting the framework, which took two years to be completed.

The second one is the Medium-Term Philippine Development Plan (MTPDP) 2001-2004, which covers the Arroyo administration. This Plan

was officially issued by the National Economic and Development Authority (NEDA) and drew from the participation of the different agencies of government and other sectors of civil society.

A comparison of these instruments will be made in terms of the following dimensions:

- Goals and target beneficiaries;
- Time frame;
- Justification/rationale;
- General framework;
- Principles;
- Program components;
- Approaches or methodologies to implement programs; and
- Indicators adopted for each goal.

Comparing the Five Development Frameworks

Goals and Target Beneficiaries

Three of the development frameworks are, understandably, global in thrust (i.e., CRC, WFC and MDG), considering that they evolved as agreements of the different countries which sat in the UN General Assembly at different points in time, in order to define their visions for uplifting the condition of particular sectors.

CRC and WFC are mainly directed to the plight of children as a sector.

Both CRC and WFC have comprehensive goals for children, with the first one being recognized by no less than the WFC declaration as "the most universally embraced human rights treaty in history...and contain a comprehensive set of international legal standards for the protection and well-being of children" (UN 2002: 2). The remaining two frameworks are meant for the Child 21 and the MTPDP.

CRC. CRC aims to achieve, globally, the rights of children in such areas as survival, protection and development. CRC spells such goals for children as to:

- be treated equally by the state (Article 2);
- maintain their name, nationality and family ties (Arts. 8, 9, 10);

- express/form opinion (Art. 13), thought, religion (Art. 14), and association (Art. 15);
- maintain privacy (Art. 16);
- have access to information that would be helpful to protect them (Art. 17); and basic services, like health (Art. 24), social security (Art. 28), leisure and recreation (Art. 31), standard of living to care for overall development (i.e., physical, mental, spiritual, moral and social development) (Art. 27); and
- exempt them from judicial proceedings and institutional placements, if possible, in case there is conflict with the law (Art.40).

In these commitments, it is clear that there is recognition that the child has as much rights as the adult.

The CRC has also spelled goals which indicate the role of the family and the State to take care of the needs of children. While it is the primary responsibility of the parents or legal guardians to take care of the basic needs of children, the State has an important role to play in providing appropriate assistance to the parents in child-raising (Art. 18) and even to assume the responsibility of childcare when parents or surrogates fail in that responsibility (Art. 3). The State is to provide regulatory mechanisms to ensure that survival and development of children are assured (Art. 5). Specific goals pertaining to children in need are embodied in the CRC—indicating its concern to take care of poor, and marginalized children and those in difficult circumstances such as: being maltreated by parents (Art. 19); children without family (Art. 31); refugee children (Art. 7); disabled children (Art. 23); children of minorities or indigenous peoples (Art. 30); children involved in child labor (Art. 32); drug abuse (Art. 33); sexual exploitation (Art. 34); torture and deprivation of liberty (Art. 37); and armed conflicts (Art. 11). Rehabilitative care is mandated to the State to ensure the social reintegration of child victims of abuse, neglect, exploitation or torture, or any form of inhuman treatment (Art.11).

WFC. WFC is another wake-up call for all member nations to consider the needs of children—to make children a priority in all development efforts. There is a lackluster performance in the last decade to improve children's quality of life due to failures in internal governance by some countries; for instance, some countries are not able to channel

resources to children's needs as indicated by ten million children who die each year and 100 million still out of school, 60 percent of whom are girls (UN 2002: 7). There are also new forms of deprivations and abuse that necessitated new commitments expressed in WFC.

WFC basically recognizes the rights mentioned in the CRC and the role of the family and the State in fulfilling these rights; however, it expands its thrusts by encompassing the need to respond to emerging problems like: globalization and interdependence among nations that leave many countries marginalized and in time impact on the welfare of children; chronic poverty where children become the hardest hit (UN 2002: 8); Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) which is spreading in "catastrophic proportions" (UN 2002: 7); inequality between girls and boys; and, failure to take care of the environment that has led to air pollution, hazardous wastes, poor sanitation, etc. affecting the health situation of children and its future resources; hence, WFC's goals include the need to:

- put children first in the order of priority;
- eradicate poverty, prioritizing children;
- leave no child behind—implying that every child, irrespective of creed has as much right to be considered;
- care for every child;
- ensure the education of both girls and boys;
- protect children from war;
- protect children from harm and exploitation;
- combat HIV/AIDS;
- protect the earth for children; and
- listen to children and ensure their participation.

Some goals are not new (e.g., protect the child from harm and exploitation, leave no child behind, care for every child, ensure education, protect children from harm and exploitation) but these are reiterated considering the failure to respond to these needs worldwide. These problems have been aggravated by the vicissitudes of globalization and weak peace and order situations that have exacerbated children's inability to be protected from violence, discrimination, abandonment and neglect.

An important feature in this agenda is the inclusion of the active role of children in decisionmaking process.

On the whole, new features in the agenda pertain to environment, gender, global strife, equity and participatory governance.

MDG. The third global framework, the MDG, highlights the commitments of the different countries towards development, although the Millennium Declaration encompasses other commitments which have something to do with global peace and disarmament, and how the UN can improve its governance. The MDG focuses on developmental concerns of the different countries.

The MDG targets the poor and marginalized and, therefore, focuses on all sectors of the population who are poor. Secondly, it also aims to foster general development, at the national and global levels. These thrusts are actually consistent with the declaration of the WFC to address the problem of poverty and other global concerns for gender sensitivity and sustainable development. The Millennium Declaration actually serves as the springboard for the formulation of the WFC. WFC responds to this Millennium Declaration but highlights the concerns of children.

While MDG has a broad focus of interest, it also considers poor children as a sector whose lives should be improved as defined in such goals as, to:

- achieve universal access to primary education by 2015;
- ensure that both boys and girls complete a full course of primary and secondary schooling by 2005 and all levels of education not later than 2015;
- reduce under five mortality rate by two-thirds in 2015; and
- reduce maternal mortality rate by three quarters by 2015.

Other goals are directed to the entire population, such as:

- halve the proportion of people living below the poverty line;
- halt and begin to reverse the spread of HIV/AIDS, malaria, and other major diseases;
- halve the proportion of the population without sustainable access to safe drinking water; and
- implement national strategies for sustainable development by 2005 and ultimately impact on the improvement in the lives of slum dwellers.

At the global level, MDG aims to foster a global partnership for development by:

- developing further an open, rule-based, predictable, non-discriminatory trading and financial system; and

- dealing comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term.

While the goals of the MDG are not as comprehensive for children as the earlier goals stated in the CRC and WFC, the MDG is an attempt to commit to an immediate problem that could be a stepping stone to addressing the major difficulty in responding to the rights of children to basic services—alleviating poverty and equipping both boys and girls with capacities to be equally productive (through education).

Child 21. The children-focused Child 21 development framework prepared by the Philippine government builds upon an earlier document, the Philippine Plan of Action for Children (PPAC) in the 1990s. It continues to commit that every Filipino child will exercise his/her rights to survival, protection and development. The basic services stressed in this document pertain to health, nutrition, education, protection and security throughout the child's life cycle: unborn, infancy (0-2 years old), early childhood (3-5 years old), childhood (6-12 years old), and adolescence (13-17 years old). Protection is to be addressed by ensuring that the child is liberated from all forms of neglect and violence, which PPAC also stressed. The big difference of the present document from the PPAC is its clarity in terms of basic standards to indicate the attainment of these commitments.

An important feature that is added in this statement is the goal of "participation." Child 21 aims to "ensure the participation of the stakeholders and key players, including children as ultimate beneficiaries of the Plan, in all facets of plan and program development and implementation" (CWC 2000: 18).

Child 21 stresses development goals which primarily target the needs and requirements of children. It is noticeable that this document coincides with the basic rights of the child spelled out in CRC and WFC. Like WFC, Child 21 emphasizes the empowerment of the child and other stakeholders in addressing the goals of children as also stated in this document; however, broader issues pertaining to the environment, poverty and gender have not been responded to in depth.

MTPDP. The MTPDP has a broader coverage than that of Child 21 since the target beneficiaries are not only children, but also all other Filipinos. Concerns pertaining to children are embedded in one of the chapters concerning human development. Its goal is similar to that of MDG, as it hopes to combat poverty but at the same time be able to "bring prosperity within the reach of every Filipino in the 21st century" (NEDA

2000: 1). While Child 21 is not able to respond to the issue of the environment, MTPDP provides a broader perspective and deals with this issue.

The MTPDP aims to cope with the aftermath of the financial crisis by being able to establish safety nets and strengthen the regulatory capability of government. It also aspires to be globally competitive within the context of transparency and free enterprise that will nurture an entrepreneurial spirit.

Time Frame

Being a worldwide agreement on the concerns of children, the CRC spells out the provisions on the rights that would be provided for them; hence, it does not spell any time frame for the application of the agreement.

The agreements embodied in WFC are more time-bound. WFC indicates the specific targets with respect to what it hopes to attain for the period 2002 to 2017.

MDG also offers a time frame under which its goals could be addressed. Goals are to be assessed by 2015.

Child 21 covers a longer time frame for the attainment of its goals by year 2025, with some interim targets being synchronized with the MTPDP.

The MTPDP, being a development plan of the national government, presents a time frame concurrent with the administration of the president. Under the Arroyo administration, the time frame is from 2001-2004.

Justification / Rationale

CRC. The CRC was formulated with the end view of ensuring that different countries of the world are committed to their concerns for children, considering that in the Declaration of the Rights of the Child of 1924, it was affirmed that safeguarding these rights should be assured "by reason of his physical and mental immaturity" (UN1989: 1). While the child is entitled to all the rights and freedom that are accorded to any adult, and without distinction to race, color, sex, language, religion, political or other opinion, the Convention participants agreed to assure the provision of these rights. CRC was emphatic in specifying the need to give special consideration of those in especially difficult circumstances (i.e., refugee children, disabled children, victims of abuse, indigenous

populations, child labor, child trafficking, victims of abuse, in armed conflict, and in conflict with the law).

WFC. The WFC declaration was made because of the need to reaffirm the different countries' commitment to fulfill some of the targets expressed in the World Summit for Children. It also aims to respond to emerging issues considered vital in the United Nations Millennium Declaration. WFC was a call to all nations to join in a global movement that will help build a "world fit for children." The WFC recalled that the decade of the 90s started with "great promises" but the achievements were "modest" (UN 2002: 7). It mentioned persistent problems like poverty, diseases and discrimination; however, the world community was challenged by new adversities (i.e., HIV/AIDS, substance abuse, environmental degradation and gender disparity) that necessitated more urgent response. It further stated that it was being issued because of the need to "complete the unfinished agenda of the World Summit for Children" (www.un.org/ga/children/prepcome.htm).

MDG. MDG was formulated in September 2000 at the special session of the UN General Assembly known as Millennium Summit. This Summit aimed to reaffirm the commitment of the states and governments to the vision and purpose of the United Nations as new challenges were faced. It was in this forum that an encompassing development agenda was crafted which incorporated the poverty reduction goal. The heads of government declared the importance of upholding the "principles of human dignity, equality and equity at the global level" (UN 2000: I-2) in view of the fact that there were, noticeably, countries in transition which were faced with special difficulties and necessitated global policies. This Summit also affirmed that there remain vulnerable groups in these countries necessitating urgent attention and "in particular, children"(UN 2000: I-2); thus, it is apparent in the last two declarations that the different nation states had to refocus their commitments, considering the prevailing problems of the time and to take care of cross-country problems.

Child 21. Child 21 was crafted, on the other hand, in order to provide "a roadmap, a guide to make plans and programs for children." It was recognized by no less than the UNICEF representative to the Philippines, as "a broadly based vision for the next generation of Filipino children" and offers guides to partnerships between civil society and government in order to attain the quality of life of the Filipino children (CWC 2001: v). The Plan has recognized the significant influence of the CRC and the Bangkok Declaration and Action Agenda of 12-14 November 1998 (CWC 2001: 2). The document aims to "synchronize various efforts initiated by different stakeholders to promote and safeguard the rights of

children." While the Plan is synchronized with the MTPDP, it aspires to project its vision until 2025.

MTPDP. MTPDP is a government plan crafted by every presidential administration. The formulation of MTPDP for 2001-2004 was a way to redirect the state of affairs of the country that had previously been marked by "dubious governance" that led to the "slowing down of the economy, yielding high unemployment rate and further decline in the incidence of poverty" (NEDA 2001: 2); thus, the MTPDP is consistent with the concern of MDG and WFC to cushion the poor and to provide opportunities for them to be productive, and, ultimately, be able to address their basic needs.

Table 1. Comparison of Goals, Time Frame and Target Beneficiaries

<i>Instruments/ Time Frame</i>	<i>Goals</i>	<i>Target Beneficiaries</i>
CRC (1989)	<ul style="list-style-type: none"> •Maintain and protect rights of children to survival, protection and development 	<ul style="list-style-type: none"> •All children, especially those in difficult circumstances
WFC (2002-2015)	<ul style="list-style-type: none"> •Maintain and protect the right of children to survival, protection and development within the context of globalization •Address the need to deal with poverty, environmental issues, gender issues (i.e., boys/girls attend primary school), warring countries, and new forms of diseases/social problem (HIV/AIDS, drug abuse); •Achieve participatory governance 	<ul style="list-style-type: none"> •Children within the nation, and those across national boundaries, often in the crossfire, those with mobile/dissociated families situated in other countries (i.e., refugees), children involved in sex peddling
MDG (2000-2015)	<ul style="list-style-type: none"> •Address poverty globally by ensuring basic needs for health, education and sanitation (consistent with the overall thrust of WFC to combat poverty), as well as the protection of children and the conservation of the environment in the context of global partnership 	<ul style="list-style-type: none"> •Broader—to target the poor, with special consideration of children as regards 3 out of 8 goals (boys and girls in primary school, reduction of Infant Mortality Rate (IMR) and Maternal Mortality Rate (MMR))
Child 21 (2000-2025)	<ul style="list-style-type: none"> •Consistent with WFC—focuses on children's rights plus concern for participatory governance; •Issues on the environment, gender and poverty are tackled as well. 	<ul style="list-style-type: none"> •Mainly focused on children; has bias for uplifting the conditions of children in the Philippine setting, with priority attention on those in difficult circumstances (i.e., indigenous peoples, differently-abled children, those in situations of armed conflict, pregnant adolescents, and children in conflict with the law)
MTPDP (2001-2004)	<ul style="list-style-type: none"> •Address poverty, like WFC, by ensuring balanced economic and social development, within the context of globalization and sustainable development considerations. 	<ul style="list-style-type: none"> •Broader in scope than Child 21; prioritizes the poor, and every Filipino; concern for human development includes those problems affecting children

Table 2. Justification for Issuing the Instruments

<i>Instruments</i>	<i>Justification</i>
CRC	Need to draw and reaffirm the commitment of world leaders to protect the rights of children, particularly children in difficult circumstances, as they are left behind in development
WFC	Need to draw the commitment of world leaders to children's rights which are affected by globalization, poverty, environmental degradation, gender disparity, security and peace
MDG	Need to focus on the emerging problems in the world brought about by globalization, that necessitate urgent commitment on the part of state leaders to focus on poverty and the need to assure basic needs, with special consideration of children, being the most vulnerable
Child 21	Need to provide a roadmap for various stakeholders in ensuring the rights of children, in the context of new/urgent concerns like children in difficult situations and the importance of empowering the children themselves
MTPDP	An instrument normally used by a presidential administration as a roadmap to steer overall development

What principles or guidelines serve as the foundation for the formulation of the goals in every document?

CRC. In the CRC, the basic principle is that children have the same rights as adults and that they should be dealt with equally, irrespective of color, creed, religion, ethnic background, or any other sociocultural factor. In its preamble, CRC states that: "the child should be fully prepared to live an individual life in a society, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity" (UN 1989: 1). In essence, CRC suggests that children should not be discriminated against. For this reason, it is emphatic on the need to give protection to children's rights among those in difficult circumstances.

WFC. WFC declaration recognizes the same principle although the emerging problems of the world have necessitated the reaffirmation of this principle. Furthermore, the basic principle of equity is stressed because the world is evidently becoming unequal in terms of economic capabilities as there is a gap between rich and poor countries; and within nations, between rich and poor people. Inequalities can make life difficult for children because the families who nurture them may be ill-equipped to provide their basic necessities.

Being part of a globalizing world necessarily throws the child into the vicissitudes of trading and cross-country conflicts. In these cross-cultural

setting, the child's rights must be protected. The child is vulnerable to such abuses as illegal trafficking, sex peddling, and abusive labor conditions.

Failure to care for the environment also poses a threat to the child's present and future resources, and should be attended to in order to ensure sustainable development efforts.

Gender has also become a source of gap—notably in the area of education; thus, the WFC declaration states that there is a need to obtain the different countries' "commitment to create a world fit for children in which sustainable human development, taking into account the best interests of the child is founded on principles of *democracy, equality, non-discrimination, peace and social justice and the universality, indivisibility, interdependence and interrelatedness of all human rights, including the rights to development* (UN 2002: 5, italics supplied).

In other words, the basic argument is that the child has rights even in a global setting—as inequality and strife occur, or other insecurities brought about by environmental and social mismanagement.

MDG. The MDGs, mainly guided by the principles of equity, peace and security, globally and nationally, have considered the fact that the central challenge is to ensure that globalization does not become a threat, but one that is able to respect other's rights and beliefs. All these principles can be discerned from the following value commitments:

- 1) Freedom of both men and women to live their lives and raise their children;
- 2) Equality or equal rights and opportunities;
- 3) Solidarity of nations to distribute the cost and burdens in accordance with basic principles of equity and social justice;
- 4) Tolerance of diversity of peoples in their beliefs, culture and language;
- 5) Respect for nature to ensure that its immeasurable riches be preserved and passed on to the future generation; and
- 6) Shared responsibility among nations in managing the worldwide economic and social development, as well as threats to international peace and security.

Child 21. Child 21 has stated principles that basically apply to the Philippines. To be able to attain the vision of building a child-friendly society hinges on the argument that: (1) the child grows and develops best within functional and caring families; (2) families are better able to

nurture their children with knowledge of good caring practices, community support systems, and access to basic services and facilities; (3) local governments are in the best position to provide and sustain basic services for families to protect children (being government units nearest to families and children); (4) NGOs provide vital support to advocate child rights and generate resources for interventions; (5) the national government should be able to protect its children within as well as outside its national borders; (6) mass media promote awareness on child rights; and (7) children are able to genuinely engage and actively participate in decisionmaking processes and governance.

On the whole, Child 21 recognizes that the responsibility of caring for children is based on the contribution of different stakeholders, starting with the home, and including government, civil society and the beneficiaries themselves. The children, like adults, have as much right to have a role in decisionmaking.

MTPDP. The MTPDP is founded on the principle of "free enterprise and markets;" however, this principle can be upheld if there is also a balance between social and economic growth; hence, social or human development is founded on the argument that "investments in people are necessary for they are the agents and the beneficiaries of growth" (NEDA 2001: 1).

There are basic principles that cut across the different program components of human development, such as education, health, housing, and dealing with vulnerable groups. One is the concern for equity as every subcomponent in human development aims to give priority consideration of the poor families.

Devolution is upheld as a principle since there is recognition that local government units are the ones directly in touch with community residents and should, therefore, take responsibility in attending to their needs, particularly for devolved responsibilities like health and social welfare.

There is recognition of the principle of privatization as this underscores the need to develop local government units' capacity to attract local and foreign investors to improve revenue collection and practice fiscal discipline.

There is recognition of the convergence principle as different stakeholders from civil society are considered partners in development effort.

Gender equity is depicted by the commitment to address the concerns of women, as a vulnerable group, apart from children; thus, there is consistency with WFC in upholding the basic principles of equity, gender sensitivity, and the role of civil society and target beneficiaries (participatory principle) in governance.

Table 3. Basic Principles

<i>Instruments</i>	<i>Principles</i>
CRC	Upholding rights of children, no one should be left behind or be discriminated against
WFC	Upholding rights of children even in a global context; addressing equity within and across nations; gender rights; and respect for nature; global responsibility in economic and social development; and respect for participatory governance (by both beneficiaries and civil society groups)
MDGs	Upholding rights of vulnerable groups, specially children, even in a global context; addressing equity within and across nations; gender rights; respect for nature; global responsibility in economic and social development; and ensuring peace and security
Child 21	Upholding rights of children in the Philippine context; participatory governance (both beneficiaries and civil society); principle of devolution; the role of the family in childcare as fundamental
MTPDP	Upholding principle of free enterprise and markets within the context of balanced economic and social development; human development important to provide people with the capacity to improve their lot while giving special consideration to the poor, women and children and other marginalized sectors; respect for devolution; recognition of the role of vulnerable sectors in decisionmaking; and role of civil society and beneficiaries in governance

General Framework

Operationally, the general framework of the document can refer to the overall logic or structure by which the different programs are based or anchored. It is an attempt to piece the different information together. The framework provides the perspective for the discussion of the programs and strategies incorporated in the declaration or the plan.

CRC. In the CRC, the basic framework for the agreement is stated in the preamble which recalls the basic principles of the UN in the Universal Declaration of Human Rights and in the International Covenant on Human Rights which states that everyone is "entitled to all the rights and freedoms set forth...without distinction of any kind, such as, race, color, language, religion, political or other opinion, national or social

origin, property, birth or other status" (UN 1989: 1). This declaration is clear in spelling out that any person is not discriminated against for belonging to a particular ethnic or sociocultural background to enjoy his/her rights. Other declarations peculiar to children have also been recognized and serve as the springboard for the formulation of the CRC. These include:

- Geneva Declaration of the Rights of the Child of 1924;
- Declaration of the Rights of the Child adopted by the United Nations in 1959;
- Universal Declaration of Human Rights in the International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children;
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice; and
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict.

The locus of interest in the CRC is the child; thus, all the rights have to be provided to him/her with special consideration to all those in difficult circumstances.

WFC. The WFC changes the locus of interest from a *nation-state to that of the world*—to ensure that every child has a place to live in a safe and secure environment—such that the label, a world fit for children, has become its byword. The phenomena of globalization and interdependence have arguably, presented both opportunities and obstacles; thus, issues of concern that transcend countries have been tackled as children get caught in cross-national realities of trade, war, and diseases. This declaration recognizes the need to dissipate the gaps between developed and developing countries to ensure that "social and economic development are extended to all countries" and avoid leaving behind some of them to further marginalization (UN 2002: 9); thus, it has made a resolve to an "open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system" (UN 2002: 9).

Furthermore, the WFC also shifts its locus not only to the child but also to the need to strengthen *the family as a basic unit of society* (UN 2002: 8). This is the logic behind why WFC expresses the need to address "chronic poverty" which it considers the "single biggest obstacle to meeting the needs" and "protecting and promoting the rights of children" (UN 2002: 8). This shift implies that it is not enough to respond to the

plight of children alone, but to reinforce, as well, the family where they are embedded. This is the unit that provides the child's basic needs. Inadequacies in this environment could lead to failure to respond to these needs; thus, WFC considers an important role: to extend appropriate assistance to parents, families, legal guardians and other caregivers of children so that ultimately, the children can grow and develop in a safe and stable environment (UN 2002: 8).

MDGs. The MDGs, which actually came ahead of the WFC declaration, provided the rallying point to poverty reduction as it argues that overall development cannot be effectively addressed if some members of the population are left behind in the development process because they lack the capability and resources to be involved due to poverty; thus, WFC coincides with MDGs in its thrust.

The locus or framework or unit of interest of the MDG is not only the nation-state, but also the global realities. Attaining human dignity is not only confined within the context of a national setting, but necessitates global commitment to ensure the protection of the rights of citizens in different nation-states. There are problems which are global in scale, such as, inequities among countries, the spread of HIV/AIDS, and global implications of failure to conserve the environment.

Child 21. Child 21 has adopted the *life-cycle approach* in discussing the goals and program components in dealing with the needs of the child. As Child 21 argues that it is important to respond to the basic rights of the child, the requirements of each child can only be fully understood by defining the peculiar needs in each stage of his/her development. These stages include:

- prenatal (the unborn);
- infancy (zero to two years);
- early childhood (three to five years);
- childhood (six to twelve years); and
- adolescence (13-17 years).

The general goals, thus, are explicitly indicated in the document as the need for: childcare, maternal health, education, child protection, child participation and general family requirements (e.g., water, sanitation), the peculiar needs of each cycle are spelled out; thus, the child is both the focus (the beneficiary of the programs) and locus of analysis (or the starting point in analyzing the needs which have to be attended to). The life cycle is the conceptual framework for the presentation of the thrusts of the plans for children.

The promotion of a child-friendly movement towards a child-friendly society is its overall action framework, where children are expected to be nurtured and allowed to grow and develop with dignity, protected from threats to their well-being. They should be free to express themselves and participate in their development. The child-friendly society involves the interaction and cooperation among the different sectors to produce holistic, integrated and sustainable strategies that promote child rights. It also considers that it is important to create an environment that would facilitate the process of adopting a policy of "children first," especially in the budget priorities and funds allocation while at the same time putting the Filipino child at the core of the development agenda (CWC 2000: 54-55).

The locus of interest is the child in the Philippine setting, including those in difficult circumstances in other nations, a concern which is also expressed in the WFC and the MDGs.

MTPDP. The MTPDP applies a holistic development framework as it aims to expand and equalize access to both economic and social opportunities, inculcate change, and promote personal responsibility (NEDA 2001:2). Its development framework recognizes a neoclassical development perspective for upholding respect for free enterprise at the national and international level, but at the same time upholds commitments to human development by the promise to strike a balance between economic and social development. Commitments to human development focus not only on improving basic services but ensuring the empowerment of different stakeholders—both civil society and the people themselves.

Program Components

What are the program components to ensure that the commitments are achieved in these different instruments? As three of the five instruments here are declarations or agreements, they are mainly expressions of the type of services that should be designed and not necessarily program components. Child 21 and MTPDP are different, as both indicate what program components can be implemented in order to attain the goals expressed at the outset.

Table 4. Framework

<i>Instruments</i>	<i>Framework</i>
CRC	Draws from basic human rights and declarations on children's rights; expands to cover children in difficult circumstances; locus of interest would be children in nation-states
WFC	Locus of interest is the world, as children are caught by global problems; in nation-states, the locus of interest would be families as the basic unit that nurtures the child, particularly in addressing the problem of poverty
MDG	Locus of interest is the world, particularly the inequity between countries in transition and the developed nations; in nation-states, the locus of interest is the poor, being the most marginalized, with particular mention of children, being the most vulnerable group
Child 21	Applies the life-cycle approach—examines the rights and needs of children, beginning with the unborn, until adolescence; program components have been defined in each stage of development; locus of interest is the child in the Philippines and those in cross-cultural situations
MTPDP	Adopts a neoclassical development framework, considering its adherence to the principle of free enterprise and free trade at the national and international levels; argues for the basic principle of competition balanced by a commitment to human development perspective attested to by the expressed need to balance economic/social concerns; focuses on basic needs and opportunities for people participation in governance

CRC. In the definition of the rights of children in the CRC, corresponding agreements had been made by world leaders to make the different states responsible for protecting the rights of children and to provide the children with basic services if the caregivers, specially the parents, are not able to do so. The state is, therefore, mandated to provide access to basic services like education, healthcare, rehabilitation services, preparation for employment and recreation opportunities for children. The state is even expected to intercede for children if parents fail to provide for the needs of the child or violate the rights of the child (i.e., through setting up of alternative family care or institutional placement).

WFC. WFC affirms the commitment in CRC to secure the rights of the child. In addition, basic indicators had been formulated in this declaration to direct the participating countries to ascertain the fulfillment of this commitment. It also contains a plan of action and is not just a declaration, like the CRC.

To fulfill the requirements of children, key services are envisioned to be undertaken. With respect to the goal to provide access to quality basic education, an agreement is the provision of free primary education where all children have ample opportunities to develop their individual capacities in a safe and supportive environment. Another is the goal to eliminate discrimination against children by assurance of obtaining special support and equal access to services. This goal signifies a special effort to seek out children who suffer from discrimination. The goal to ensure gender equity is to be addressed by mainstreaming gender perspective in all development policies and programs. This goal would be primarily indicated by the access of boys and girls to primary and secondary education, where past accomplishment indicates a disparity.

A key agenda item is the need to combat poverty. This is to be addressed through the provision of basic services and creation of employment opportunities by extending micro-credit and investment in infrastructures in each country.

As the parents and other caregivers are considered the basic units that should provide the children's needs for their survival, security, protection and participation, they are provided with a "full range of information and services" on children's needs. In view of the changing role of men in society, advocacy for fathers to assume responsibility for caring for children is included in the agenda.

Basic needs of families, particularly the poor, are to be provided for including: overcoming housing shortage and other infrastructure needs, and managing natural resources.

As globalization has spawned interrelatedness among different countries, WFC considers it important to have these relationships inclusive and equitable, and to foster these through various policies and measures. In particular, these measures aim to protect children, such as those in armed conflict, the peddling of children in prostitution and pornography, among others.

Strengthening partnership among different stakeholders is a key component of the declaration. This includes children themselves whose capacities must be developed to enable them to articulate their views and ultimately build their self-esteem and capacity to be productive. Other participants include parents and other caregivers, LGUs, legislators, NGOs, private sector, mass media, religious and other spiritual leaders, and regional and international organizations.

WFC is substantially different from the CRC as it has started to provide more concrete measures to achieve its goals, and to define responsibilities of various sectors in safeguarding the rights of children at the national and global levels.

MDGs. Being a declaration formulated by the UN, they are similar to the CRC where expressions of rights and commitments are made. The MDGs, like the WFC, have spelled out concrete targets to determine its accomplishments for each broad area where it hopes to make a dent.

To address the key resolve to combat poverty across countries, MDGs seek: to ensure that there is non-discriminatory trading and financial system; to direct financial assistance to countries that are making genuine effort to poverty reduction; and to make debt reasonable in the long run. Within each country, there is a resolve to address poverty by attaining basic needs (i.e., health, education, water and sanitation, and controlling HIV/AIDS and other diseases). The young are to be targeted, in particular, to make sure that they are equipped to be productive through basic needs by assurance of primary and secondary schooling.

To be able to protect the environment, key commitments in the UN Conference on Environment and Development are to be upheld to reduce the number and effects of natural and man-made disasters. This can be facilitated by the provision of free access to information on "the human genome sequence" (UN 2000: IV-25).

The commitments to uphold human rights, democracy and good governance are to be attained through strengthening "the capacity of all... countries to implement the principles and practices of democracy and respect for human rights" (UN 2000: IV-23). Special mention is made to consider the formulation of measures to ensure respect for and protection of migrants, migrant workers and their families. This provision shows the need to take care of families in cross-cultural situations, beyond one's national borders. Protection of the women's concerns is also on top of its agenda by reiteration of the need to implement the Convention on the Elimination of All Forms of Discrimination Against Women.

A critical input pertaining to the concerns of children in cross-cultural situations is the provision on children and other civilian populations to be given special treatment in natural disasters, genocide, armed conflicts and other humanitarian emergencies. A special call is made to foster international cooperation in ensuring that refugees and other displaced persons are reintegrated into their societies.

Special consideration was given to Africa to be provided assistance in its poverty eradication and sustainable development initiatives, and, in particular, to tackle the spread of HIV/AIDS and other infectious diseases.

Child 21. Specific programs include children's health (i.e., breastfeeding, immunization, vitamin supplementation), child protection (safeguarding children from exploitation and physical abuse in the home and community), education (i.e., provision of early childhood care, provision of primary and secondary schooling), and opportunities for participation (enabling children to participate in sociocultural and community development activities); and other needs which directly redound to their life like maternal health (i.e., births attended by trained personnel, prenatal check ups during pregnancy, vitamin supplementation during pregnancy), water and sanitation, and family practices (i.e., sharing of responsibilities between the father and the mother in childrearing).

In certain respects, Child 21 captures the commitment of WFC as it targets the basic needs of children in its overall agenda: universal primary education, child health and maternal health. Like WFC, Child 21 enables children and other stakeholders to participate in development process; however, gender sensitivity, particularly for education, is not clearly manifested in the document. Furthermore, because the plan is focused on children, other issues pertaining to the environment are not tackled.

MTPDP. Concerns pertaining to children are incorporated in Part III (Comprehensive Human Development and Protecting the Vulnerable) with program components on:

- education and manpower development;
- enhancing healthcare through health and nutrition, and population and development; and
- protecting vulnerable groups.

The specific program in education relevant to children is the implementation of Early Childhood Care and Development (ECCD) in Grade 1 curriculum to lower the dropout rates and increase cohort survival rates and school achievements. These goals are to be achieved through the introduction of major *lingua francas*—Tagalog, Cebuano, and Ilocano—in teaching basic literacy and numeric skills in this grade level (NEDA 2001: 6). Other programs are implemented in order to attain these goals such as Multi-Grade and Drop-Out Intervention Program and the Project EASE (Effective and Affordable Secondary Education), purposely to address the needs of children from poor families and farflung areas. The conscious effort to seek the poor children makes the MTPDP consistent

with WFC and the MDGs to address poverty, although it is another matter if LGUs are concerned. This information is not available in the MTPDP.

The delivery of healthcare services, a devolved responsibility, poses many challenges for the Department of Health (DOH) as some local government units do not have adequate "institutional preparations" (NEDA 2001: 22). Some concerns being advocated by the DOH programs pertain to addressing the problems of malnutrition; iron and iodine deficiency especially among infants and pregnant and lactating mothers; and vitamin A deficiency among pregnant and lactating mothers. In relation to health management, population and development issues pertaining to teenagers have surfaced as the incidence of teenage pregnancy rises and sustainable mechanism in reproductive health and family planning is lacking (NEDA 2001: 23).

Addressing the concerns of WFC and MDG and vulnerable groups, particularly the poor, is given much attention in the MTPDP. National programs to address the poor have been innovative as they seek out vulnerable groups. Children as a sector are included as one of the twelve marginalized basic sectors in the National Anti-Poverty Council (NAPC).

WFC and MDGs' concern for gender is also manifested here as women are considered one of the vulnerable sectors. There are also special programs to address the needs of women, including the mandate to commit a certain percentage of the budget to gender activities.

A good example where vulnerable groups are given priority attention is the implementation of the Comprehensive and Integrated Delivery of Social Services (CIDSS), where basic needs of poor families are addressed, with 14 of the 33 indicators directly measuring the situation of the children such as:

- newborns with birth weight of at least 2.5 kilograms;
- no severely and moderately underweight children under five years old;
- pregnant and lactating mothers provided with iron and iodine supplements;
- infants exclusively breastfed for at least four months;
- deliveries attended by trained personnel;
- zero to one year old infants fully immunized;
- pregnant women given two doses of Tetanus Toxoid;
- not more than one diarrhea episode per child below five years old;
- children three to five years old attending day care;

- children six to twelve years old in elementary school;
- children 13-16 years old in high school;
- family members ten years old and above able to read and write and do simple computations;
- no child below 15 years old engaged in hazardous occupation; and
- no child below seven years old left unattended.

Of the families targeted to be reached by CIDSS in 1999-2000, 83 percent (493,132 families) has been reached (NEDA 2001: 41). The management approaches in CIDSS fulfill many of the commitments incorporated in the vision of both WFC and MDGs: to enable the beneficiaries to actively participate in decisionmaking, to enable other sectors of civil society to interface in governance, and to ensure that the poor are the ones given priority attention in development interventions.

Due to the rising problem on streetchildren in metropolitan areas, a program on Street and Urban Working Children Program was started, covering 25 cities and seven urban municipalities nationwide. This has, so far, provided services to a total of 90,000 street children (NEDA 2001: 43).

Other programs had also been initiated to cater to child labor which constitutes 16 percent of the total population in the age group of 5-17 years (NEDA 2001: 43). Efforts were undertaken, such as rescue operations and welfare services, in the form of education, health and medical assistance, counseling, and livelihood (NEDA 2001: 43).

Programs specifically focused on the youth had also been undertaken, apart from education, campaigns on anti-drug abuse, environmental protection and preservation, leadership, governance, and work ethics (NEDA 2001: 43); concerns on the environment are tucked in training programs affecting children. There is a separate section, though, on sustainable management and use of natural resources under Part II of the MTPDP, Agriculture and Fisheries Modernization and Social Equity.

Approaches/Mechanisms

What specific methodologies are suggested in order to realize the goals, program commitments, frameworks and principles of the different development frameworks?

CRC. CRC has emphasized the role of the State in promoting policies and providing assistance in order to take care of the rights of children and

support the obligations of caregivers to children. The State has been tasked to undertake the provision of services in order to respond to the basic needs of children, such as health and medical care. It is tasked to cooperate with competent organizations to ensure the protection of children.

At the global level, CRC is to be established consisting of ten experts of high moral standing and competence. This body can propose special studies to tackle issues pertaining to the rights of the child. It was also mandated to assess progress of the different states in realizing their obligations in the CRC.

WFC. Concrete measures are needed to translate to fruition the commitment of national and international community to the concerns of children, such as, the mobilization and allocation of additional resources for their special needs, programs and projects.

Furthermore, a new dimension in this declaration is the need to formulate a national monitoring and evaluation system to determine the impact of actions on children. This system can be effectively pursued with the formulation of specific, measurable, time-bound goals and targets, consistent with the country's sociocultural reality.

This is to be undertaken apart from the earlier commitments spelled out like: advocacy activities to create awareness on children and to strengthen institutional mechanisms and partnerships that have the responsibility to promote and protect the rights of children, at the national and global levels.

MDG. Like the WFC, MDG considers the importance of regularly reviewing and monitoring the progress of the different countries in terms of the attainment of the provisions in the declaration. The General Assembly is supposed to perform this activity on a regular basis. The implication is that each country should be able to demonstrate what it has been able to accomplish with respect to the goals. A concrete move towards this end is the inclusion of measurable indicators in order to assess the progress of each nation, although the indicators embodied here are more limited in scope compared to what were formulated in WFC.

This inclusion has also spurred a concrete measure to conduct a "high-level international intergovernmental event on financing for development" (UN 2000: III-14), considering that the obstacles faced by developing countries hinge on the mobilization of resources needed to finance their sustained development—calling to mind the role of

multilateral and bilateral donors to increase their financial and technical assistance to developing countries to meet their special development needs.

Policy measures are expected to be formulated in order to ensure the implementation of the different commitments such as:

- poverty eradication: national and international measures to make their debt management sustainable in the long term;
- human rights, democracy and good governance: to take measures to ensure respect for and the protection of the rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote gender harmony and tolerance in all societies; and
- protecting the vulnerable: to encourage the ratification and full implementation of the CRC and its optional protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

The Millennium Declaration calls for improved governance because of statements referring to the need to fully implement many of the avowed responsibilities, as:

- poverty eradication: to improve the provision of basic resources to the poor;
- peace, security and disarmament: at the global level, to make the UN more effective in maintaining peace and security; to redouble efforts to counter world drug problem; to intensify efforts to fight transnational crime;
- human rights and democracy: to combat all forms of violence against women and to implement the Convention on the Elimination of Discrimination against Women; and
- strengthening the United Nations: to strengthen and improve the capabilities of the Security Council, the Economic and Social Council, the International Court of Justice; the need to obtain resources on a timely basis to carry out the organizations' mandate and for the Secretariat to make the best use of these resources; and, to give greater opportunities to the private sector, NGOs and civil society, in general, to contribute to the organization's goals.

There is consistent commitment to foster local and international cooperation that involves various stakeholders in the decisionmaking process for every goal that is to be addressed.

- peace security and disarmament: to take concerted action, on a global scale, to end illicit traffic in small arms and light weapons, especially by making arms transfer more transparent; to take concerted action against international terrorism and to accede as soon as possible to all the relevant international conventions;
- poverty eradication: to develop partnerships with the private sector and with civil society organizations in pursuit of development and poverty eradication; and
- human rights, democracy and good governance: to work collectively for more inclusive political processes, allowing genuine participation of the citizens in all countries.

The call for partnership coincides with that of WFC. In other words, WFC has been able to reinforce this strategy in its declaration for children's concerns.

Child 21. This document has been able to reflect the global commitment to steer various stakeholders to assume an active role in responding to the needs of children. Various approaches have been suggested in order to mobilize the different stakeholders, like training and advocacy activities.

Consistent with the view that the responsibility of childcare rests on the family, key approaches to ensure delivery and access to these services by the children hinge on strengthening the capability of families to nurture their children and provide them support for their welfare and development. Other measures also include:

- advocacy towards a paradigm shift to put children first in the use of resources of the family, community, and the state;
- institutional transformations to ensure effective and efficient delivery of services in schools, healthcare systems, the judiciary and the legislature;
- transformation of values and practices, particularly in the labor market in order to protect children from abuse and exploitation,

for employees to integrate work and family life by providing nursery/day care services and other activities that promote family togetherness;

- complete devolution of basic services to LGUs to enable them to better respond to the needs of and threats to children;
- convergence of services through linkages and cooperation between and among different sectors for more effective and holistic response to the needs of children; and
- formulation of a national data bank to serve as repository of all information regarding children and their situation to enable planners to formulate their interventions.

MTPDP. The MTPDP converges with WFC and MDG in recognizing the importance of allocating resources for the needs of children as in early childhood development and quality basic education.

Because of its commitment to the principle of convergence, a key strategy is to encourage partnership among individuals/families, government and private sectors in the provision of basic services.

Key indicators have also been formulated in order to undertake monitoring and evaluation, and incorporated in the plan. In fact, it has been suggested in the Plan to formulate an early warning indicator system in order to detect the socioeconomic disruptions which necessitate immediate safety nets.

Governance-wise, MTPDP has committed itself to pursue the ethics of effective implementation by replacing patronage politics with party programs. It also aspires to pursue regulatory reforms in order to safeguard consumer welfare against cartels and monopolies.

MTPDP also commits itself to devolution through financial reforms and to improve the delivery of public goods and services.

General Reflection. In general, there is a common approach shared by declarations and plans issued in the year 2000: to rely on standards to assess performance of certain commitments; to seek convergent action of government with other stakeholders; and to involve the beneficiaries in making decisions in the different phases of management.

Because of the commitment to deal with the poor, there is a conscious effort to seek them out and consider them as the primary beneficiaries, as well as partners, of development programs and projects.

Table 7. Approaches/Methodologies of Development Frameworks

<i>Instruments</i>	<i>Approaches</i>
CRC	Promotion policies and the provision of basic services on the part of the nation-state; at the global level, to monitor the commitments of different countries on the attainment of the basic rights of children
WFC	Allocation of resources for children's concerns to translate the nation's commitments/plans into reality; vigilance in the conduct of monitoring and evaluation of the implementation of children's concerns, through the formulation of measurable and time-bound indicators; continuous advocacy for children's rights; convergent effort of various stakeholders from government and civil society, especially the beneficiaries themselves
MDGs	Essentially the same as WFC
Child 21	Continuous advocacy on the rights of children, starting with the family; enshrining partnership effort of different stakeholders, similar to WFC and MDG; ensuring participatory governance (similar to WFC and MDG); recognition of devolution as an institutional framework, highlighting the role of LGUs in taking care of the basic concerns of children; formulation of measurable indicators for monitoring purposes
MTPDP	Commitment to participatory governance; recognition of various stakeholders in decisionmaking; recognition of devolution in development process; formulation of indicators and targets to ease monitoring; focused targeting of the poor

Indicators/Targets

Global Frameworks. One of the important developments in the formulation of the declarations and plans is the crafting of measurable indicators and targets. This move has been helpful in making an assessment of the attainment of children's goals in recent times. The indicators compared here are the pronouncements in the MDG and the WFC, which are related documents. While the former is global and broader in scope, it has set the tone for the formulation of specific indicators for one of the vulnerable sectors addressed in the MDG, the children.

Since the WFC takes the MDGs as its perspective, there are some common indicators adopted in the two declarations:

- reduce by three-fourths, maternal mortality rate;
- reduce by two-thirds, infant mortality rate;

- reduce by two-thirds, under five mortality rate; and
- eliminate gender disparities in primary and secondary education.

They do not converge for the following targets:

- Participation rate in elementary and secondary education: The target of WFC is to reduce the number of primary school children who are out of school by 50% in 2015 and to increase net primary school enrolment or participation in alternative, good quality primary education programs to at least 90% by 2010.

MDG targets universal participation in primary and secondary education.

- Reduction of child malnutrition: Reduction of under five malnutrition by at least one-third in 2015 in WFC; MDG targets a 50% reduction.
- Combating HIV/AIDS: WFC aims to establish time-bound national targets to achieve the internationally agreed global prevention goal to reduce by 2005 HIV prevalence among the young aged 15-24 in the most affected countries by 25%, and by 25% globally in 2010. By 2005, it targets to reduce the proportion of infants infected by 20% and by 50% in 2010.

MDG aims to halt the spread of HIV/AIDS by 2015.

- Safe drinking water: Access to be increased by one third in WFC; by 50% in MDG.
- Malaria: Reduce by one-half the number of deaths in MDG (no date) but to halt by 2015 in MDG.

There are also more targets for WFC which had been stated for children, but have not been spelled out in the MDG (i.e., birth weight, sanitation, immunization, measles, maternal and neonatal tetanus, polio and guinea worm disease).

In the case of the MDGs, reducing the proportion of population below the poverty line has been targeted for 50 percent reduction.

Some indicators are not measurable (i.e., how to ensure that children are able to access alternative quality education, how to halt and reverse the spread of HIV/AIDS; and impact of sustainable development on slum dwellers).

Philippine Frameworks. In the case of the Philippines, there are targets where the Child 21 and MTPDP converge. These are for the following indicators:

- participation rate in elementary and high school;
- cohort survival rate in high school, since Grade 1;
- completion rate in elementary school;
- completion rate in high school, since Grade 1;
- achievement rate for elementary school and high school;
- drop out rate for elementary school and high school;
- basic literacy rate;
- functional literacy rate;
- underweight children in secondary school; and
- water and sanitation.

Indicators where the two documents vary refer to:

- maternal mortality rate;
- tetanus toxoid immunization;
- infant mortality rate;
- cohort survival rate in high school, based on year; and
- underweight children—MTPDP reported for a total of under-five children.

The same information was used for zero to two and three to five years for Child 21.

Some targets were not made by MTPDP for such indicators as tetanus toxoid immunization, and birth registration and early childhood development.

On the other hand, MTPDP reflected gender disparities in percentage of malnourished children.

What is missing is the disaggregation of data of elementary and secondary education by gender, which is a commitment in the WFC and the MDG.

Issues. With respect to the targets set by the Philippine government to attain goals as defined in the MDGs, Manasan (2002) expressed her

apprehension about the capacity of the Philippine government to attain most of the MDGs. This is because NEDA has a lower estimate for population growth rate (2.1-1.8%) and higher estimate for GNP growth rates (4-6.5%). Considering the historical experience of the Philippines from 1990 to 2000, Manasan's estimate is that the population rate is at 2.3%, while GNP is at 3.5%. With her estimate, total national government revenues constitute 14.7% of GNP, while national disbursements would be 18.6% of GNP. On the other hand, NEDA estimates this deficit to be much lower as national expenditures are pegged at 16.4% of GNP and is only a little over its revenue of 16% of GNP.

Manasan envisions that the critical areas where targets could not be achieved are for: poverty reduction, universal access to education, health, and sanitation. What appears to be achievable in her estimate is universal access to water.

While she ends with a bleak scenario, she suggests that there is a need to:

- improve tax effort;
- mobilize the local government units in meeting the MDGs;
- favor expenditures in support of basic social services;
- use cost-effective modes of delivering services or cutting back on waste and operational inefficiencies;
- exert maximum effort to ensure that resources are used efficiently and effectively;
- promote a policy environment that is conducive to sustained growth and one that allows the poor to participate in and benefit from such growth; and
- pursue a stronger population management program (Manasan 2002: 39).

Conclusions

Broadening Scope of Locus of Analysis

Dealing with Emerging Problems. A review of the different instruments to deal with the children reveals the progressive nature of the different instruments after CRC, for their ability to adjust to existing dynamic and reality. The CRC, while recognized as a very comprehensive instrument to depict the standards pertaining to children's rights, has been expanded by the WFC. The problems regarding globalization and intercultural conflicts, spawned the need to evaluate and stress the rights

of children who are caught in cross-cultural situations—as they become victims of sex trade or are caught in wars, among other calamities.

There are also new problems that have become more dominant in the 21st century and necessitated new policies and plans of action to deal with them to ensure that children are not excluded or deprived. Other problems include: gender disparity in education, wanton destruction of the environment which could affect the current and future resources, and other social problems like HIV/AIDS and drug abuse; thus, these issues have been tackled in the plan of action of the different instruments (WFC, MDG, and MTPDP).

WFC had been able to respond to the call in the Millennium Declaration to address the concerns of vulnerable groups, especially the children, amidst these emerging challenges; thus, the locus of interest has been enlarged from the concerns of children in particular nation-states to ensuring that their rights are safeguarded or protected beyond the national boundary.

Role of the Family. Furthermore, within the nation-state the locus of interest is not only the child. Rather, this locus has expanded to the importance of broadening the locus of attention to the family, being the primary unit that cares for the child, and arguing that the rights and needs of the child can be effectively assured by improving the quality of life of the family; thus, there is a convergence to uplift the condition of the family, especially the poor, whose quality of life must be improved. This thrust could be seen in the commitments of WFC, MDG and MTPDP.

These developments indicate that the concern for children has assumed a more holistic view. It is not only the child that should be developed but the immediate environment that nurtures the child. A more self-sufficient family assures a more sustainable “nurturing” environment for the child.

Growth in Governance

Indicators. There has been an improvement or growth in terms of governance. One area of improvement is the formulation of indicators and targets against which progress could be measured. WFC, MDG, Child 21 and MTPDP manifest this improvement. The indicators provide a more realistic standard to assess progress.

Empowerment. An even more prominent commitment is engendering empowerment by considering the role of the children in key

decisionmaking processes pertaining to their development. This thrust could be seen in WFC, MDGs, Child 21 and MTPDP.

Role of Civil Society. The same documents have also stressed the need to harness the interface of civil society groups, mass media and the private sector in making a stake to "uplift" children's conditions and development as a whole; thus, the scope of governance has been broadened in the five declarations or plan of action, particularly, WFC, MDGs, Child 21 and MTPDP.

Role of Local Government Units. In the Philippines, there is sensitivity to the role of LGUs to protect children's rights in view of the fact that undertaking the menu of programs is their responsibility. Because of devolution, Child 21 and MTPDP consider this role as a basic principle. Correspondingly, strategies to advocate the commitments of children to local government units are incorporated in these documents. This commitment antedates the call of MDG and WFC to harness devolution as a means to effectively deliver services.

Budgetary Commitment for Children. Hurling the challenge to commit resources for children's concerns is a key agenda in both WFC and MDGs. The convening of a conference purposely to assess nation-states' situation on this commitment is an indication that the different countries are allowing this compliance to be monitored. This conference actually puts a pressure on them to ensure that their plans do not remain merely rhetorical.

Quick Response of the Philippines to Global Challenges

Caring for Vulnerable Children/Poor. It is apparent that the Philippines is able to make a quick response in terms of broadening the scope of concern to "uplift" the condition of children. The content of Child 21 aptly covers many of the issues embodied in the Millennium Declaration—to take care of the concerns of vulnerable groups of children should be given special attention. At the broader level, the MTPDP is consistent with the thrust of Millennium Declaration to eradicate poverty.

Role of the Family. Child 21 is also consistent with WFC, which came much later (2002), to consider the important role of the family, and the need to develop the capacity of the family to effectively care for and nurture their children.

Upholding Convergence. WFC's call to harness other stakeholders to help in caring children is clearly spelled out in Child 21 and also in

MTPDP. In fact, the convergence principle has been a prominent byword in the local development setting even in the early 90s.

Considering Children as Partners. Both Child 21 and MTPDP had upheld the participatory principle even before the WFC was declared. It is a cornerstone in both documents. Both recognize the importance of giving the child a role in decisionmaking.

Devolution. It can also be said that the Philippines has already been making a landmark in terms of fulfilling this thrust, ahead of WFC declaration.

Targets in the Plan. The Philippines also embodies measurable targets in these two instruments which could enable the assessment of progress on its commitments, ahead of the commitments indicated in WFC.

Issues/Gaps

Devolution

One issue which could be raised is the extent to which development frameworks are able to incorporate the capacity and commitments of LGUs. Goals and targets could be meaningfully addressed if the implementers of the programs are able to commit their time and resources to their fulfillment. Since many of the basic services pertaining to children are devolved responsibilities (i.e., health and social welfare), it can be asked to what extent local chief executives have been a part in the formulation of these goals and targets. Ensuring that these goals are fulfilled necessitates intermediate targeting of building local capacity and developing commitment for time and resources, in more concrete terms.

Indicators

Inconsistencies. Having measurable targets is a step towards assessing the progress and performance of each nation on its ability to fulfill its commitments at the national and international levels; however, at the global level, there are inconsistencies in some targets such as participation rate in elementary and secondary education, reducing child malnutrition, combating HIV/AIDS, access to safe drinking water and control of malaria.

In the case of Philippine frameworks, there are variations in targets for such variables as: maternal mortality rate, tetanus toxoid

immunization, infancy mortality rate, cohort survival rate in high school based on year, and underweight children.

Indicators not Measurable. There should also be special care in formulating indicators: some global indicators are not measurable. WFC indicator that children should have access to "quality alternative education" must be further spelled out. Other indicators that must be clarified include:

- halting the spread of HIV/AIDS;
- access to all levels of education; and
- impact of sustainable development on the lives of slum dwellers.

Data Sources for Indicators. Data sources referred to in the documents can indicate sources of information. The Child 21 document is remiss on this.

Lack of Indicator on MDG/WFC Commitment. One of the major concerns in the MDGs/WFC is to correct gender disparity in education. The disaggregation of information according to sex is one of the indicators that has not been included in the Child 21 and MTPDP. Gender differences are noted for malnutrition in the MTPDP.

Capacity to Fulfill the Targets

Formulating targets is a very helpful step towards determining the achievement of goals; however, it is also helpful to ascertain if the targets can be fulfilled considering the cost requirements and the target beneficiaries of the program or project. Manasan's (2002) apprehension regarding the possible difficulty of the national government to fulfill MDG targets is based on estimates of the historical trend for financial allocation and population growth rate.

Measures to Demonstrate Participatory Governance

Participatory governance is a key feature in the different development frameworks. It is an approach that nearly all documents (i.e., WFC, MDG, MTPDP and Child 21) have expressed. Participatory governance is not only to be indicated by civil society interface in key decisionmaking process but by the role of the beneficiaries themselves.

In keeping with the move towards centralizing commitment to this approach, it is also important to devote attention to formulating indicators

to ensure that this is achieved in such processes as planning, implementation and monitoring/evaluation.

Consistency in Commitments

Child 21 is a centerpiece document that expresses the vision, goals, principles and approaches to respond to children's concerns. It came much earlier than WFC. However, WFC has broader concerns which can be responded to by Child 21. Filipino children in cross-cultural settings have to be attended to and can be specially dealt with (e.g., victims of child trafficking, refugee children, child labor). Furthermore, the need to respond to the impact of poverty has to be examined—what can be effectively done to rationally target them.

As the commitment of WFC, MDG and MTPDP centers on poverty alleviation, synchronizing the statements of Child 21 with these documents can be done. Child 21 is linked to WFC in its argument that the family is the basic unit of society which must be strengthened; however, more focusing can be done in Child 21 to address the needs of families, particularly those who are poor and do not have the means to take care of their needs, and therefore impact on the situation of children in these families. The agenda for poverty alleviation also needs to find its way in Child 21, to ensure that resources are being channeled to those who are in dire need.

Indicators on Children's Situation at the Community Level

As indicators had been considered the comparative edge of the recent declarations and plans on children, indicators pertaining to children which can be used by local government units have to be consolidated and advocated. At present, child-friendly indicators are being pilot-tested as a tool to ascertain the performance of LGUs on their commitment to children's needs; however, there are also other indicators being used by national programs through the initiative of local government units. For instance, the Comprehensive and Integrated Delivery of Social Services applies the Minimum Basic Needs Indicators, composed of 33 indicators, to assess quality of life of each family in the three poorest *barangays* (smallest political unit), in 5th and 6th class municipalities. As earlier mentioned, a total of 14 indicators of the 33, cater to children. A related initiative is the Community-Based Poverty Indicators Monitoring System (CBPIMS) which improves on the Minimum Basic Needs (MBN) indicators by using each member of the family as the unit of analysis, unlike MBN which focuses on the family. Furthermore, sensitive information pertaining to family violence is removed from the instrument and will be

asked of key informants in the community. The potential of these indicators can be examined and advocated as a tool for planning, focused targeting, and monitoring and evaluation.

These indicators can be synchronized with the Integrated Rural Accessibility Program (IRAP) being implemented by the Department of the Interior and Local Government (DILG). These indicators embody data pertaining to facilities and resources which are available in the locality. Standards can be set, using the information contained here, to depict the potential of a locality to effectively deal with the needs of children and other members of the family.

Call of Filipino Children for New Needs

In a forum held by children on 3-6 April 2001, Children's Forum 2002, a declaration was released which calls the attention of government and other development-oriented institutions regarding:

- the ineffectiveness of various institutions to fulfill their needs;
- the inadequacy of some of the services and facilities; and
- the lack of responsive measures to deal with their problems.

Some of the services and facilities which they decry as ineffective include rehabilitation centers for drug abuse which do not serve nutritious foods and a system of education that does not equip them to be productive.

Some services and facilities are not adequate, such as: services for children and their families who are victims of war; services for street children; employment opportunities for poor families that push many parents to work abroad and make their children earn a living, who are consequently victimized by abuse and discrimination.

Some services or institutions are needed for children in conflict with the law who share the same prison cells with hardened criminals. They need psychosocial intervention. They have to be organized and be represented in the different offices and departments at the national level.

On the whole, the statement of the children shows recognition of the initiatives of government for the concerns of their sector; however, these initiatives are still saddled with problems regarding implementation and therefore fail to adequately match the needs of children. The declaration of the children suggests that there is a need to improve governance and not just commit themselves to children in rhetoric.

In conclusion, many challenges still confront the management of children's concerns in the Philippines. Although it can be seen that many of the global commitments and targets are in place in the Philippines' development plan, things could be better.

Policy Agenda

What immediate measures can be undertaken by the Philippines to respond to the gaps mentioned here?

Role of LGUs

There is a need for CWC to foster strong alliance with LGUs in order to secure their commitment to the concerns of children. This could be done by:

- forging a memorandum of agreement (MOA) with leagues of LGUs to commit a certain percentage of the budget for children, like what has been done for gender issues. Ensuring that the 20-20 agreement in the World Summit for Social Development is translated at the local level could be a first move, as this apportions 20 percent of the budget to basic social services. Reviving the bill that was tabled on upholding the 20-20 agreement can be done to give more teeth to this commitment;
- fostering a MOA with leagues of LGUs to formulate targets for children's concerns in the local planning process; and
- drawing the support of the DILG to incorporate children's concerns in capability building programs for LGUs.

Indicators

The CWC can steer the process to:

- thresh out the inconsistencies in targets (e.g., MMR, immunization, infant mortality rate) between Child 21 and MTPDP indicators;
- ensure that data sources are documented, particularly in Child 21;
- thresh out gender disaggregation, particularly for education (as agreed upon in WFC and MDG);

- consolidate community-level indicators (i.e., CIDSS-MBN, CBPIMS, Child-Friendly Indicators) to avoid confusion in local development planning and ensure incorporation of children's concerns in these indicators;
- ensure that targets are rationalized using estimates of budgetary capacity and estimates of population/beneficiaries to be served. Planning an instrument could develop scenarios of what could be achieved, an optimistic or pessimistic view of what could happen, steps on how the optimistic scenario can be fulfilled; and
- formulate indicators and targets for governance such as: children's participation in governance, civil society participation in governance, local government's role in children's welfare; and budgetary commitment for children.

Child 21. CWC can steer a process to reassess Child 21 to ensure that new concerns are incorporated such as:

- WFC/MDG concerns for sustainable development—For instance, care for the environment can be incorporated in primary and secondary education;
- WFC/MDG commitments to address poverty—Provision of basic services can prioritize poor families, making sure, however, that safety nets are provided to children and families affected by deprivations caused by difficult circumstances such as poor peace and order situation, discrimination, and other forms of degradation, at the national and international levels. Objective indicators can be applied in targeting poor families and children, for the immediate relief of their condition;
- new concerns of children—The call of children to separate those in prison cells from adults, must be immediately addressed; and
- assessing gains of Child 21—There is a need to assess, on a regular basis, the extent to which the targets are achieved. A schedule of assessment should be incorporated in the Plan, in keeping with the commitment in WFC and MDG.

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Finding Parallelism Between Postmodern's Discourse Theory and the New Public Administration's Minnowbrook Perspective

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The study highlights the commonalities and differences of the New Public Administration and the Discourse Theory. New Public Administration was born out of the tumultuous environment of the 60s, while the Discourse theory was prompted by the hyperreality of the fragmented society in the 90s. Both theories share the belief in and respect for individual's own experience, and dominance of public interest above all values to predicate public action and the rejection of the command-and-control bureaucratic structure in policymaking and implementation. The two theories diverge in their respective formulations of location of public engagements. New Public Administration suggests use of models of task force, matrix, project, terms, devolution etc. to facilitate client participation in shaping public policy, while the Discourse theory explicates the importance of transforming the bureaucracy into one permeable, situational public energy field.

People are living in a postmodern world; a world that is so colorfully described by Charles J. Fox and Hugh T. Miller's *Postmodern Public Administration: Towards Discourse* (1995).

The book starts with a survey of the two leading schools of thought in the field of public administration. Towards its second and last part, however, it advocates a normative theory that authors had custom-built for the postmodern environment: the Discourse Theory.

Reading through the Fox and Miller book, one gets the *déjà vu* feeling that the authors' invitation to a "discourse" is something that has been the essence of the perspectives aired by the "young public administrationists" attending the eventful conference at the Minnowbrook

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campus of Syracuse University 36 years ago: the New Public Administration (New PA).

The first apparent similarity between the New PA and the Discourse theory is the milieu in which each was grounded: the "turbulent time" of the 1960s for the New PA, and the "hyperreality" in the fragmented postmodern world for the Discourse theory.

In this study, administrative theories that are formulated to confront their overwhelming and challenging environment in search of something better readily earn one's respect for being courageously responsive—emphasis is on "courage."

Another obvious indicator of the resemblance between the New PA and the Discourse Theory is their common aversion to "orthodoxies." Dwight Waldo (1971), in his foreword to the book *Toward a New Public Administration: The Minnowbrook Perspective* wrote this observation, among others, as to what emerged as the character of the conference:

Negatively, there was a turning away from positivism and scientism (but not from science, most of the conferees would argue). With regard to techniques: ambivalence. There was a disinterest in if not, say, planning, budgeting, and operations research. On the other hand, techniques associated with personal growth, interpersonal relations, and group dynamics were close to the center of interest. Positively, there was an interest in philosophy (explicitly in existentialism and phenomenology), a concern for funding and realizing the proper "values" even over interest in personal-organizational "morality." Certain key words and expressions, such as "relevance," "social equity," "adaptation," and "client-focus," suggest the emotional tone and indicate specific interests. (Efficiency and economy? If these were mentioned, it was only in passing.)" (Waldo in his Foreword to Marini's (ed.) 1971: xvi).

As for Fox and Miller's sympathy for the conventional, the very first chapter of their book hits the final nail to the coffin of orthodoxy and its derivatives:

As an acceptable model of governance, orthodoxy is dead. Orthodoxy (Waldo 1948) was that enduring prescription of neutral public administration ascribed to Wilson (separation of politics and administration), Taylor (scientific management), and Weber (hierarchical control)" (Fox and Miller 1995: 3) (underscoring supplied).

Another point of convergence apparent between New PA and the Discourse Theory is their "call to action" to all members of the society.

The New PA proponents asked, "If administrators are committed to certain values, what do they do?" The proponents of the Discourse theory, a generation after, asked "What do we do next?"¹ The close resemblance of the context in which New PA and the Discourse theory separately evolved may also be explained by the profile of the proponents. The Minnowbrook conference from which the New PA perspective was found, was attended by 34 conferees—practitioners, teachers and graduate students whose invitation was earned by virtue of their being "young men of outstanding ability."² Fox and Miller (1995), on the other hand, are self-confessed "late blooming working-class kids."

Was there something in being young that triggered the creative adrenalin of these public administration scholars to engage in theoretical "rebellion?" Or was it something else?

Fox and Miller, in conceding areas of agreement between themselves and the proponents of postmodern's constitutionalism and communitarianism,³ describe themselves in the process as:

Discretionists; we all hold the possibility of public administration acting in the public interest; we all seek to avoid technicism; we are all antipositivists; and we would all distance ourselves from the type of professionalism which is nothing more than guild protectionism (Fox and Miller 1975: 39).

Intrigued by the apparent familiar ring of the Discourse Theory bell to what had been rung at Minnowbrook three decades ago, this article attempts to briefly describe and analyze the content and concepts of the Discourse theory and the New PA, respectively, frame a table that illustrates their convergence and/or divergence, discuss their respective views on basic issues such as "the role of public administrators" and "process in government administration," and in the process uncover the parallelism between the two.

The Discourse Theory: Basic Concepts

The Discourse Theory developed by Fox and Miller (1995) was born out of frustration with the "intellectual bankruptcy" of the orthodox theory in public management (Goodsell in his Foreword to Fox and Miler 1995).

At the same time, the alternative constitutional grounding offered by Gary Wamsley and his fellow scholars and educators (1990) at Virginia Polytechnic Institute and State University in Blacksburg was likewise

dismissed by Fox and Miller (1995) as "too conservative" and lacking in "solid referents." Fox and Miller downplayed the capability of the Refounding Movement (also known as the Blacksburg Manifesto) to provide a normative guide for public administrators' actions. Since by this doctrine, the definition and standard of "public interest" in a democratic setting must still be traced to the principles expressed and debated on or about the time of framing the American constitution up to the present and on-going interpretation of the same. The efforts of the Blacksburg group in finding legitimacy in the bureaucrats' newly acquired role in policy determination seem to be not enough to get concrete positive action. For Fox and Miller, "constitutional legitimacy is a chimera wrapped in an enigma" (Fox and Miller 1995: 30).

Fox and Miller (1995) were just as unhappy with communitarianism as alternative in determining public will. While aligning themselves more with the communitarians than with the constitutionalists, Fox and Miller nevertheless criticized civism for its totalitarian tendency. "Conformity becomes the price of membership" to a community whose will and interests are determined by the community elders and "self-appointed casuists," thus explained Fox and Miller (1995: 35).

To answer the need to craft a new theory that will fulfill the shortcomings of the prevailing doctrine in moving the citizens in determining what to do next, the Discourse theory is born.

"Inherently Democratic Structure of Will Formation"

Fox and Miller's (1995) theory may be simply defined as a public conversation as prelude to action. The public deliberation contemplated in this theory presumes to bear the characteristics of Habermas's theory of ideal speech: sincerity of the speaker, clarity of expressions, accuracy of what is claimed, and relevance of the speech to the topic of the discussion.

Fox and Miller (1995) envision a policy conversation that is open to participation of anyone who has a claim in the society's functioning. This includes everyone—including the public administrators traditionally excluded by the classic neutrality norm.

The Discourse theory expects, even invites, argumentations, claims, counterclaims, debates and agonistic tensions in the process. Fox and Miller contend that it is through struggle over meanings that participants can arrive at a resolution for action. Taking inspirations from the work of Deborah Stone (1988), Fox and Miller (1995) believe that "the clash of

metaphors, similes and analogies, strategically-crafted arguments and rhetorical gambits are actual determinants of policy" (1995: 113). It will change recursive practices and cultural habits:

Shared meanings motivate people to action and meld individuals striving into collective action. Ideas are at the center of political conflict. Policymaking, in turn is a constant struggle over the criteria for classification, the boundaries of categories, and the definition of ideas that guide the way people behave" (Stone 1988: 7 as cited in Fox and Miller 1995: 112).

Because the envisioned policy discourse is open to all, there is a likelihood that it will be joined by "fools and charlatans" who can render the conversation useless for lack of authenticity. To prevent this, Fox and Miller (1995) proposed a list of qualifications an actor must possess before he is "listened to" in the conversation—called the "warrants for discourse."

Warrants for Discourse

Sincerity of the speaker. It means an honest, genuine, authentic claim is being brought forth by the participant in the discourse. Fox and Miller (1995) specifically caution the readers to be wary of those "calculated and consciously devious" claims disguising themselves as authentic speaker.

Situation-regarding intentionality. Participants should come to the public arena with their eyes open to problems and their minds open to solutions. Being situation-regarding, the self-interest is put away to give primacy to public interest.

Willing attention. Another requirement in forming an authentic public engagement, the attention that is required of one who is to join the discourse is manifested by his sustained effort to keep up with the progress of the issues being discussed. His willingness to follow the course of the discussion will give him the competence needed for his substantive contribution.

Substantial contribution. Practically anyone who is affected by a social problem, or is situated into one, or has a specific expertise, knowledge or concern for a cause or a class of people, has the potential to bring in substantive insights into the will formation activity.

Forms of Discourse

Presently, Fox and Miller (1995) acknowledge that there are existing public discourse types that give the semblance of democratic process. Yet, these forms of will formation engagements do not produce the outcomes desired of good governance because of their lack of authenticity when tested by the standards of the warrants of discourse formulated by Fox and Miller. The authors give examples of the current practices/methods employed to determine public will:

Few-talk. It is called "elite-dominated monologic manipulation." This usually takes the form of surveys, citizen panel, public hearings, and policy analysis which closely resemble democratic citizen participation. These methods often yield pre-figured and manipulated knowledge, and therefore are not authentic (1995: 130).

Many-talk. It is "anarchistic expressionism." Picture a scenario where many people talk all at the same time with no subject, no object, no form, no structure, no rules. The metaphor used by Fox and Miller is the computer networks. This method prevents coherent public opinion. The good news is that many-talk public discussion may eventually find coherence and direction and may result in an authentic discourse if warrants are deliberately obtained by the participants (1995: 130).

Some-talk. These are many-talk conversations that developed into serious policy deliberation. Fox and Miller (1995) likened this type to a group of think-tank experts, legislative staff, policy analysts, public administrators, interested citizens, even elected officials, engaging in a meaningful discourse to figure out "what to do next," i.e., policy networks, interagency consortia and community task forces (1995: 130).

While appearing to be simple and naive, the Discourse Theory is rich in conceptual foundation. For Fox and Miller (1995), it is the best hope for a democratic theory of governance that takes into account postmodern conditions (1995: 112).

The New PA: Looking Back at the Concept

It has been almost 37 years since the "founding" of the New PA at the Minnowbrook site of the Syracuse University in September. The New PA was the resulting theme of the conference called for the hearing of what the "young public administrationists" then had to say about the concerns and issues in their discipline at that time.

Yet, the concepts and the theories that the youth conference yielded then (collectively known as New PA's Minnowbrook Perspective), remain relevant to the practice and scholarship of public governance today. What are the concepts and values of New PA that endure the passage of time and the excruciating test of operationalizing its theories?

Social Equity

According to Pilar (1982):

Perhaps the distinguishing characteristic of New PA is its normative orientation, meaning its advocacy of, or commitment to social equity and the enhancement of quality of life (1982: 228).

That social equity as the primary concern of the New PA was affirmed by the quotation from the essay of leading New PA proponent and co-chair of the organizing committee of the Minnowbrook Conference, H. George Frederickson:

The rationale for Public Administration is almost always better (more efficient and economical) management. New Public Administration adds social equity to the classic objectives and rationale. Conventional or classic Public Administration seeks to answer either or [sic] these questions: (1) How can we offer more or better services with available resources (efficiency)? or (2) How can we maintain our level of services while spending less money (economy)? New Public Administration adds to this question: Does this service enhance social equity? (Frederickson 1971: 311)

Frank Marini (1971), another luminary in the field and co-organizer of the Minnowbrook conference, summarized the principal themes that served as the foundation of New PA: relevance, antipositivism, personal morality, innovation, concern for clients, anti-bureaucratic philosophy (Marini 1971: 15). New PA focuses the attention of public administrators to the values of responsiveness, responsibility and client-welfare. Note that these values, given in public administration have their provenance at Minnowbrook three decades ago.

Nonbureaucratic Structure

The New PA likewise advocated the shift in the study of processes and practices in public administration which used to center on the traditional areas of organization and management, fiscal, and personnel

administration. The New PA called upon the public administrators to explore new ways of incorporating social equity in the distributive process of externally allocating resources and services for the benefit of the powerless clients.

The New PA was first to advocate the modification of hierarchical system in public organizations in response to organizational adaptiveness demanded by the mobile and changeable environment which was no longer effectively addressed by the bureaucratic system of operation. Larry Kirkhart's consociated model of organization was maverick in its own time.

The consolidated model, as introduced by Kirkhart (1971) at the Minnowbrook Conference, prescribed the project team approach in the implementation of government programs in lieu of the rigid hierarchal control. Project team approach allowed change of leadership and authority as called for by the situation, permitted financial autonomy, and encouraged direct, authentic interpersonal and intergroup communications. Each work unit (project team) was envisioned to be highly independent of and at the same time interdependent with other project teams (Kirkhart 1971: 161).

The Minnowbrook conferees were the first to call for the use of matrix system, task force, group decisionmaking models, and decentralized structuring in government organizations.

The values of New PA are made more pronounced by its advocacy of decentralization. New PA's "preferred form of deprived minority-client involvement would be routinized patterns of communication with decentralized organizations capable of making distributive decisions that support the interest of deprived minorities, even if these decisions are difficult to justify in terms of either efficiency or economy" (Frederickson 1971: 324).

The other process in the public organization identified by the New PA advocates as a potential vehicle for social equity was the socio-emotional training techniques for changing administrative behavior. The New PA's proposal for the widespread application of sensitivity trainings for workers in the government service was to enable the bureaucrats to tolerate conflict, emotions and risks that would naturally go with the expected high client involvement under the new management mode. The government workers should be accommodating towards the client that they serve.

By incorporating the values of relevance, responsiveness and representativeness in the fundamental process of government programs and services, public administration was given a new character by the New PA.

Face off: New PA versus Discourse Theory

As earlier noted, the New PA at its inception was a product of disenchantment with the obsolete conceptual tools of the orthodox theory. The conventional PA, from the point of view of the Minnowbrook scholars, had become too mechanical, rigid and organization-centered that it has lost its sight on the societal goals as determined by its member-individuals. Out of disdain for the outdated, New PA was conceived.

Did the young Turks of Public Administration in the 60s think that they had found the answer and that New PA was the "panacea?" More than three decades ago, did the "young public administrationists" ever think that the relevant values they were crying out loud for would one day fade out to obsolescence?

Fox and Miller (1995) remembered the radicalism at Minnowbrook but nevertheless classified New PA in the same league as the Blacksburg's institutionalism.

For a quick and informative comparison of the precepts and content of the New PA and the classical PA, this study took the liberty of lifting Pilar's matrix that he incorporated in his article earlier cited (Pilar 1982, 1993). The author, with apologies to Pilar, further adopted the matrix to juxtapose what she perceived as the distinguishing features of the Postmodern's Discourse Theory that facilitate the view of parallelism traced earlier. Table 1 is the matrix developed by Pilar, while Table 1-A is the article's attempt to illustrate the comparison.

Parallelism Is Detected (Or Is It Just "Hyperreality?")

The matrix indicates the close resemblance of the Discourse Theory to the New PA in terms of the contents and elements used as bases for comparison. Except for the terminologies, the ideas appear the same.

Environment

The rapid technological changes and sociopolitical turbulence of the 1960s seem to be just a magnified version of the fragmented environment of the 90s that have seen the birth of the Discourse Theory. Indeed, this era's technologies in the mass media and information field have become more sophisticated, cybernetic than those that overwhelmed the 60s. Yet, the society's problems, those of the citizens and of Public Administration remained and thrived through the passage of time—"poverty in the midst of plenty," "discrimination in the land of the free," "injustice under the rule of law" (White 1971: 65).

Table 1. Classical and New PA Premises and Content

	<i>Classical/Conventional PA</i>	<i>New PA</i>
Environment	Stability, Predictability, Orderliness in Environment	Turbulence Temporariness Uncertainty
Value Premises	Assumes a Mechanical Model of Man	Assumes an Authentic And Humanistic Model of Man
Values	Belief in Primacy of Organization Goal (Internal Orientation)	Belief in Primacy of Societal/ Individual Goal (External Orientation)
Structure	Bureaucratic	Non-Bureaucratic
Processes	O and M Personnel Fiscal	Distributive Integrative Boundary Exchange Socio-Emotional

Table 1A. Premises and Content

<i>Postmodernism's Discourse Theory</i>
Eclecticism, Epiphenomenology Hyperreality, Ideography, Situational
Human actively participate in creating categories that prefigure our own knowledge of the world (Berger and Luckmann's Structuration Theory)
Organizational reality is socially Constructed (Constructivist Theory)
Consciousness is a subjective experience (Phenomenology)
Sincerity Situation-regarding intentionality Willing attention Substantive contribution
Public Energy Field
Few-talk Many-talk Some-talk

Source: Nestor N. Pilar (1982, 1993).

The socioeconomic milieu of the 60s, as described by Minnowbrook conferee Robert P. Biller (1971), served as the catalyst for the "young public administrationist" to cast doubt on the adequacy of the then prevailing assumption about societal goals:

It has now become painfully visible to our society that it is the owner of decaying cities, racial inequities, civil strife, accelerating economic disparities, generational cleavages, diminishing periods in which to adjust to the consequences of rapid technological change, inadequacies in the quality and responsiveness of a large array of government services, and so on (Biller 1971: 96).

Fast forward to the 1990s: the environment that hosted the seed of the Discourse Theory, so vividly described by Wamsley and Wolf (1996) in their "Introduction" to their 1996 Refounding book:

Anyone who has spent time in rapidly modernizing Third World countries (or, for that matter, in rapidly decaying American cities or poverty-stricken rural areas) has experienced the jarring incongruities and disorientation that seems to be the hallmark of the postmodern condition or perhaps, of the juxtaposition or collision of one encompassing world view with another. Squalid slums appear adjacent to state-of-the-art high-rises and public buildings. Magnificent churches stand in parishes that once housed the wealthy but now are characterized by tenements and housing projects. Traffic noise, disconcerting cacophony of different rhythms and musics [sic], the pace of today's living combine discordantly to send us scurrying to our homes, or for some, provide a chaotic background for living in the streets. The postmodern world is a composite of opposites, of traditional institutions that are subject to deconstruction, struggling to keep pace with kaleidoscopic change and proliferating individual differences (Wamsley and Wolf 1996: 23-24).

Value Premises

The similarity of the Discourse Theory and the New PA's value premises is striking in the sense that both recognize the primacy of societal goal (as conglomeration of individual aspirations) over the organizational mission which is not socially created but only institutionalized by the force of law or lawlike generalizations. New PA assumes the authenticity of man's personal experience in the same manner as the Discourse Theory acknowledges the subjective experience and meaning of each human being and welcomes them as the individual's substantive contribution to the public deliberation of the next social action.

Values

The overarching normative guide for every actor involved in governance, both in the New PA and in the Discourse Theory system, is the concern for others, over the concern for self-interests. All efforts to be relevant and to involve the client in both policy determination and in government service delivery as contemplated by the New PA, proceed from concern for public interests.

The Discourse Theory's basic values of sincerity and intentionality are of the same sentiment. It is for the promotion of public weal that the Discourse Theory even demands vigilance against opportunities and self-regarding individuals who may enter the discussion arena for their own selfish ends.

Structure

For Fox and Miller (1995), the arena in which public will and intentions are actualized is aptly termed public energy field. With energy field as setting, all participants with whatever claim in public governance are now liberated from the space limits that confined public administrators within the rigid boundaries of hierarchical administrative system.

Public energy field, to distinguish it from bureaucracy, connotes open sphere, perpetually expanding or contracting, permeable, constantly alive with free-flowing interactions which may not always be pleasant, amiable or benign.

The authentic discourse envisioned by Fox and Miller (1995) does not count bureaucracy as its natural habitat but instead thrives on any "field" that contains public concerns and the vitality sufficient to convert the participants' intentions and meaning into action. According to Fox and Miller,

Field contrasts markedly with bureaucratic organization, which is premised on the formula of hierarchical control. The preoccupation with structure implied by concepts such as bureaucracy and organization may be viewed as the cordoning off as irregular, perhaps tumultuous forces that are out there....Field does not structure its boundaries for purposes of control; rather, the situation (or the collection of relevant situations that may extend over space and time) bring [sic] its own set of constraints and opportunities (Fox and Miller 1995: 10).

The same rejection of the bureaucratic structure was heard from the New PA as it recommended in the 60s yet, anti-bureaucratic administrative structures in operationalizing its client-centered programs designed to achieve social equity. Minnowbrook conferee Robert Biller (1971) wrote:

We need to create public units capable of dealing with turbulent fields. Such units are more likely to have situationally determined patterns of leadership, influence, communication, authority and decision than the more permanent structures now predominant (Biller 1971: 120) (underscoring supplied).

But perhaps, it was H. George Frederickson's (1971) commentary in his essay which summarized the arguments of New PA against Weber's bureaucracy:

A commitment to social equity not only involves the pursuit of change but attempts to find organizational and political form which exhibit [sic] a capacity for continued flexibility or routinized change. Traditional bureaucracy has a demonstrated capacity for stability, indeed, ultrastability. New Public Administration is in search of changeable structures, tends therefore to experiment with or advocate modified bureaucratic organizational forms. Decentralization, devolution, projects, contracts, sensitivity training, organizational development, responsibility expansion, confrontation, and client involvement are all essentially counterbureaucratic notions that characterize new Public Administration (Frederickson 1971: 312-313).

The Role of Public Administrators

Fox and Miller (1995) concluded their book with, not surprisingly, a word of advice to the public administrators who are expected to keep up with the demands of their job made more complex by the postmodernist fragmented hyperrealities.

Hence, the public administrators' role is to facilitate the discourse by getting disparate subgroups to speak the language of the public interest. And moreover, public administrators may themselves make substantive, even political contributions, but from an unelevated standpoint: "citizen with the rest of us" (Stivers 1993 as cited in Fox and Miller 1995: 158) (underscoring supplied).

The same policy-advocacy role for the public administrator was recommended at Minnowbrook as follows:

New Public Administration seeks not only to carry out legislative mandates as efficiently and economically as possible, but to both influence and execute policies which more generally improve the quality of life for all. Forthright policy advocacy on the part of public servant is essential if administrative agencies are basic policy battlefields. New Public Administrationists are likely to be forthright advocates for social equity and will doubtless seek a supporting clientele (Frederickson 1971: 314) (underscoring supplied).

For day-to-day activities in the government offices though, both the New PA and the Discourse Theory, in their respective turns, recommended proactive role for public administrators. (Interestingly, Michael Harmon (1971) to whom Fox and Miller attributed the pioneering advocacy for proactive role of public administration was a participant at the Minnowbrook Conference which probably explains the familiar strain of the New PA perspective to the Discourse Theory of today.)

As Fox and Miller (1995) admitted in their book, "Not every hour of everyday will be spent in discursive will formation. The steady and stable delivery of public services, the utility of which has long been settled, does not require Herculean agonistic discourse" (1995: 127).

Still, the normative value of the Discourse Theory in the public employees' day-to-day encounters with their clients can be better appreciated if these instances of policy implementation will be taken as situation for continuous authentic co-construction of "reality" among all actors in governance.

The New PA, for its part, espoused that the administrator must do more than encourage participation from among those he is legally responsible to. His proactive role requires that he encourage the participation of any one whose action would enhance the possibility of social change. John Paynter, another Minnowbrook attendee, described the new administrative responsibility advocated by Michael Harmon (1971) as he explained:

His (Harmon's) constructions take seriously the major critique of the politics-administration distinction by considering the administrator as a politician, not only in his spare time (while a "citizen"), but in the very acts of administering (Paynter 1971: 186) (underscoring supplied).

The New PA and the Discourse Theory are one in exhorting the government employees to abandon their "traditional" and "reified"

neutrality stance. The politicalization of the public administrator was the common call made by the Minnowbrook conferees in the 60s and by Fox and Miller of the postmodern time.

Hugh Miller's (1991) assertion (invoked again in his 1995 book co-authored with Charles Fox), "Politics is thus said to be an everyday activity for everyone involved in governance" (Miller and Fox 1995: 157). This was an illustration of the Discourse Theory's objective of blurring the demarcation line between the action of an individual as a government employee and as "citizen with the rest of us."

In another time, more than two decades earlier, the New PA's W. Henry Lambright (1971) emphatically averred:

The administrator is a participant in the political process, a politician in that he must engage in conflict resolution, exercise discretion, and make decisions affecting conflicting claims (Lambright 1971: 333).

Conclusion

What the article attempted to do was to highlight the commonalities between the New PA of the 60s and the Discourse Theory of the postmodern lately.

Similarities of the two theories/perspectives were noted in their fundamental concepts and premises: the turbulent environment of the 60s and the hyperreality of the 90s which both accelerated the fragmentation of the society; the belief in, and respect for the individual's own experience and cognition of reality; the dominance of public interest above all values to predicate public action; the rejection of the command-and-control bureaucratic structure in both policy determination and policy implementation; and the confidence reposed in the public administrator's capability to not only carry out legislative mandates as efficiently and effectively as possible, but also to stir up the policy process through direct participation.

Admittedly, there are differences within the noted similarities of the two theories. The points of divergence are only in terms of degree and emphasis, rather than in the core characteristic of the two concepts studied.

The turbulence and fragmentation, for example, in the environment that nurtured the conceptualization of the New PA was seen by its proponents as due to the systematic discrimination against the already-deprived minorities (i.e., black, women, farm laborers, migrant workers) exacerbated by the political division engendered by the Vietnam war, the rapidly changing technology, widespread unemployment, poverty and street violence.

The postmodern environment, which prompted the formulation of the Discourse Theory, on the other hand, was just as fragmented, just as burdened by the socioeconomic problem of unemployment, poverty, urban decay, and mind-boggling technology as it was in the 60s. Yet, for Fox and Miller (1995) the "thinning of reality," or lack of shared meanings among and between members of the larger community, was the primary reason for the fragmentation of the society resulting in absence of authentic discussion on what actions to take to address the common problems.

Another difference between the two theories would be in their respective formulations of the location or situs of public engagements. New PA recommended the modification of the bureaucratic-hierarchical order—through the consociated models of task force, matrix, project teams, devolution, decentralization to facilitate client-participation in the continuous shaping of public policy. While the anti-bureaucratic posturing New PA was a remarkable departure from what had been long regarded as an institutionalized system, postmodernists Fox and Miller (1995) considered the New PA's modifications as merely reformative (and therefore validating) and still "institutionally-cemented."

The Discourse Theory explicated the necessity of transforming bureaucracy into one permeable, situational "public energy field" to nurture the formulation of public will. The unstructured "public energy field" of Fox and Miller is indeed drastically different from the bureaucratic organization of conventional public administration. Nonetheless, the first variant of nonbureaucratic permeable public organization was originally espoused at the Minnowbrook Conference of the 60s.

Comparing the New PA with the Discourse Theory brought to a better light the fact that the discipline of Public Administration is a continuous and unrelenting pursuit of theories, methods, concepts and tools that will promote the cause of good governance.

The Discourse Theory, although perhaps unfairly suspected by the study as a rehash of an earlier version originally fashioned at Minnowbrook, is the graphic proof of the continuing scholarship in the field. Public Administration practitioners, academicians, scholars and clients shall continue to pursue the goals of the society by their active and substantive participation in public will formations called authentic discourse.

In the final analysis, what good governance needs are not conceptual breakthroughs and paradigmatic shifts. Grand theories and hip administrative thought are meaningless if they are not translated into action for the benefit of the members of the society. This concern is what the Discourse Theory shares with the New PA.

Endnotes

1 Frank Marini, in his "Introduction" to the compilation of the Minnowbrook Conference papers quoted a portion of the summary done by Matthew Crenson who presided over the plenary session of the Conference where most of the small group reports were commented upon as thus: "First, I think there are common themes: Almost every group arrived at the conclusion that there ought to be greater emphasis upon normative concerns in Public Administration. That leads to the question about the role of the administrator, whether he should be valued neutral, somehow committed to policies or to value neutrality. That leads to the next question: if administrators are committed to certain values, what do they do?" (Marini ed. 1971).

2 The youngish profile of the Minnowbrook participants was discerned from the narration of the pre-conference events, specifically on the determination of the composition of the participants. Quoted here was a footnote to the foreword of the book *Toward a New Public Administration* written by Dwight Waldo, then holder of the Albert Schweitzer Professorial Chair in the Humanities at Syracuse University, and the "sponsor" of the Conference.

3 "Institutionalism/Constitutionalism" and "Communitarianism/Civism" are Fox and Miller's typologies for the two dominant models in Public Administration seen as alternative to the orthodox theories.

The two models were used by Fox and Miller (1995) as springboard for their discussion of the Discourse Theory.

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Indigenization as “Refounding” in Philippine Public Administration and Governance

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Public Administration (PA) in the Philippines is eclectic and multidisciplinary in nature. It is being shaped by three major institutions: education, politics and government. The call for its indigenization grew out of the inability of Public Administration as a discipline to describe and explain challenges in public service delivery. Its thrust is the proper contextualization of democracy, the same element of the Refounding movement—directed towards the legitimization of the roles of public administration. It entails modification and/or deconstruction of the bureaucracy superseded by accountability and citizenship. Indigenization of Philippine Public Administration could be achieved through harnessing and operationalizing Filipino values in the practice of Public Administration and by discarding western influences.

Introduction

Although formally introduced to the country following an Americanized orientation, Public Administration in the Philippines evolved a uniquely Filipino stance. What emerged is an adaptive PA, ethnocentric and culture-bound (De Guzman 1986: 9). Unlike American PA, Philippine PA was never too worried about tracing its intellectual roots or haunted by the politics-administration dichotomy, American PA's definitional issue about its epistemological questions and conflict-controversy with Political Science. More conscious about the “anomalies of its environment” and such as slowly developing democracy, Philippine PA made use of the body of knowledge handed over by the Americans but discarded those propositions such as the politics-administration dichotomy (“anomalies of the field”) because they did not fit the environment which it studied. It went, however, to use those which fitted the horizons of administrative practice (and problems) in the Philippines (Reyes 1995: 413). To this very day, though characterized by a “fragmented patchwork of ideas built upon diversity and bereft of an organizing perspective” (Reyes 1995:413), Philippine PA continuously evolves as a study and

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practice of PA in the country that aspires to an indigenously Filipino character and (intellectual) tradition founded on and reflective of Filipino ideals, culture and values.

If American PA, in this postmodern era of public sector management and governance, elevated its nagging clamor to trace and understand its PA's intellectual roots and define its distinct epistemology through the Blacksburg Manifesto, otherwise known as the "refounding" movement/project in (American) democratic public administration, Philippine PA has its own unique and distinct version of "refounding" of the nature/kind of PA that has evolved in the country. The refounding project of Philippine PA is its "indigenization" which from the very start, has been consciously aspired for and is slowly taking shape amidst its continued growth as multidisciplinary and adaptive to the nature and character of the institutions (educational, political and bureaucratic culture) that shape public administration and governance in the country; however, the said "refounding" of Philippine PA needs to go deeper by not simply "reconstructing" PA with indigenous elements/variables/principles but by properly establishing what is indigenously Filipino vis-à-vis what is totally alien to us.

Relevance of the Study

The article will attempt to show that Philippine PA has its own "refounding project," one that is distinct and not necessarily similar to American PA's continuous need to "deconstruct" public administration for it "to come to grips with the problem of finding a legitimate place for itself in the (American) scheme of democratic government and governance" (McSwite in Wamsley and Wolf 1996: 198). The refounding project of Philippine PA is not about affording it legitimacy in the Philippine government's democratic structures and/or institutions that define the conduct of governance in the Philippines. It is rather about the indigenization of this multidisciplinary and adaptive PA in the country into the Filipino culture, values and aspirations of what Philippine PA embraces as the "public."

This clarification is critical in defining Philippine PA as distinct and "not lagging behind" if talking about evolving a theoretical discourse (by way of "deconstruction") of what PA is and should be in these postmodern times.

Scope and Limitation

The study limits itself to the available literature on the indigenization of Philippine PA. It simply provides an overview of what

has been done so far to "Filipinize" the study and practice of PA in the country.

The Blacksbury Manifesto (The Refounding Project)

The Blacksbury Manifesto was first published in 1984 in a self-proclaimed non-journal called *Dialogue* issued by the Public Administration Theory Network. Later it was published in *The Centennial History of the American Administrative State* edited by Ralph Chandler (1987). Another version written in the language of political science was published in *The State of Public Bureaucracy* edited by Larry Hill (1992). Finally, the original authors, joined by Camilla Stivers, Robert Bacher, and Philip Kronenberg, expanded on the ideas in the Manifesto in a book titled *Refounding Public Administration* by Wamsley et al. in 1990. Some refer to the Manifesto as the Refounding volume collectively known as the "Blacksburg Perspective" or as "constitutionalists," "discretionists," "neo-institutionalists," or "institutionalists" (Wamsley and Wolf 1996: 10).

The refounding perspective contends that the legitimacy of public administration is derived from the refounding debate that led to the formulation of the Constitution; thus, the oath that binds public servants to the Constitution is a valid and significant sign of the legitimacy of their roles in governance and can, and most often does, exert a powerful influence on the actions of those to whom administrative power and discretion have been entrusted (Wamsley and Wolf 1996: 11).

The Manifesto, written in reaction to the widespread criticism and denigration of public service, attempted to legitimize public administration by reconceptualizing it away from its (mechanistic) identity as bureaucracy to a new institutional identity as "the Public Administration." The Manifesto and the subsequent book on refounding democratic public administration were attempts to lay the groundwork of the refounding field, the first founding on the politics-administration dichotomy and the more recent dominance of behaviorism, positivism and managerialism having led the field to its current dead-end. The refounding authors proposed a neotraditionalist approach grounded in structuralism and directed toward defining a legitimate role of public administration and governance (Little in Wamsley and Wolf 1996: 335).

The Elements (Threads of "Discourse") of the Refounding Project

Wamsley and Wolf (1996), original authors of the refounding project, claimed that they never intended to present a comprehensive, logically

integrated and internally consistent theory, ideology or explanation of (American) public administration and governance.

We intended only to start a discourse we thought was long overdue. The project continues on the basis of our relationship to one another and a shared concern for the need of an effective public service as part of effective governance, which in turn hinges on a legitimate public administration if this republic is to remain constitutional and democratic (1996: 21).

Further, as Wamsley and Wolf explained, the intention is simply to keep the discourse going on the following central theme:

Given the challenges and problems confronting the American political system, it needs a public administration that can be accepted not only as an efficient implementer of policy, but as a legitimate actor of the governance process. The necessary legitimacy can come in a variety of ways, but ultimately it must come by deepening the democratic character of public administration (1996: 21).

The deepening of public administration's democratic character, as Wamsley and Wolf (1996) further claimed, involved forces of both coherence and emergence in a state of tension found in the changing (postmodern) world that they also asserted a discussion (discourse) of the way the tension between coherence and emergence is being worked out in public administration may be useful.

Limitations of and Criticisms about the Refounding Project

Fox and Miller (1995), in their stirring critique of postmodern public administration, agreed with the refounding movement in stressing the need for a "discourse theory"; however, they highlighted that for radical nominalists like them, the legitimacy is in the doing of something and the crucial question is not what was done or is being done but what must be done next.

We have hit discourse theory as a way to overcome what we perceive to be the shortcomings of Blackburg institutionalism and communitarianism. Discourse theory is a way to highlight the importance of the quality of policy deliberation (Fox and Miller 1995: 400).

Charles Goodsell (1996) lauded this direction towards the discourse that Fox and Miller espoused. He noted their version of a discourse theory of public administration as constructive and a positive step for democratic public administration and for the quality of public policy

(Goodsell in Fox and Miller 1996: xii). Further, Goodsell noted Fox and Miller's concern for practical application (i.e., "what we should do next") given that the world of public administration theory as of late had a tendency to enter a world of discourse of its own, isolated from policy and practice.

Larkin Dudley (1996), in an article about the "governmental debate" in public administration, noted that while the refounding project "refocused dialogue in public administration from whether public administration to the place of public administration and the public administrator in the governance of the third century," it omitted an ample discussion of the serious challenge to the public of the institutions of governing by what has been called third party government, government by proxy and government by contract (Dudley in Wamsley and Wolf 1996: 68).

Finally, Wolf (1996) himself lamented that the refounding project seemed to come across to many readers as another fad for how to fix public administration similar to Scientific Management and Total Quality Management (TQM). He, however, stressed that in an effort to save the refounding project from the fate of management fads, it was placed within a broader framework for understanding the world in which public servants live. Such a world served as the context within which fads and prescriptions for fixing public administration come out or evolve as a response. These responses often make sense, often practical advice and constitute valuable ways for understanding, interpreting and engaging in action (conduct of PA and governance) in service to the public (Wolf in Wamsley and Wolf 1996: 163).

Philippine Public Administration and Governance

Evolution of PA in the Philippines

Public Administration in the Philippines formally began with the establishment of then Institute of Public Administration at the University of the Philippines under a technical assistance grant from the United States in 1952. From its introduction in 1952 to 1956, when the technical assistance ended, the focus of the study and practice of PA in the Philippines was generally about addressing the problems of the public sector at that time. Reyes (1995:415) noted that the studies during this period were "inward looking" or preoccupied with the internal problems of public organizations and administrative systems with the end view of instilling traditional PA values of efficiency, effectiveness and economy.

The phase/period of Philippine PA that followed was characterized by Reyes as the era when PA was institution building and in search for new frontiers. Filipino scholars were more involved in the study and practice of PA during this time, which markedly ended with the dark years of Martial Law in the early 70s.

Philippine PA was in transition after that. With development as its ultimate goal, this era was consistent with the development administration phase of PA in developing countries. A workable development model was its main objective during this time. This was also the period when client-focused orientation or the "outward-looking" theme flourished with clamors for equity, redistribution of wealth and better service delivery as the tall orders of the day (Reyes: 1995: 418).

From the early 80s to the early 90s, PA in the Philippines continued to evolve into a socially conscious, social reform-oriented but highly politicized character.

As a field of study, Philippine PA continues to be a fusion of external sources (theorizations/constructs/principles) and internal concerns. The resultant was a PA discipline described by Reyes as a complex and a formidable quilt of persuasions characterized by a fragmented patchwork of ideas built upon diversity and bereft of an organizing perspective; however, Philippine PA has enjoyed the status of an independent and definable field of study from its introduction. It never experienced competing for acceptance within the academic community. Unlike American PA, the discipline has steered away from the epistemological questions and from conflict and controversy with political science. It has grown independently as a discipline both academically and institutionally. As a result, Philippine PA did not experience severe and serious problems of identity crisis unlike its counterpart in the United States (Reyes 1995).

In a comprehensive chronicling of the nature, scope and character of research in Philippine PA from the traditional public administration to the current governance phase/period which she aptly called as "varieties" of Philippine PA, Cariño (2002) highlighted how local (i.e., Filipino) conceptualization/theorization/construction of what, how and for whom the study and practice of public administration should be in the Philippines. While influenced by the foreign (mostly American) PA theories/principles/constructs/elements, the researches in various areas notably showed the Philippine style of democracy as both content and context. The areas also highlighted the dominant concerns of PA research, which Cariño further concluded to be specific to the Philippines, although "universal" to the PA

discipline. These areas were: 1) Personnel Administration/Human Resources Administration; 2) Organization and Management; 3) Fiscal Administration; 4) Studies of Political Institutions; 5) Democracy as a proper subject for PA; 6) Bureaucracy-Democracy; 7) Popular Participation/Citizenship; 8) Decentralization and Devolution; and 9) State-Market Relation (Cariño 2002).

Threads of Discourse in Philippine PA

From the very start, PA as a discipline in the Philippines evolved as multidisciplinary or eclectic. Reyes (1995) explained this to be not simply as a process of disciplinary evolution, but as part of a conscious plan as seen when Dean Carlos Ramos, who took over the Institute of Public Administration in 1956, fostered this multidisciplinary character by instituting a faculty and development program based on the advocacy of distributing them to various disciplines—economics, political science, sociology, etc., which resulted in a mix of perspectives and disciplinary orientation which caused the eclectic nature of Philippine PA.

Philippine PA was never, therefore, concerned about clarifying/delineating the boundaries which divide/categorize/cluster PA concepts/symbols from those that were obviously brought in by the social sciences and other fields/disciplines flourishing within the public realm/sphere in a democratic setting such as the Philippines.

Onofre D. Corpuz (1986) clarified how Philippine PA is (and will be continually) shaped by the three major institutions of education, politics and government which afforded Philippine PA the legitimacy and authority as well as a sense of democratic character—the very aspects of American PA which the refounding hopes to achieve by “reconstructing” public administration into a “public administration (that is) with the necessary professionalism, dedication, self-esteem and legitimacy to act as a constitutional center of gravity” (Corpuz 1986).

Further, probably even before the refounding project or even before postmodern PA's proposition of “deconstructing” bureaucracy which had been a central element in the PA's democratic character, into “public energy fields,” Philippine PA already recognized bureaucracy's limitations and inabilities as well as the need to subsume into its study and operationalization the other critical sectors that characterize “public energy fields” specifically in a democratic PA setting such as the Philippines. Corpuz, as early as 1957, the period when Philippine PA was,

according to Reyes (1995), in search of new frontiers, already came up with a stirring critique of the Weberian bureaucratic philosophy saying that it is inadequate for an accurate analysis. He, however, concluded that though limited and inaccurate, a responsible and representative bureaucracy could develop in a democratic society. Similarly in 1988, in an article about Fred Riggs' proposition of balancing the powers of political and bureaucratic institutions, Cariño (1988) "deconstructed" bureaucracy and its ability/inability to use power for public interest given that the struggle is mainly carried out by political institutions other than the bureaucracy.

The "discourse" in Philippine PA is not necessarily about what PA is, how it was "constructed" and what its elements should be. It is how Philippine PA, given its uniqueness in the Philippines (such as its "acceptance" that politics and administration need not be "separate") and the various elements (culture, values, colonial past etc.) that in fact characterize it—can actually transcend the theoretical and intellectual discourse and legitimization of PA in a postmodern and democratic context, and realize the goals of development, equity and social justice amidst the political, economic and social forces that shape the global environment where it now belongs.

Indigenization as Refounding in Philippine PA

In what can now be considered as "classics" in Philippine PA literature, two essays on the perspective in the country came out in 1986, the time when Philippine PA's social consciousness was heightened by PA's critical role in the political activism that prevailed during the phase of Philippine democracy. Raul P. De Guzman (1986) and Onofre D. Corpuz (1986) both agree that there exists a Philippine PA that is distinct and unique.

De Guzman (1986) discussed PA in the country as both a part of government bureaucracy and as a field of study, identifying the peculiarities of the discipline as it operates within the Filipino context; Corpuz (1986), on the other hand, maintained that Philippine PA is being shaped by the three major institutions: education, politics and government. Both provided a canvass of public administration, identifying Filipino culture, values and norms, as well as the characteristics of forces that influence the study and practice of PA in the country.

This perspective about Philippine PA being shaped by Filipino culture, values and norms was more succinctly captured by Cariño (1990) on the different dimensions of public administration. She outlined four dimensions of the perspective of PA: the technical aspect, the problem of democracy and accountability, the role of the people, and the issue of indigenization which she justified not as a response to Woodrow Wilson's first call for indigenization in 1953, but one that grew out of dissatisfaction with the inability of the PA discipline brought in by the American technical assistance to describe and explain the challenges of public service met in the Philippines. Further, according to Cariño, the thrust towards indigenization is one that the other dimensions cannot do without.

For if PA would serve society by analyzing and developing techniques of governance and service firmly anchored on popular accountability and people's supremacy, it can only do so with a clear view of Philippine culture and of the Filipino's needs, capacities and vision for the country (Cariño: 1990: 17).

Clearly, indigenization is the modification and/or deconstruction that Philippine PA needs to do to the study (discipline) and practice (conduct) of public administration in the country. That is nothing short of what the Blacksburg Manifesto now considers as "refounding." Worth noting from Cariño's "construction" of the indigenization thrust is its proper contextualization of democracy and the very same elements the Blacksburg Manifesto wants scrutinized and dissected: techniques of governance (bureaucracy and its structures), popular accountability (citizenship and citizen participation) and people's supremacy (democracy).

The "indigenization project" was further elucidated in Amelia P. Varela (1993) on the culture perspective in organization theory and its relevance to Philippine PA. Varela reviewed the different theories of organization and management, including that of bureaucracy, the main apparatus of democratic public administration, and analyzed/assessed them in the context of the Filipino cultural and value orientation. Highlighting the different faces of Filipino administrative culture (patronage, bureaucratic ambiguity, dualism, and graft and corruption) and how they shape the conduct of public administration, Varela concluded that Philippine PA should be "indigenized" (refounded) by discarding its western (American) influences.

Integration of the Filipino societal and individual values and norms of behavior in an indigenized bureaucracy could provide a "break-away" from the western stranglehold of and influence on Philippine PA (Varela: 1993: 177).

Varela's laudable effort to situate Filipino culture in Philippine PA perspective was however not the first concrete attempt to "indigenize" Philippine PA.

Tapales and Alfiler (1991) assessed the Filipino cultural and value orientation not simply in terms of its implication to administrative systems and public sector organizations but more ambitiously in terms of sustaining Filipino unity for moral recovery. Further, the article did not just extol the inherently positive Filipino values and their potential to approximate national unity. They went further by outlining three important steps/processes critical in bringing about change through Filipino values: 1) a deeper understanding of what are indigenous and common to both the elite and the masses; 2) an understanding of how these indigenous elements may be instrumental in forging common and unifying nationalism; and 3) a commitment for sustained unity towards societal change underlined by people empowerment (Tapales and Alfiler 1991: 101).

By dissecting the Filipino values down to their core elements following Virgilio Enriquez' (1992) "Sikolohiyang Pilipino" movement which looks deeper into the Filipino core value of *kapwa* (shared identity) and its essence in understanding other deeply rooted Filipino values such as *utang na loob* (reciprocity), *pakikipagkapwa-tao* (the process of identifying with someone or others), and *karangalan* (honor), Tapales and Alfiler were positive that national unity can be sustained with the proper harnessing of indigenous values.

As Enriquez describes it, harnessing these values by dissecting (deconstructing) them to their barest makeup and understanding them more deeply is truly *mapagpalaya* (liberating).

Finally in 1995, Danilo R. Reyes came up with the appropriate agenda of Philippine PA's refounding into an indigenously Filipino character in these postmodern times. He outlined the following changes, demands and posturings that Philippine PA needs to meet and overcome.

- 1) Philippine PA will have to engender a more viable administrative philosophy of action and research so as to expand its horizons and help enrich its tradition. Researches and investigations in the coming years will have to pursue the traditions of the discipline with a more pronounced agenda in the search for a truly Filipino administrative philosophy of governance which could enhance

administrative practices and reflect Filipino ideals, culture and values of public management.

- 2) Much has to be done towards improving its methods of research so as to ensure a respectable intersection between theory and practice. The conduct of studies involving various dimensions of PA will have to be interconnected with the aspiration of building theories that represent the indigenous spirit, and thereby propagate a Filipino character of administration.
- 3) In relation to the larger society, the discipline will have to expand the horizons of its outward looking stance from the appreciation of the vicissitudes of Philippine society to the complexities of the global arena, as demands and challenges for increased understanding of the phenomenon of internationalization and globalization become more pronounced.
- 4) Philippine PA will have to assume an important role towards the inculcation of values, attitudes and outlooks that will blend and be consistent with this emerging world order. It has to serve as a vehicle by which the aspirations of the community can be articulated and expressed, and to which the government must listen more attentively.
- 5) There is more to be done in the operationalization of decentralization and autonomy, which must be linked with the imperatives of rural development, empowerment of marginalized communities and of greater political and administrative accountability at the local level. This means that the discipline will have to invest more efforts than what was done in the past towards understanding the vagaries of decentralization. The delivery of basic services should be assumed as paramount in this agenda, and a viable, workable theory of decentralization needs to be designed.
- 6) The discipline should approximate a theory of equity so as to enhance the fiber of justice and democracy, and consequently, of modernization. In this respect, efficiency in the distribution of resources and wealth, and of growing modernization must be accompanied by efficiency in the administration of justice and democracy.

Indigenizing Philippine PA

Reyes' (1995) agenda for the indigenization of Philippine PA still has a long way to go. The critical first steps have yet to be properly captured not just in terms of content (principles/techniques/methodologies) but more so in terms of context (bureaucratic structures, institutions, policy environment, etc.). While there have been notable efforts in Philippine PA research to approximate an indigenous theorization and/or "construction" of the study and practice of PA in the country, there remains a critical need to forge a common and generally accepted understanding of *what is indigenous* and what specific elements, variables and nuances of the Philippine democratic public administration can indeed be "indigenized" not just theoretically but more so in terms of "operationalization" and/or applicability in this current global and beyond-the-state era of governance.

If unity and moral recovery can be achieved by harnessing indigenous Filipino values as Tapales and Alfiler (1991) argued, PA's refounding would have to go deeper by dissecting what are indigenous in these values and how can these be operationalized in the study and practice of PA, in a manner that is both applicable and acceptable to all who comprise the sphere called "public." Such issue of acceptability is especially relevant given inherent differences in conceptualizations of what is indigenous. Muslims and Christians for example, have substantial disagreements in their belief systems (faith), which to a large extent, influence their respective "constructions" of what is indigenously Filipino and how such Filipino social structure (political and administrative systems) can and should influence public administration and governance. Similarly, the traditional view of an indigenous social structure which, to a certain extent, is still practiced in some Muslim areas in the country and even recognized by existing laws such as the Local Government Code's (1991) *Katarungang Pambarangay* provision, follows the *barangay* (village) system which, upon closer look, is characterized as an authoritarian system of relationship between the *barangay* (government) and the governed (public), a nuance that is inconsistent with governance's highly participative and active stakeholder character.

These "definitional" questions and "general/shared-acceptance" issues of what is indigenous require the indigenization/refounding movement of Philippine PA to go deeper in its deconstruction and dissection of Philippine PA into its barest elements. More importantly, it also expects the refounding movement to approximate its applicability and/or operationalization into the mainstream PA discipline currently

characterized by the governance variety of public administration in these postmodern times.

Conclusion

Wamsley and Wolf stressed that the refounding project's essential characteristic is its explicitly normative theorizing about public administration. It prescribes a way of understanding PA that explicates practice as a legitimate partner in the governance process.

The same can be said of the indigenization project in the Philippine PA. It is a prescription of how public administration and governance should be understood, studied and experienced in the Philippines.

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The Political Economy and Civil Service Reform

LEONOR M. BRIONES*

The Philippines is likely to have the best civil service only if legal reforms passed to improve/enhance the system are seriously implemented. Despite reform initiatives, the bureaucracy remains ineffective and damaged. Public Administration scholars emphasize that civil service reforms can only be achieved and strengthened with sustainable economic growth, and political maturity and stability. Heightened and publicized movement on civil service reforms, urgent ratification of the Civil Service Code, reasonable and standardized salaries of professionals doing similar jobs, and high regard for trustworthy and outstanding civil servants will certainly contribute to advance reforms in the civil service. Ultimately, the active participation of all the different sectors in society is vital to revolutionize the government system.

Introduction and Review of Literature

"Appointments in the civil service shall be made according to merit and fitness...". (Philippine Constitution, Article IX Section 2 (2))

"What are we in power for?" (Jose Avelino, Senate President, January, 1949)

The two quotations graphically illustrate two simultaneous but opposing developments in the civil service. On the one hand, formal reforms through the Constitution, laws, and issuances from the Civil Service Commission (CSC) which extol merit and fitness, guarantee equal opportunities for public service and prohibit political dynasties are prodigiously churned out with impressive regularity. On the other hand, events triggered by forces from the political and economic system reverse or contradict these reforms.

While many studies have been made about the civil service and the CSC, these two "tracks" tend to be treated separately. Studies of reforms

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in the civil service tend to focus on formal, legalistic aspects and less on the political, social and economic factors which influence success or failure of such reforms. In contrast, exposés and reports of investigative journalists on abuse of political and economic power endlessly draw attention to defects of the political system and shenanigans of political personalities. It is obvious that the civil service cannot be separated from the political, economic and social system which created it; thus, the classic approach of studying the political economy of an institution is appropriate, as well as necessary.

The objective of this study is to provide an "assessment of the social, economic and political factors and actors that have impinged and may impinge, on civil service policy formulation, reform initiatives and human resource management practices at the national government, Government-owned and/or Controlled Corporations (GOCCs)/Government Financial Institutions (GFI) and local government unit (LGU) levels in the Philippines." (Political Economy of Civil Service Reform, Draft Terms of Reference, May 5, 2003.)

Available literature on the subject can be grouped into four: histories of the CSC, assessments of comprehensive reorganizations of the Philippine bureaucracy, a study on bureaucracy and democracy, and reports on abuses of political power corruption.

The History of the Civil Service Commission and Reform

Generally, histories of public institutions place emphasis on the formal and legal, and, of course, positive accounts of reforms. Four scholarly studies on the history of the civil service are outstanding exceptions to this well-trodden path. These are by Onofre D. Corpuz (1957), eminent political scientist and historian, Jose N. Endriga (1985), historian and public administration scholar, and Jaime B. Veneracion (1988), historian and political scientist. These three scholars examine the civil service and the CSC in terms of the political, economic and social factors during different stages of Philippine history.

Corpuz' (1957) book, *The Bureaucracy in the Philippines*, is considered the classic study on the Philippine bureaucracy. He contends that the bureaucracy as a social institution was introduced during the Spanish regime, carried on briefly by the Philippine Republic of 1899, reestablished by the American colonial government, Filipinized during the Commonwealth period and institutionalized during the period of the Philippine Republic.

He noted that "the paramount and ultimately fatal defect of the Spanish bureaucracy was that private interests and personal behavior of its members effectively subverted the declared principles of the colonial administration" (Corpuz 1957: 235). Corpuz observed several weaknesses in the bureaucracy, including vulnerability to nepotism, exacerbated by the institution of godfathers, carried over from the Spanish period; and the spoils system in the civil service. More important, he likewise stated that "despite its social importance, the bureaucracy as an organization was not an independent power in Filipino politics. Indeed, it was highly vulnerable to attack by external parties (politicians) who utilized the powers of the legislative and executive branches of the government to tamper with the merit principle of the service." "...The civil service in the Philippines did not have the independent power to resist encroachment upon its integrity" (Corpuz 1957: 246).

Jose N. Endriga's prize winning "A History of the Civil Service in the Philippines"¹ states that "the civil service system in the Philippines as we know it today is a creation of the American regime in the country" (Endriga 1985: 132). Nevertheless, he recognized its historical antecedents, especially during the Spanish colonial period. Values introduced by the Americans were efficiency, economy and merit, in addition to political neutrality.

Endriga lamented that "our juxtaposition of positive laws and actions on the one hand and negative bureaucratic behavior on the other hand is not only symbolic, but practically descriptive of the state of the civil service system. The situation reveals a basic conflict between the standards that we hold in theory and our ability to maintain them in practice. The standards of bureaucratic behavior that we have written into our laws are very high, and historically our norms have been getting stricter... our capacity to obey the laws and to punish the offender does not seem to have undergone any palpable improvement..." (Endriga 1985: 152).

Three years after the publication of the Endriga paper, Jaime B. Veneracion (1988) published another prize winning book, *Merit or Patronage: A History of the Philippine Civil Service*, which won in a succeeding contest, also sponsored by the CSC.

More than all other historical studies of the CSC, Veneracion explicitly identifies dynamics of the politics and economics in describing his approach, thus:

The significance of an institution such as that of the Civil Service cannot be located within itself but how it relates to the

repertoire or assemblage of other institutions at any given point in time....The Philippine Civil Service cannot be treated in isolation as an entity by, and of itself but merely as an aspect of a larger political system which in turn had been conditioned by the cultural, economic and social spheres...the changes in the practice or articulation of the Civil Service are reflections of the changes in the larger reality (Veneracion 1988: 2).

Veneracion argues that any link with a past institution should be with the revolutionary government. "Mabini anticipated all the details that go into the making of a good government not only in terms of fair selection of employees through examination, the routing of papers, etc. but most important of all, the instilling of that pride, patriotism and honesty demanded of all revolutionaries" (Veneracion 1988:168).

More than the mere reformulation of structures—of abolitions and reintegrations of offices and vice versa—the solution to governmental problems cannot be isolated from the larger society which would have to provide the atmosphere and the proper ideological support for any reformist actions (Veneracion 1988: 168).

Reorganizations: A Never-Ending Story

If the available literature on government reorganization is considered, the Philippine bureaucracy must be among the most reorganized in the world. Changes in foreign conquerors and transitions in political administration have triggered massive reorganizations, as well as partial restructuring of the bureaucracy.

The book, *Perspectives in Government Reorganization*, edited by Jose V. Abueva, political scientist and public administration scholar, reviews the experiences of reorganization during two periods: 1954-56, and 1969. The issues raised in his book are fresh and relevant even after fifty years. One lesson which Abueva emphasizes is that "reorganization is implicated in the political process not only because it seeks to reallocate power, organization authority and resources, but also because it alters policy" (Abueva 1969: 28); thus, reorganization efforts which ignore the political system and political processes are bound to fail.

The *Philippine Journal of Public Administration (PJPA)* is replete with articles and studies on comprehensive as well as partial reorganizations. These studies seek to explain why all these reorganization efforts are perceived to be less than successful.

In 1991, Renato Constantino organized a group of academicians, activists and concerned citizens. Together, they crafted *A Filipino Vision of Development* which proposes a nationalist alternative to development. The book contains a section on governance and institutional change, which, among others calls for participatory democracy and presents perspectives on reorganization.

In 1999, a team from the Center for Policy and Executive Development (CPED) of the University of the Philippines' National College of Public Administration and Governance (UP-NCPAG), headed by Jose P. Tabbada produced a paper, "From Reorganization to Administrative Reform and Modernization." After assessing the perceived "failures" of earlier reorganization efforts, the paper urges moving on from reorganization to administrative reform and modernization.

Bureaucracy and Democracy

Ledivina V. Cariño's landmark book, *Bureaucracy for Democracy: The Dynamics of Executive-Bureaucracy Interaction during Governmental Transitions* (1992) explains why civil service reforms fail in spite of technical soundness and good intentions. As the title suggests, focus is on the dynamics of executive-bureaucracy interaction. A comparative approach is utilized. While the book is not exclusively on civil service reforms, nevertheless, the interplay of political economy forces with the civil service surfaces very clearly.

Cariño classifies transitions into: normal successions, authoritarian successions and redemocratization successions. Under Martial Law, President Marcos started with a massive reorganization process followed by the well-known purge characterized by summary dismissals from service. The Reorganization Plan was crafted by a team of professionals, led by Armand Fabella, a noted economist and reorganization expert. The Plan introduced decentralization, the creation of regional development councils, the attachment of public enterprises to departments and the creation of a career executive service. Ironically, the Reorganization Plan was amended repeatedly, to the despair of the professionals who participated in the exercise. It was then followed by a massive purge (Cariño 1992: 78-84).

The redemocratization process under President Aquino exhibited the same pattern: reorganization followed by a tumultuous purge. The objective was to "de-Marcosify" the country and cleanse it of Marcosian influence (Cariño 1992: 129-130). Ironically, it was during President Aquino's time that the New Constitution which reaffirms basic principles of merit was passed.

*Politics, Business and the Bureaucracy:
The Family that Preys Together ...*

The fourth set of available literature on the subject is composed of detailed studies on the use and abuse of political power. These studies illustrate how the bureaucracy can be utilized to promote economic power.

Belinda A. Aquino's powerful book, *Politics of Plunder: The Philippines Under Marcos* (1987) reveals in excruciating detail the dynamics of the systematic plunder of the Philippines and the manipulation of the bureaucracy. Government agencies and government officials were unscrupulously used to loot the treasury, control key sectors of the economy and siphon national wealth out of the country. Ironically, this was done even as modern features of the Civil Service were introduced through reorganization, as well as constitutional change.

While there are many accounts of the plunder of the Philippines by Marcos, Aquino's book stands out because it combines solid scholarship, exhaustive detail, and a flair for investigative journalism within a credible theoretical framework.

An earlier book, *Some Are Smarter than Others* by Ricardo Manapat (1991) draws its title from a statement attributed to former First Lady Imelda Marcos when queried by a reporter on why her friends and relatives happened to corner most government contracts. Again, the subjugation of the bureaucracy by the dominant political power for economic gain is clearly illustrated.

The Philippine Center for Investigative Journalism and the Institute for Popular Democracy published a book by Eric Gutierrez (1994), *The Ties That Bind: A Guide to Family, Business and Other Interests in the Ninth House of Representatives*. The book confirmed what the public was aware of all the time: family, business and other economic ties of Congressmen as well as their links with the bureaucracy. The difference was that the data were drawn from official sources and not just from gossip. As expected, the family linkages, business involvements, sources of wealth and income, as well as career path, were detailed for each Congressman.

Intimate linkage with the bureaucracy and the rest of the government system was revealed in six tables: representatives with siblings who are public officials (46); representatives with parents who are public officials (64); representatives with grandparents who are public officials(30); representatives with spouses who are politicians (23);

representatives with children who are politicians (21); and representatives with close blood relatives who are politicians (55) (Gutierrez 1994:17-33).

After the Gutierrez publication, similar accounts of the business and economic interests of political officials surfaced. These revelations clearly show that civil service reforms, its successes and failures, cannot be separated from the complex web of political and economic institutions and personalities.

Among these outstanding publications are *Pork and Other Perks: Corruption and Governance in the Philippines*, published by the Philippine Center for Investigative Journalism (PCIJ), Evelio B. Javier Foundation and the Institute for Popular Democracy (1998). Edited by Sheila S. Coronel and with an introductory essay by Joel Rocamora, the book contains hard-hitting reports on examples of political and bureaucratic abuse ranging from pork barrel to spectacular scams. It ends with an essay on citizens groups who have organized themselves against corruption.

In 2000, the PCIJ came out with another explosive book, *Betrayals of the Public Trust: Investigative Reports on Corruption*, also edited by Sheila S. Coronel. This time, the book contains explanations of reporting techniques used.

No president has been exempt from these courageous exposés. At present, newspapers are crammed with non-stop reportage on the present administration. The latest is an investigative report on the Bureau of Internal Revenue (BIR), serialized in leading dailies.

To conclude, there is a vast array of literature on inspiring progress in formal civil service reforms. At the same time, blatant cases of abuse of political and bureaucratic power have been reported in loathsome detail. Should not the twain meet in the context of political economy?

The Legal Bases of the Civil Service System in the Philippines

"Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people." (Article XIII, Section 1, 1973 Constitution, and Article XI, Section 1, 1987 Constitution)

Many historians and public administration scholars believe that the modern civil service in the Philippines was started by the Americans. This

took place when the Philippines was taken over as a colony of the United States; however, Jaime B. Veneracion argues that the foundations for the modern civil service were actually laid in 1866 with the passage of a Royal Decree which integrated the civil service of the colony with that of the home government. Bureaucrats were divided into categories with different salary levels. Qualification requirements were set up for different positions; the passing of an examination was likewise required (Veneracion 1988: 67-69).

The revolutionary government, on the other hand, used Apolinario Mabini's *Decalogue* to lay the basis for the civil service. A distinction was made between appointive positions and those to be filled through competitive examinations. The development of a professional administrative class started with the provision that personnel chosen through examination could not be removed with a change in political administration.

The Philippines has had five Constitutions since the Philippine Revolution. These are the Malolos Constitution of 1899 promulgated by the independent Republic, the 1935 Constitution during the Commonwealth period, the 1973 Constitution during the Marcos administration, the 1986 Freedom Constitution of the Aquino presidency, and the 1987 Constitution which is in force at present.

Each of these Constitutions was passed during different historical periods and all of them contain provisions regarding the civil service. On the basis of explicit provisions in the different constitutions, one can safely say that legally, the Philippine civil service system is probably among the best in the world and the Filipino civil servant among the best qualified, as well as the most protected.

The Malolos Constitution of 1899

Provisions on governance are in different parts of the Malolos Constitution of 1899. Title VII is on "The Executive Power." An interesting provision is Article 57 which provides for "the most liberal policy of decentralization and administrative autonomy." So whoever said that decentralization is a newfangled concept? Title VIII contains provisions on "The President of the Republic," while Title IX has provisions on "The Secretaries of Government." Finally, Title XII is on "Administration of the State."

The 1935 Constitution and Commonwealth Act 177

The 1935 Constitution, promulgated during the period of the Commonwealth was a major breakthrough for civil service reform. Article XI on the Civil Service reiterated existing legal provisions like appointment according to merit and fitness to be determined by competitive examination, the ban on partisan political activities, prohibition of double compensation, and so on. According to Corpuz, "What was important was the guarantee by constitutional authority of the open competitive merit system...the mandate in the fundamental law of the land was the first step in the consolidation of all the previous advances in the application of merit principles to the civil service." (Corpuz 1957: 216).

In 1936, Commonwealth Act 177 was passed by the National Assembly. It was described ecstatically as "...the civil service reformer's dream come true....it writes into the law of the land virtually every safeguard of the merit system...." (Hayden 1933, as quoted by Corpuz 1957: 217).

Getting "Betterer:" The 1973 Constitution

If Commonwealth Act 177, which is based on the 1935 Constitution is a civil service reformer's dream come true, the 1973 Constitution is his wildest fantasy come true.

The 1973 Constitution was passed during the administration of Pres. Ferdinand Marcos. Ironically, even as the Marcos era was associated in the public mind with the plunder of the country, the Constitution which he wrought provided for bold and wide civil service reforms.

The provisions on the civil service were expanded from four to eight sections. Aside from reiteration of the original provisions in the 1935 Constitution, new features included provisions for the selection of the members of the Commission, the right to self organization of government employees, guaranteed protection for employees, prohibition against partisan political activity, standardization of compensation for government officials, prohibition of elective officials from appointment to a public office, a ban on double compensation and prohibition of losing candidates from accepting appointments in public office within a period of one year.

Furthermore, the 1973 Constitution includes Article XIII on Accountability of Public Officers, which contains the immortal lines,

"Public office is a public trust." It is so inspiringly beautiful that the entire section was adopted in Corazon Aquino's 1987 Constitution, an irony of ironies.

Freedom for the Civil Servant? The 1986 Freedom Constitution

When President Marcos was ousted on the wave of people power, President Corazon Aquino was installed as the new President. A revolutionary government was declared and both houses of Congress closed. The 1986 Freedom Constitution was promulgated. Most, if not all of the provisions on the civil service were adopted. At the same time, a massive reorganization was set in motion. This was promulgated in Article III. The objective was to "promote economy, efficiency, and the eradication of graft and corruption." The reorganization was followed by a purge which left the civil service shaken and turned inside out.

"Betterer and betterer" legal provisions: the 1987 Constitution

The 1986 Freedom Constitution was followed by the 1987 Constitution which, as noted earlier, adopted all of the provisions of the 1973 Constitution on the civil service.

A noteworthy addition is Section 3 of Article IX which explicitly provides for the establishment of a Career Service. It builds on the reforms initiated by Marcos when he set up the Career Executive Service.

In addition to Article IX which is specifically on the CSC, Sections 14, 18, 26, 27 and 28 of Article II, the Declaration of Principles and State Policies contains provisions which are related to the civil service. These are the principles on the role of women in nation-building; the protection of the rights of workers as well as promotion of welfare; equal access to opportunities for public services; prohibition of political dynasties; maintenance of honesty and integrity in the public service and positive and effective measures against graft and corruption; and a policy of full public disclosure of all transactions involving public interest.

The Administrative Code of 1987 (Executive Order No. 292)

Another major accomplishment of the Aquino administration is the codification of all laws on the administration of the government in one comprehensive volume. The Administrative Code of 1987 integrates in

one volume all the laws affecting agencies of the Executive Branch, including the Office of the President, the constitutional commissions, the Office of the Ombudsman and the National Economic and Development Authority.

Book V, Title I Subtitle IA is specifically on the Civil Service Commission. Various chapters on different aspects of human resource management contain provisions on interdepartment relations, personnel policies and standards, the right to self-organization, discipline prohibitions and leave of absence.

The provisions of the Code lay the basis for human resource management at the national and agency level.

Some other laws related to the Civil Service

The Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. 6713). Another landmark law which is associated with President Aquino's term is the passage of the *Code of Conduct and Ethical Standards for Public Officials and Employees* which was passed in 1989 and authored by Sen. Jovito Salonga. The senator is revered for his uncompromising stand on graft and corruption.

The law builds on an earlier republic act—RA 3019 or the Anti-Graft and Corrupt Practices Act. When this earlier law was passed, a senator commented that "not even a saint could obey this law." The Code sets out in great detail the duties of public officials and employees. Section seven includes a litany of prohibited acts and transactions. Section eight requires public officials and employees to submit two documents under oath: the Statement of Assets, Liabilities and Net Worth, and a Disclosure of Business Interests and Financial Connections. Section nine provides for divestment from shareholdings or interest in any private business enterprise.

Section 11 provides for penalties. At the same time, the law provides for a system of incentives and rewards in Section six.

The amount of detail and precision in this Code is astounding. It is claimed that all possible loopholes on graft and corruption are plugged in this law. If a saint could not obey the less explicit earlier law, it is fervently hoped that ordinary mortals, especially bureaucrats, will keep to the letter of this more stringent law.

Women in Development. The vibrant women's movement in the Philippines received a big boost with the passage of Republic Act No. 7192, *An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation Building and for Other Purposes*, which promotes the integration of women as full and equal partners of men in development and nation building and for other purposes. In the public service, it is true that there are more women than men; however, they are concentrated in the rank and file levels. As one climbs the organizational ladder and reaches the executive positions, the number of women diminishes in relation to men.

In the wake of R.A. 7192, agencies are now required to allocate at least five percent of their total budgets to activities related to gender and development; hence, the term "Gender and Development (GAD) budgets."

Still another law affecting women can be classified as part of "civil service reforms," by the simple fact that majority of the employees in the civil service are women. This is Republic Act 7877 or the *Anti-Sexual Harassment Act* which was passed in 1995. The CSC has come out with the implementing rules and regulations with respect to the public sector.

Implementation of formal rules at the agency level. The head of agency is responsible for implementing the provisions of the laws on the civil service in his agency. He is assisted by a Human Resource Development Office (HRDO) which oversees recruitment and selection, training, performance evaluation and disciplinary action. An agency can always seek technical assistance from the CSC.

All agencies have mechanisms for processing complaints against officials and employees. The final arbiter in disciplinary cases is the CSC. Likewise, mechanisms for incentives and rewards exist at the level of the agency. The highest awards are the Presidential Lingkod Bayan awards which are administered by the CSC itself. Awardees are nominated without their knowledge and selected through a rigorous and objective selection process.

The proposed Civil Service Code (Senate Bill 2132). In 2001, the CSC proposed the codification of all existing laws and regulations on the civil service. The draft code was submitted to both houses of Congress. In the Senate, it was integrated and harmonized with all other proposed bills affecting the civil service into Senate Bill 2132, "The Civil Service Code of the Philippines."

Now in its second year in Congress, the bill has already been submitted for first reading. Eight technical working group meetings have been conducted. The Committee report has been submitted under the joint sponsorship of Senators Aquino-Oreta and Pimentel, Jr—the former and present Chair of the Senate Committee on the Civil Service.

At present, the bill is in the "interpellation stage" after it was submitted for second reading. The sponsorship speech was delivered by Sen. Pimentel, Jr. After the interpellation, amendments will be introduced, followed by voting on second reading. If the voting is favorable, the bill will be calendared for third reading, followed by nominal voting. If approved, it will be referred to the House of Representatives for concurrence.

In the meantime, the bill has not yet been presented for first reading in the House. There is some concern that the current session of Congress will close without the bill being passed into law.

Crafting civil service codes, laws and implementing rules and regulations (IRRs). Crafting civil service codes and laws is a long tortuous process. The CSC has to take the initiative in drafting proposed codes and laws since it is the interested party. To do this, it goes through a process of consulting experts, constituents and in-house staff. If necessary, public hearings and meetings will be conducted; thus, a draft code or law can undergo several revisions.

Codes and laws undergo the same process since the former are actually made up of consolidated and related laws. Once the draft is deemed satisfactory by the CSC, it is submitted to both Houses of Congress. The legislative process in both houses is similar (See Annex J).

The legislative process for codes and laws can be a prolonged exercise. The formal route is for the bill to be presented for first reading and technical working group meetings before the committee report is submitted. It can be integrated with other related bills. During the second reading, the sponsor will deliver his or her sponsorship speech. This will be followed by interpellation which can be lengthy since presumably all senators will want to pose queries or propose more amendments. After the additional amendments, the final form of the bill is crafted, followed by the third reading and its hopeful passage into law.

The formal process for passing a law is complex in itself. It is further complicated by the fact that the process is intensely political, with majority and minority politicians constantly maneuvering against each

other. The sound technical provisions of a proposed bill are only one aspect. Politicians have to be convinced that it is not only a good bill - it is also good politics to support the bill. Politicians have only so much time - good bills can be marginalized by issues which have very high political value and elicit intense public interest.

Passage of a code or law does not mean it can be implemented immediately. Implementing rules and regulations need to be crafted in order to guide agencies. These IRRs lay out in even greater detail the mechanics of implementing the code or law. The process can be very lengthy as well since the CSC will likely undergo the same process it went through in preparing the draft—in-house committee work, consultations, and a series of reviews before final approval. It is likely that the IRRs will be much longer than the law itself since all possible ramifications and complications during implementation have to be anticipated. Also, much detail is necessary so these can be uniformly adopted at the agency level.

Conclusion

The foundations for a modern civil service were laid in 1866, or 137 years ago. These foundations were followed by a series of civil service reforms which broadened the sphere of the civil service, repeatedly reaffirmed the principle of merit and introduced better features to ensure a nationalist, committed, well qualified, productive and accountable civil service.

These wonderful reforms are enshrined in the five Constitutions which have been promulgated during different periods, reaffirmed in the administrative code, and bolstered by related laws. The only fly in the ointment is the reorganization/purge which was mandated in the Freedom Constitution. As noted earlier, in the light of all these sweeping formal reforms, it is very likely that the Philippines has one of the best civil service systems in the world. Legally. But is it for real?

Waking Up From the Dream: Actual Practices in the Civil Service

"Civil service reforms are getting 'betterer' and 'betterer,' actual practices are getting 'worse and worse'" (Ledivina V. Cariño)

Observers of the civil service system in the Philippines are alternately impressed by advances in formal civil service reforms and appalled by aberrations and deviations. They are simultaneously dazzled by the impressive credentials of many career officials and disgusted by the total lack of qualifications of political appointees. And they get confused when these contradictory events occur under one political administration.

Even under conditions when there are no changes in political administrations, aberrant practices still occur, often at the level of the agencies. Unless affected parties protest, these activities hardly generate public attention. Every so often, the opposition creates a stir and the public sits up and notices these practices; or an investigative journalist digs up the story and the public is horrified.

The most spectacular, dramatic and tumultuous aberrations occur during periods of transition from one administration to another. Each time a change of administration occurs, the bureaucracy is shaken, destabilized and turned upside down. While normal successions are replete with accounts of political abuse of the bureaucracy, destabilization is most intense during "abnormal" transitions. Obvious examples are the takeover of power, e.g., by Marcos, Aquino and Macapagal Arroyo. These are the times when civil service rules are totally ignored, usually for a "higher" political objective.

Actual practices during normal successions

In her book *Bureaucracy for Democracy*, Ledivina V. Cariño (1992) examines the dynamics between the bureaucracy and the executive during periods of transition. She classifies these periods as normal succession, authoritarian succession, and redemocratization. Cariño's study covers the period up to the Aquino administration and compares the Philippine experience with those of other countries.

Six presidents presided over the Philippines before Marcos declared

Martial Law. The transitions between these presidencies are classified as normal successions. According to Cariño, "the executive appointed agency heads and aides that could be justified as 'policy determining, highly technical or primarily confidential,' qualities which exempted the appointed from civil service requirements. Others were hired as 'casuals,' employees who enjoyed *de facto* permanence due to the regular renewal of their temporary 'emergency' appointments." When a new president came along, he could summarily remove them and replace them with his own people without much trouble.

A more complex strategy was reorganization. All presidents resorted to reorganization of the bureaucracy, whether comprehensive or partial. While reorganizations were launched for objectives of economy, efficiency and effectiveness, these exercises also provided opportunities to ease out politically unpalatable persons and unwanted organizations.

Reorganizations, especially the comprehensive variety, served as venues for dynamic interactions between bureaucrats and professionals on the one hand, and political leaders on the other. While these are initiated by the Executive and authorized by Congress, actual preparation of reorganization plans is usually done by professionals who go about their work earnestly and with all expectations for a leaner, more efficient bureaucracy.

The mass of studies on reorganization efforts report that many of these plans were not implemented at all, but were mangled and revised when these went through the political mill; for example, during the three year reorganization exercise of the Government Survey and Reorganization Commission in 1956, 13 out of 33 reorganization plans were not implemented; some were only implemented partially.

At present, there are two bills in the legislative mill of the House of Representatives which seek to reorganize the bureaucracy one more. These are House Bill No. 191 and House Bill 978. Both bills are the subject of Technical Working Group meetings. The objective is to combine these two bills into one; thus, the unbroken record of all presidents wanting to reorganize the government remains.

Actual practices during an authoritarian succession

The observation about formal reforms and abuses going on simultaneously reached unprecedented heights during the Martial Law period under Marcos. As noted earlier, Marcos initiated sweeping reforms

of the Civil Service which he enshrined in the constitution itself. The institutionalization of the career service in government was started by Marcos, particularly the Career Service. He created the Development Academy of the Philippines (DAP), which was tasked, among others, to develop training programs for different levels of career officials.

Marcos' first administrative act when he declared Martial Law was to create the Philippine Commission on Reorganization (PCR) which was tasked to formulate a reorganization plan for the entire bureaucracy. Armand Fabella, distinguished economist and administrator, was tapped to head the Commission. Hundreds of professionals were tapped from various government agencies, including the University of the Philippines. Those who served the Commission did so out of a sincere desire to serve and participate in the mammoth exercise to rationalize government functions and structures.

The Commission submitted a Plan which introduced the concept of regional offices, strengthened decentralization, and rationalized the corporate sector; thus, many of the formal features of the present civil service system can trace their lineage to the Integrated Reorganization Plan (IRP).

To the horror of the professionals who joined the Commission with high hopes at the beginning, the IRP was torn to pieces in a series of political decisions. It was amended by eleven Presidential Decrees (PDs) between September and December 1972, 13 in 1973, a high of 31 in 1974 and, finally, 12 in 1975, for a total of 67 amendments. (Cariño 1992 citing Segovia 1977: 83)

Furthermore, PD 6 which allows summary dismissals, followed in the wake of the reorganization. Purges which took place in 1973 and 1975 saw the removal of thousands of personnel. The purges were so sweeping that both the living and the dead were regurgitated out of the bureaucracy. The purge lists also included those who had either resigned or retired.

Still another Marcos innovation, which facilitated dismissals and was imitated with enthusiasm by his successors, is the requirement of courtesy resignations. This requirement facilitated wholesale removal of bad, as well as good, civil servants. Many are not aware that there is a Supreme Court decision which does not consider courtesy resignations as the real thing.

The damage inflicted by the reorganizations and purges on the bureaucracy was matched by increasing public knowledge that Marcos and

his cohorts were looting the economy, even as civil service reforms were institutionalized in the Constitution. The plunder was scrupulously documented by scholars like Belinda A. Aquino (1987), only after the regime was ousted.

Redemocratization and the civil service

"After the Marcos regime, the Aquino administration inflicted more damage on the civil service system," according to Proserpina Domingo Tapales (interview: May 13, 2003). Cariño concurs and notes that "Aquino's cabinet capitalized on the revolutionary nature of the government and followed the Marcos Model of summary dismissals instead of the pre-Martial law tradition of retrenchment of casuals and appointment of transients to political positions. The purge was accompanied by a general reorganization more tumultuous than any undertaken before." (Carino 1992: 131)

The Aquino reorganization was characterized by summary dismissals, deletion of positions in agencies, frequent changes of heads of agencies, and the creation of even more positions. The major justification for this wholesale purge of government officials is "de-Marcosification."

Even local governments were not spared; all the mayors were replaced with OICs. Interestingly, one ousted mayor who never dreamed of being anything other than a mayor, eventually ran for the senate, became vice-president, and won as president.

During the Marcos regime, officials below the level of undersecretary were considered career employees protected by the Civil Service Law. With Aquino, people lower than undersecretary were not spared. The distinction between career and non-career officials was blurred. This practice was followed by the Presidents who followed after her.

While numbers are not complete, the number of people taken in greatly outnumbered those who were purged. As of 1987, 16,341 employees were terminated in a year's time. As of 1989, 48,974 new employees were taken in. (Cariño 1992: 130) At the same time, of the over 20 officials appointed to cabinet level positions, only 2 remained by 1991. One department witnessed the merry-go-round of six secretaries. There was a surge in the number of undersecretaries and assistant secretaries. One department had as many as seven and even more assistant secretaries.

Because public expectations of Aquino were much higher, public reaction to the chaotic series of purges, as well as legitimate resignations, was critical. Protests were mounted by employee organizations. Eventually, the CSC and the Senate waded into the fray. Even the faculty of the U.P. College of Public Administration issued a strongly worded position paper, penned by those who were most critical of Marcos and adoring of Aquino.

The Senate hearings on the Aquino purges gave birth to three laws. One repealed the provision for summary dismissals (RA6654 1988); the second affirmed "the security of tenure of civil service officers and employees in the implementation of reorganization" (RA6656 1988) and the third was the *Early Retirement Law* (RA 6683) which legislated benefits for persons "reorganized out" of government (Cariño 1992: 134).

Unfortunately, not many civil servants are aware of these laws which protect them from political purges. They continue to patiently bear with the political cycles of good fortune and bad.

More normal successions: Ramos and Estrada

By the time Fidel V. Ramos became President, the culture of wholesale changes of top officials, including career executives, had been inseparably imbedded in the political culture. Courtesy resignations had become *de rigueur* and political appointments routine. Only those with strong stomachs and ample pocketbooks dared fight back when they found themselves replaced. These battles were often long and exhausting with the civil servant being the final loser.

Among the various agencies of the government, the BIR and the Bureau of Customs (BOC) are considered the appointments preserve of the President himself; thus, heads of field offices are personally chosen by him. President Ramos went further down the bureaucratic ladder when he personally chose and appointed a division chief in the BOC.

Fortunately, investigative journalists have started exposing these political inroads into the civil service. In the process, they uncovered the unholy links between political power, economic plunder and the bureaucracy. As mentioned in the first chapter, the PCIJ has taken the lead in the crusade.

NGOs, people's organizations, academics and other members of civil society have sustained their campaigns against abuse of political power;

thus, the aberrations during the Ramos years are very well documented, particularly the "grandmother of all scams," the Amari deal. The ramifications of this deal have reverberated through three administrations, with the recent Supreme Court ruling that the Amari contract is illegal.

When Joseph Estrada became President, he added his own personal embellishments to the existing political culture. Where Ramos was publicly linked to one "other woman," Estrada was identified with four others. Two of these ladies were perceived to be active in appointments, contracts and other business deals. Those who wanted his ear on important transactions joined the queues in the homes of the "significant others." He had the most number of presidential consultants, assistants and advisers.

The practice of placing political appointees in positions requiring professional qualifications was already well entrenched. Aquino has been derided for appointing her dentist and dermatologist to the board of regents of the University of the Philippines, and a baker to the board of the Philippine National Bank. She was also attacked for political appointments to the foreign service. Ramos was severely criticized for creating positions for favored friends and for exacerbating the "generalization" of the bureaucracy which was started by Marcos and Aquino. For his part, Estrada stirred a hornet's nest when he appointed the mother of Senator Nikki Coseteng as ambassador to Mexico and the current career ambassador publicly protested.

The Civil Service and GMA: "Worsen and worsen?"

It has been two years since the assumption of Gloria Macapagal Arroyo to the presidency. Even as the Supreme Court has affirmed the legitimacy of her claim to the presidency, constitutional issues hound her administration and a chain of crises threatens the political and economic stability of the country.

Most of the informants who were interviewed conceded that the situation in the civil service has become "worsen and worsen." At the same time, they acknowledged the efforts of the CSC in fighting corruption and in codifying civil service laws.

It seems that the country has not learned from its bitter experiences with massive reorganizations and wholesale purges. The ouster of Estrada saw a repetition of the Marcos and Aquino syndrome: widespread

termination of officials, reorganizations on the grounds of "efficiency," appointment of more people to the bureaucracy, and assignments to positions based on political loyalty. These steps were followed by non-stop allegations of scams, charges of bribery, and corruption at the highest levels.

Because Estrada's removal from power was considered a repeat of the EDSA revolution, the call was to oust all officials appointed by him. One college in the University of the Philippines even called for the resignation of all its graduates. On the first day of his assumption to office, the newly-appointed Secretary of a very important department demanded the immediate resignation of two deputies in one of the agencies under this department. The reason given was that they were appointed during the administration of Estrada.

The head of the agency advised the secretary that these people are professionals doing technical work. While Estrada signed their appointments, he did not know them personally and had not even met them. They were recommended by the agency head on the basis of their competence. One of these deputies had served three presidents and had climbed up the career ladder on the basis of her professional qualifications. She could not be forced to retire because she was only 59 years old. A former justice of the Court of Appeals commented that if a case were filed, she would win in the Supreme Court. Eventually, these two officials were replaced; a third deputy was taken in although no item was available.

As for the head of the agency, the department secretary assured her she would be retained. After one week, she read in the newspapers that she had been replaced; she left.

A Deputy Commissioner of the BOC, head of the Revenue Collection Monitoring Group, was a career official and was promoted by Estrada after long years of service in the Bureau. On 6 August 2001, a gentleman came to her office and introduced himself as the new Deputy Commissioner. He requested that the turnover be made the next day. The event was followed by a year long court case which reached the Court of Appeals. The BOC official believed that she would win. In March 2002, the Commissioner of Customs offered her an appointment as Deputy Commissioner for Internal Administration. Initially, she refused because she wanted to be reinstated to her former position. She was told she would be appointed in exchange for withdrawal of the case. She finally agreed because the process of fighting her lonely battle was taking its physical and emotional toll. She was also advised by her lawyer that if she refused, she would still be pressured into leaving.

In an important bureau, new people were brought in laterally as division chiefs. Fourteen new positions were created for outsiders; now they are occupying career positions.

One political appointment which has reached the media is that of the manager of the Philippine Tourism Authority (PTA) who is being replaced with the son of a senator. This son lost in the last elections. He has a brother in Congress and another who is an LGU official. The manager refuses to leave because he claims he has a fixed term of office. The situation in PTA is such that there are two heads who are separately holding office and claiming to be the head of PTA.

In the Department of Transportation and Communications (DOTC), career people are also replaced with political appointees. One example is that of a director who is a Career Executive Service Officer (CESO).

News of career people being replaced does not get much attention in the media because there are more exciting news of wars, scams, bribery and corruption. If inquiries are made in the different offices, more stories can be unearthed. They are not as abhorrent and shocking as the Amari deal or the Piatco contract. They only tell sad stories of career people who have worked in the bureaucracy and were removed or reorganized out in spite of the wide array of laws, rules and regulations promulgated to protect them. These are professionals who are too tired to fight their battles alone and pay for the battery of lawyers needed to win a case all the way to the Supreme Court.

The intimate linkages between politicians and the bureaucracy were clearly illustrated by Gutierrez (1994) in his study of the 9th Congress. It seems that the same pattern remains. One congressman has seen to it that all of his six children are comfortably ensconced in different offices of the government. One daughter was appointed auditor of one of the richest cities in the country only after a year of service. The doting father proudly boasts that she "easily gets P50,000 a day."

Conclusion

The Philippines has a long history of civil service reform. At the same time, it has an equally long history of abuse in the civil service. This has been most intense during periods of political upheaval as well as economic crises. Political and economic instability cannot but impact on the civil service.

Over a hundred years of efforts to forge a mature, professional service must be acknowledged. Unfortunately, political and economic institutions have not matured and stabilized. In the meantime, the reformers' dream and reality continue to co-exist.

Conclusion: Moving Forward

"Citizens need to be informed about innovations that have worked or reforms that have been implemented—and what still needs to be done—so that they can temper their outrage with a measure of hope" (Sheila S. Coronel)

Someone once wrote that the Philippines suffers from a damaged culture. One can possibly say that the civil service suffers periodic damage with political cycles, especially of the "abnormal" variety. Reformers heroically struggled not only to repair this damage, but also to introduce new reforms. Such efforts need to be linked with efforts to transform political institutions and reduce abuse of political power.

Big dreams: the role of civil society and the private sector

More and more, the role of civil society and the private sector in bringing about reform and transformation is increasingly recognized and accepted. The Philippines abounds with many stories of how citizens have taken upon themselves the burden of taking action on political and social issues. With the active participation of media, they brought about change — some small, others big.

There is no lack of documented information on political abuse, corruption, and the misuse and abuse of the bureaucracy. The important thing is to link the campaign for political reforms with civil service reforms. At present, these activities are going on two separate tracks, because the major players tend to be different. Those who are advocating political reforms are from media, academe, civil society organizations and the general public; those who have spent all their professional lives in struggling for civil service reforms are in the CSC and other constitutional bodies, in the schools of public administration, and in the career executive service. The good work that these two sets of crusaders are doing separately needs to be done together.

The main actors in civil society—NGOs, people's organizations, the church, the academe and the media are doing wonderful work in the realm

of politics, corruption, economic crises, environment, women and many other public issues. They need to turn their attention to civil service reform. The professionals in the civil service can benefit from their successes as well as their failures.

Many scholars who have studied the bureaucracy for decades—Corpuz, Veneracion, Abueva and Cariño, have incessantly stated that civil service reform cannot be implemented and sustained without political and economic reforms. They have warned that unless political parties mature, political institutions stabilize, and sustained economic growth attained, civil service reforms will remain at the formal legal level.

Small dreams

While the public is waiting and working for the big dreams to come true, there are steps which can be undertaken immediately.

Constitutional amendments. At present, the public is subjected to speculations about moves to amend the Constitution. Proposals are primarily on the political provisions, ranging from changing the term of the presidency, shifting to the parliamentary system, and so on.

It might be useful to add to the menu of constitutional reforms the reduction of the number of positions in the bureaucracy which have to be personally appointed by the president. The CSC says the Constitution provides that over 11,000 positions have to be appointed by the President. Once appointments are made by the President, the process becomes intensely political.

The desirability of presidential appointments extends to taking oaths before the President. Once a week, the President administers oaths of office not only to government officials but also to heads of NGOs, civil society leaders, professional organizations, and religious groups. These rites are attended by hordes of colleagues, friends, and family members. Photo opportunities are part of the ceremonies.

If the number of positions to be appointed by the President is reduced, decentralization and deconcentration will be encouraged, and at least 20 percent of his or her weekly schedule can be devoted to more urgent matters of state.

Intensified communication campaign on civil service reforms. For the man on the street, civil service reforms are not the most exciting events in the country. Obviously there is a need to convince the public that while

reforms may not be as exciting as telenovelas, the impact on their daily lives could be more meaningful.

Former CSC Chairperson Cora Alma de Leon started a radio program on the civil service. These programs would be held in different agencies and reforms would be highlighted. The personal participation of the CSC chair herself in a program directed to the average listener made a big difference.

At present, the focus is on client satisfaction. Listeners are briefed on what they can do to ensure efficient and courteous service from civil servants.

Many career officials just agree to be "reorganized out" because they are not aware of the array of legal options available to them; others are too disheartened to fight back. While it is good to frequently communicate with the constituencies of civil servants, it is equally important to communicate with career officials themselves and inform them of their rights. Employee organizations and professional associations need to be briefed on what can be done to protect their members from the onslaught of politically motivated attacks.

Campaign for the civil service code. The most important ingredient which needs to be added to the campaign for the Civil Service Code is a sense of urgency. Right now it is undergoing the usual tortuous legislative process in the Senate.

The Senate, like the House, is inundated with proposed codes and laws. It needs to be infused with a sense of urgency. It needs to be convinced that it is politically correct to support the bill and that it is also good for their political plans.

Because of the changes in chairmanship of the Committee on Civil Service, it might be necessary to rebrief the committee members and Chairman on the politically attractive features of the bill.

The media can be utilized to drum up public support for the Code. While they are doing wonderful work exposing the shenanigans of public officials, they should also make known with the same degree of enthusiasm the reforms that are being put in place.

A former head of agency once asked an investigative journalist why they are not reporting the good things that are happening in government. This agency in particular had advocated public participation in generation

of funds for the government. The journalist answered that it is not her duty to report positive happenings; it is her duty to report only the terrible things that are happening.

The Civil Service Code has to compete with other proposed bills which are now before the Senate. This is where civil society—especially NGOs and the media—can contribute their experience and savvy in the arena of political campaigns.

Now that it is in the Senate, the campaign for the Civil Service Code has to be treated like a political campaign, which it is.

Bringing back the prestige of CESOs. Interviewees have observed that the luster and prestige attached to being a CESO has disappeared with the series of removals and retrenchment. Segovia (Interview May 12) says that the perception is that there is no more protection for the career official.

It is high time that NGOs and media should feature CESOs who have performed excellently in their respective agencies. The message is that civil servants are efficient, honest and high performers. There are many CESOs who have brought dignity and luster to their agencies. Unfortunately, the public only knows the bad eggs.

Bridging the gap in salary scales. It is a well-known fact that salaries in government are very low. It is also known that the corporate sector, particularly GFIs, enjoys much higher benefits in spite of the Salary Standardization Law. The endless bonuses of those in the legislative bureaucracies are also of public knowledge. The gap between salaries of professionals doing comparable jobs has widened through the years. This gap needs to be closed.

Recently, several corporations have increased perks and benefits to their staffs by leaps and bounds. Well known examples are SSS, GSIS, and NPC. This increase has triggered demoralization among competent professionals in the regular agencies.

The law of supply-and-demand is certainly working because of the huge gaps in salaries; thus, the demand for positions in GFIs, GOCCs, and the legislative bureaucracy is very high. The supply is limited; the recourse is to seek political support and patronage.

The laws creating government corporations must be reviewed and, if possible, amended. When an attempt was made to reduce corporate salaries, the answer was that the laws creating these corporations give the

boards the authority to determine salaries.

Finally. Big dreams. Small dreams. The task of making them come true is not only the responsibility of the Civil Service Commission; or of the civil service alone. All sectors of society have to pitch in. Civil service reforms will only work if society itself is reformed.

Endnotes

¹ Herein cited from a condensed version "Stability and Change: The Civil Service in the Philippines" in the *Philippine Journal of Public Administration*, April 1985. The original paper was awarded first prize in the national history writing contest sponsored by the Civil Service Commission in connection with its 50th anniversary on September 19, 1983.

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Rethinking the Five Pillars of the Criminal Justice System: Towards a New Model

GERONIMO L. SY*

The model of criminal justice system in the Philippines follows the five pillars, namely: law enforcement, prosecution, judiciary, correction and community. Although based on the four subsystems used in the United States, it omits the legislative, and added the prosecution and the community components. The system, however, is plagued by many ills which is a direct consequence of a faulty theory. Aside from eliminated subsystem and the added pillars, the flaws include the model's translation from a circular representation to a linear one without a clear feedback loop. It did not carefully identify the rightful components of a functional criminal justice system and disregarded the structural subsystems. With the theoretical problems of the five pillars model, the Gavel Model is proposed which improves on the existing model by: 1) adding back the legislative system; 2) adding the Public Defender's Office; 3) cooperation between law enforcement and prosecution; 4) interaction of Prosecution and Defense; 5) cooperation between courts and corrections; and 6) tapping the civil society. The proposed model is a rational application of the concept of check-and-balance and addresses the ills in the present system.

Public Administration: Criminal Justice System

The efficient and effective functioning of the criminal justice administration, in whatever form it may be found, is the bedrock of any modern civil society. Crime must be detected and dealt with quickly and fairly to preserve the social order so dear to the peace of the community. There ought to be a collective response to an individual breach in the social contract by any one member. When good sense, good faith and reason cannot appeal to correct aberration or bring back deviation to the norm, invariably the criminal justice process is invoked. Its administration then underpins the web of personal relationships and structure of interlocking institutions that make up society today.

The article presents an overview of the existing model of criminal justice administration which in theory maintains peace and order. The

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present empirical and anecdotal evidence, however, leaves much to be desired without need of any elaboration. The thesis is that the many ills that plague the system are a direct consequence, unintended to a large extent, of faulty theory – the model of the “five pillars”: law enforcement, prosecution, judiciary, correction and community. The origins and development of this model are traced to bring understanding and insights. This procedure leads to an assessment and critique of the five pillars often relied upon as the basis to solve problems of the system. A new model, based on sound public administration practices, is proposed and its benefits propounded.

Scope and Limitation

The study approaches the dynamics of the components of the criminal justice administration, primarily from the point of view of its structure and functions with focus on the Department of Justice and the courts. It will not tackle theories or typologies on crime. Negative bureaucratic behavior will not be discussed. Some social values will be considered. Alternative dispute resolution or mechanism will be briefly noted. The legal framework that will allow the new model to function will be discussed.

It is given that in the present “five pillars,” there is no clear distinction between the theory of the five pillars and the model of the five pillars. The study uses the terms ‘theory’ and ‘model’ interchangeably although in certain instances, ‘model’ is taken to mean the visual representation of the abstract concept or theory.

Overview, Origins and Rationale of the Five Pillars Theory/Model

The criminal justice system developed through the years and continues to evolve. Some quarters have argued that it is actually a “non-system” since its different parts were brought together without an overarching top-down approach to the problem of crime—from a well-formulated theory and a set of principles to the setting up of the institutions and the actual implementation of the various mandates. This lack of theory and principle is especially true in the Philippine situation attested in the separate and disparate agency histories that participate in the criminal justice system. The first priority is then “systematizing [of] the presently fragmented criminal justice process” (Chamelin, Fox, and Whisenand 1975).

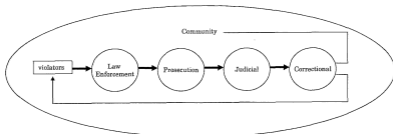
A "system," then, is a "structure of related parts through which a process is funneled" (Edelstein and Wicks 1977). The five pillars of the criminal justice system consist of law enforcement, prosecution, judiciary, correction and community. This working model to understand and approach the criminal justice system has been in place since the 1990s and possibly even before. It is also the framework to analyze the ills that come with it.

The five pillars model was crystallized by then Chief Justice Andres R. Narvasa (1996). In it, he first cites the different systems that operate in the community or the total social system of which the criminal justice system is one of them. He proceeds to quote the four subsystems of the criminal justice system as the legislative, law enforcement, judicial and correctional subsystems in both instances citing his source, *An Introduction to Criminal Justice*, by Charles D. Edelstein and Robert J. Wicks (1977: 14).

Eliminated was the legislative subsystem and the addition of the prosecution (which in the American system is included in the judicial subsystem) and the community or the informal component. The original four components minus one part and plus two parts became the five parts or "pillars."

The initial representation of the criminal justice system is a circular diagram to show the interrelationships among the different subsystems and to complete the feedback loop which is essential to any functioning system. In Figure 1, Narvasa (1996) proceeds to show the flow of the Philippine criminal justice system.

Figure 1. Flow of Violators through the Criminal Justice System (Philippine System)



Source: Diagram No. 8, Narvasa 1996.

He attempts to show the different stages or processes through which persons suspected of having committed a crime pass from commission of the offense, to investigation and apprehension, to prosecution, trial and conviction, and, finally, punishment and correction; thus, the "criminal justice system essentially is the system or process in the community by which crimes are investigated, and the persons suspected thereof are taken into custody, prosecuted in court, and punished if found guilty, provision being made for their correction and rehabilitation"(Narvasa 1996:27-28). In theory, after going through the entire system, the offenders rejoin the community and lead a productive and peaceful life.

Briefly, as summarized by Narvasa (1996:31-33), each "pillar's" function is:

- 1) law enforcement process – investigate the crime, arrest suspects and refer the case and the suspects to the prosecutor.
- 2) prosecution process – evaluate the police findings, file informations or criminal complaints.
- 3) judicial process – final determination of the innocence or guilt of persons accused of crimes.
- 4) correctional process – isolation of the convicts by imprisonment and their correction and rehabilitation.
- 5) community – includes the community at large like appropriate legislative agencies, public and private educational institutions, parents and guardians, churches, religious organizations, civic associations.

The translation from the circular diagram to a horizontal one can be traced to another American source cited by Narvasa (1996). This is the *Introduction to Criminal Justice* by Chamelin, Fox and Whisenand (1975). In it, the criminal justice system is viewed like any other operation or process and all operations have an input, processing and output.

This then is the evolution of the present five "pillars" of the criminal justice system.

Assessment and Critique of the Five "Pillars"

The adoption of the five "pillars" by eliminating the legislative subsystem and adding the prosecution and community "pillars," and its translation from a circular representation to a linear one without a clear feedback loop is a two-step flaw. One, it did not carefully identify the rightful components of a functional criminal justice system and disregarded the structural subsystems. Two, the linear representation is an erroneous application of the process operations diagram earlier discussed. This has brought confusion and fragmentation – with the evils of lack of accountability and passing of the buck – that come with over separation in the system of checks and balances. Its end result is a malfunctioning criminal justice system that perpetuates crime and exacerbates peace and order in society.

1. *Lopping off the legislative subsystem*

In a civil law legal system, legislation occupies a central and key role in the criminalization of certain acts. There is a constant clamor for relevant laws and the passage of new laws to deal with persistent or novel problems of peace and order. By eliminating the legislative subsystem, the five pillars have cut off the feedback loop so necessary to keep legislation attuned to the needs of the citizenry and the participants in the criminal justice system. After passing a law, the legislature seems to stand back and let the criminal justice process unfold without constant monitoring or checking of how the law plays out. As a result, the other parts lack the institutional framework to engage the legislature in debate and are relegated to working within the system and tinkering with whatever is entrusted to them. There is "legislation in a vacuum," so to speak. The feedback loop must be completed.

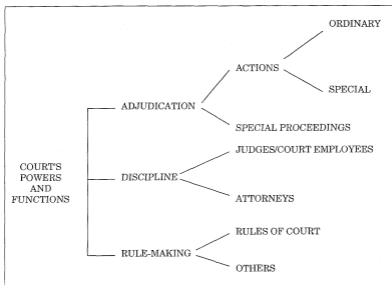
Moreover, in a representative government, the will of the people is theoretically embodied in the legislators. They represent the community in its political aspect. Perhaps, the elimination was done to sweep under the pernicious politics in the legislative subsystem; however, from the criminal justice point of view, it cannot not be an integral part.

2. *Community as a subsystem*

This is definitely a misplaced "pillar." Note that in the original diagram, it proceeded to delineate specific systems that exist

within the total social system which is the community. The criminal justice system is one of them, which consists of the four subsystems in the American system. In the five pillars model, the community is made a subsystem which is illogical and flawed. One cannot have a community subsystem in a criminal justice system which is part of the total community system.

Figure 2. Administrative Jurisdiction of Courts over Judges, Court Employees, and Members of the Philippine Bar

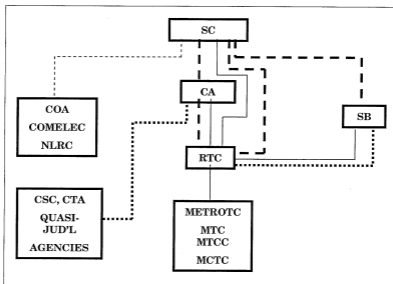


Source: Diagram No. 4, Narvasa 1996.

This issue explains the continuous difficulty of the stakeholders in the criminal justice process: where and how to situate this "pillar." As presented in Figure 2, the end of the criminal justice process is the community. While it may be correct to state that once an offender has been released from the corrections process, he goes back to the community, it is fallacious because at each stage of the

criminal justice process, there is a "sieve effect" (Israel, Kamisar, LaFave 1989:2) which constantly sifts cases out before they complete all the stages. This situation means that offenders can be discharged at any point of the process and return to the community which he never left or was never isolated from in the first place. Moreover, the entire criminal justice system is embodied and imbedded in the community or total social system – such that to point out that the fifth pillar is the community begs the question.

Figure 3. Expanded or Total Court System in the Philippines



Source: Diagram No. 5, Narvasa 1996.

Another poignant illustration of this fallacy is that in describing the functions of the community, while the word "process" is appended in the preceding four pillars; it is not so in the fifth – there is no community process. There is no function for this part except for a description of the different players in the community, for theoretically no process could be ascribed to it that makes it part of the criminal justice system. Again, this is evidently because

the community is the totality of the systems and is not merely a subsystem. The UNDP Report (2003) had a better sense of redrawing the diagram as found below; however, it is basically the same five pillar model and does not remove the ills associated with it. The Edelstein and Wicks (1977) representation subsumes the criminal justice system in the context of the total social system in Figure 3.

3. *Use of the word "pillar"*

The initial terminology was the use of the word "component" or "part" for the subsystems. "Pillar" was used as an alternative to describe their component presumably as a pillar of strength, to convey the idea that each part will truly deliver criminal justice. The concept of five pillars caught on. The effect was a mental image of imposing towers that stood in a row. Of course architecturally, there has to be a base underneath and a structure on top. The idea of a circular mutually interrelating criminal justice process became fragmented.

4. *Multiple functions*

Each criminal justice subsystem performs a variety of functions; for example, the law enforcer investigates the crime, prepares documents, studies the law, preserves evidence, and other related tasks. Not strangely, the prosecutor, the public defender and the judge perform similar duties and the same functions in their own sphere although from a process perspective, all the players have the same goal – to ferret the truth. The dynamic interphases and linkages among them are essential to a working system. To erect the five pillars only contributes to the further fragmentation of the criminal justice process with each part limiting itself to its own sphere of action and not taking a systemic or system-wide approach to tackling the issues of crime. The law enforcer ought to actively engage the prosecutor in presenting the case verified to be meritorious. He also has to actively take a stand in court in securing the conviction of the offender and to see that the appropriate correctional remedy is imposed. At this point, the "five pillar mindset" misleads one to think what the offender should do once he is released back to the system when the primary imperative is for the law enforcer to focus on crime prevention measures.

5. *No preventive aspect*

By placing the community as the last pillar without a process, the intake aspect of it is not emphasized. This lack of emphasis means the prevention aspect in the community is not given as much importance and focus when conventional wisdom dictates that prevention of crimes is much more efficient and effective rather than having offenders go through the criminal justice process with its attendant costs and delays.

Obviously and in contrast to the other four parts, there is no lead agency or accountable institution that takes charge of the community pillar. It is in a state of flux in terms of making it an integral part of the criminal justice process. As a result, any talk of reform or changes in the community is reduced to generalizations and vague statements. Coupled with the view that the community is the final receiving end of the input-process-output chain, this misses the whole point that the whole criminal justice system arose out of, is based in and continues to function in the context of the total social system.

6. *No public defender's office*

In the five pillars, the prosecution is separated from the judicial subsystem and made the second pillar. There is no provision for the public defender's office known as the Public Attorney's Office (PAO). In the Philippine adversarial system of confrontation, the right to counsel is a constitutional right available to the accused as early as the custodial investigation stage when a particular person is suspected of having committed a crime and is interrogated. The playing up of the prosecution pillar has the direct effect of downplaying the corresponding office. PAO lawyers are lower-ranked, paid less, occupy less prestigious positions and generally suffer from lack of institutional respect. Theoretically, they should be a pillar in their own right using the five pillars model.

When the public defender's office is not given enough prominence and adequate exposure, this significantly contributes to the problem of lack of access to justice.

7. *Corrections weakness*

The present ineffectual first three pillars (law enforcement, prosecution and judiciary), with their institutional delays and

functional stagnation have trapped criminal cases in their own subsystems. By the time cases reach the corrections pillar, the crime and its effect on society have largely been forgotten and the offender ignored. Corrections become an imprisonment basin to hold those who were unfortunate enough to have been processed and pushed as an output. The rehabilitation aspect becomes secondary. Again, with the lack of focus and attention on the corrections subsystem, funding becomes more limited and positive changes not viable.

8. Over check and balance

Overall, the splitting of the components of a system into pillars has wrought a pattern of over check and balance in that each subsystem ensures that its intake conforms with its interpretation and practice of the constitution and statutes. In theory, this splitting may be the application of the check and balance. In practice, and also as discussed above, this leads to fragmentation of each part which is left to its own devices to process cases within its own subsystem while ignoring the other parts until they formally engage them. In many instances, when an interphase takes place, it is too late in the day to discover or realize that one, some or all requirements are missing or not needed. A system of "over" check and balance is in reality a situation of "no" check and balance with each part not having a say on how others ought to function.

The New Criminal Justice Model

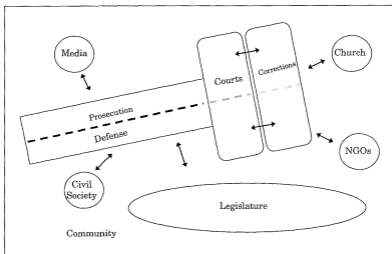
It can readily be seen that the five pillars model is really a problem of theory. The UNDP 2003 Diagnostic Report lists a series of dysfunctions that plague the criminal justice system: poor coordination, deficient and protracted investigation, poor quality of evidence, inability to preserve evidence, substandard legal assistance, lack of lawyers for pauper litigants, lack of awareness of legal services to the poor, court delays, case overload, dilatory tactics, poor case management, inefficiency by judges, funding limitations, lack of technology, lack of administrative management capacity and resources, low remuneration, and inadequate training (UNDP 2003:7-9). A review of these ills yields to the conclusion that the five pillars model is not adequate in theory and in practice.

If the goal of the criminal justice system is to deter would-be criminals and to punish and rehabilitate those with criminal careers, it is essential to rethink the working model that is responsive to the need of

times, based on the constitution and statutes and aligned with social norms.

The new criminal justice model, called the "Gavel Model," is presented below:

Figure 4. Gavel Model



The figure is developed by the author.

Legislature

The first observation is that this model is not the neat and tidy representation that is the five pillars. This is because the criminal justice system with all its subsystems is a complex entity that can only be visually experienced to a limited extent; however, the Gavel Model dramatically improves on the existing model.

1. Adding back the legislative subsystem

With a civil law legal system, it is imperative that the legislative subsystem is added. Laws are essential to every subsystem in the criminal justice system and the total social system. The multiple

arrows between the gavel and stand reflect continuous feedback and monitoring of the law and its implementation. It completes the process in a series of loops instead of waiting until an offender has been funneled through the process. Remember that the legislative component also represents the community in a representative system of government that ideally reflects the people's desires and mores.

2. *Adding the Public Defender's Office*

Upon custodial investigation of the suspect, law enforcers are required to notify the public defender to take an active part to ensure that constitutional rights are protected. This requirement is the cleft in the box. Moreover, the public defender's role extends to the courts as it is duly and graphically presented.

3. *Cooperation between Law Enforcement and Prosecution*

For many years, the law enforcement and prosecution have been in a game of "ping pong." The law enforcers' primary objective is to get the case filed in court which requires going through the needle of the prosecution in some cases. Once the case is filed, the law enforcers lose interest as their performance is generally measured by the successful filing and not the conviction, in case of guilty parties. The prosecution, on the other hand, abhors weak cases as this will ultimately result in the cases being dismissed or archived – a point against the prosecution and not the law enforcement. There is buck passing and pointing of fingers when a case fails invariably. Nowhere is the fragmentation of the criminal justice more poignant and acute than in the malfunctioning of these two parts.

An oft-repeated clamor is for better coordination and for more legal training for the law enforcers. In the new model, the law enforcers and prosecutors are separated by a loose line to mean close cooperation in the investigation and prosecution of the case and this partnership continues until the end of the court process. In practice, once a crime is committed, the prosecutor is called upon to provide legal assistance at the very onset. Likewise, the law enforcement stays with the case – i.e., presenting and preserving evidence, giving testimony prepared in tandem with the prosecutor – until its logical end. The performance of both parts will be based on the final termination of the case and not at any other time prior to a conclusive finding of guilt or innocence.

4. *Interaction of Prosecution and Defense*

One major reason for the delay in court is the unavailability of the lawyers and the low quality of the legal assistance provided. This is brought about in some measure by the lack of interactive tension between the prosecution and defense, which means that if one part is absent, the other cannot function; however, if the two adversarial components are made to closely interact (not cooperate) from the start and on to the courts and their rating is based on their performance in such cases with the cause of delay as the major criterion, there is direct and healthy competition that will 'pull and push' the cases forward, all with the end view of punishing the guilty and protecting the innocent.

5. *Cooperation between Courts and Corrections*

In the present five-pillar model, the corrections subsystem is a passive receptacle of the "processed" offenders. Parole and probation form part of the corrections pillar. Overall, the corrections do not do much in terms of advising or suggesting the appropriate penalty or response to better rehabilitate or reform the offender. The courts simply impose the penalty and the corrections carry out the sentence. In limited instances, corrections may appear in the Legislature to give their opinion and findings.

The Gavel Model fuses the courts and the corrections as represented by the two linked rectangular boxes. The key idea is for the two parts to suggest innovative means that can serve as punishment and, at the same time, give the opportunity to the offender to change. In other words, the sentencing is fine tuned to be more equitable and just in each special case. Moreover, such innovative approaches can possibly take into account and be reflective of the prevailing social values and mores.

6. *Tapping the Informal/Civil Society Sector*

The criminal justice system is subsumed under the community system. Within the community system, there is an informal sector or network of non-government organizations/people's organizations (NGOs/POs) that comprise civil society whose interest is the preservation of the peace and order with certain groups dedicated to specific parts of the components. The essential challenge is how

to use and integrate the good intentions, resources and vigilance of civil society groups to bear on the system as the arbiter of fairness and deliverer of justice.

The new model represents this challenge in the porous circle that surrounds the criminal justice process with arrows that pinpoint the pressure areas where they can strategically intervene. This is the encapsulation of the community as the input, process and output of the different systems consisting of subsystems that exist within. This will also give impetus to community-based crime prevention and rehabilitation programs spearheaded by NGOs and POs.

The Gavel Model addresses the many common ills that are outlined by the UNDP 2003 Diagnostic Report. There is a more rational application of the concept of check and balance by having all the three branches participate, with each implementing arm of the branch acting systematically within its own sphere of action and influence. Check and balance comes into full force and play when each branch engages the other or others.

If alternative dispute resolution (ADR) or mediation is to be integrated in the criminal justice system, it may be inserted in the funnel or it may be attached as an adjunct to the system like a parallel subsystem.

Conclusion

From a study of the development of the Philippine five pillars model adapted from the American system, it can be fairly concluded that this model which the stakeholders of the criminal justice system has been utilizing for the past years is flawed in theory and application. It lumped and merged in one system several components which were not thoroughly thought out and was a juxtaposition of two different concepts. It also did not distinguish systems and subsystems and treated them as interchangeable units. Obvious dysfunctions resulted as diagnosed by the UNDP (2003). Many of these ills are common to the coordinating parts and, unfortunately, continue to fester.

The Gavel Model of criminal justice system outlined, presented and argued for in this article may be perceived as a radical change from the five pillars mentality; however, with careful analysis, long range and

insightful planning, it is a reflection and embodiment of a more responsive and functioning criminal justice process that considers constitutional and statutory basis, public administration proscriptions and societal values. The benefits of the new model are pointed out and are plain to grasp and appreciate.

A Question of Leadership

Regardless of the intrinsic merit of a theory or model of criminal justice system, its success in addressing the burning issues of inequity and injustice lies squarely upon the men and women with integrity, industry, intelligence and interpersonal skills (the four Is) who administer the process. There is no other alternative now or in the future for people who stand for fairness and justice.

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Document Section

Convention on the Rights of the Child

Preamble

The States Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and

cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or

her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29;

- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective

procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

States Parties shall pursue full implementation of this right and, in

particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society,

in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in Paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a

competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

Part II*Article 42*

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competent in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to

the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, it necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they

have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years. 2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

**2005
Author-Title Index
Volume XLIX Nos. 1-4**

- An Analysis of development frameworks for children, by Victoria A. Bautista, 205-244.
- Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.
- Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.
- Briones, Leonor M. Political economy and civil service reform, 279-309.
- Cariño, Ledivina V., Leonor M. Briones, Ebinezzer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.
- Community organizing and governance, by Oscar P. Ferrer, 109-149
- Convention on the Rights of the Child [Document Section], 325-349.
- De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.
- Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, by Sukarno D. Tanggol, 40-58.
- Ferrer, Oscar P. Community organizing and governance, 109-149.
- Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, by Leonila D. De Jesus, 245-263.
- Indigenization as "Refounding" in Philippine public administration and governance, by Eleazar E. Ricote, 264-278.
- Institutional and politico-administrative responses to armed conflicts, by Alex B. Brillantes, Jr. and Jose O. Tiusongco, 1-39.
- Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.
- Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

- Political economy and civil service reform, by Leonor M. Briones, 279-309.
- Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, by Macapado A. Muslim, 59-78.
- Reinventing Philippine governance for globalization, by Ledivina V. Cariño, Leonor M. Briones, Ebinezzer R. Florano and Kristine C. Follosco, 150-199.
- Rethinking the five pillars of the criminal justice, by Geronimo L. Sy, 310-324.
- Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.
- Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, by Joel V. Mangahas, 79-108.
- Sy, Geronimo L. Rethinking the five pillars of the criminal justice, 310-324.
- Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-50.

**2005
Subject Index
Volume XLIX Nos. 1-4**

ACCOUNTABILITY AND GLOBALIZATION

Cariño, Ledivina V., Leonor M. Briones, Ebenezer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.

ADMINISTRATIVE CODE OF 1987

Briones, Leonor M. Political economy and civil service reform, 279-309.

ADMINISTRATIVE THEORIES

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

ARMED CONFLICTS — MINDANAO

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

**ASSOCIATION OF SCHOOLS OF PUBLIC ADMINISTRATION
IN THE PHILIPPINES (ASPAP)**

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM)

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

Muslim, Macapado, A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

BLACKSBURG MANIFESTO

Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.

BUREAUCRACY

Briones, Leonor M. Political economy and civil service reform, 279-309.

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

CAPACITY-BUILDING

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

CHILD 21

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

CHILDREN

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

Convention on the Rights of the Child [Document Section], 325-349.

CHILDREN'S RIGHTS

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

Convention on the Rights of the Child [Document Section], 325-349.

CIVIL SERVICE CODE

Briones, Leonor M. Political economy and civil service reform, 279-309.

CIVIL SERVICE COMMISSION

Briones, Leonor M. Political economy and civil service reform, 279-309.

CIVIL SERVICE REFORM

Briones, Leonor M. Political economy and civil service reform, 279-309.

CIVIL SERVICE SYSTEM

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

CIVIL SOCIETY

Briones, Leonor M. Political economy and civil service reform, 205-245.

Cariño, Ledivina V., Leonor M. Briones, Ebinezer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.

COMMUNITY GOVERNANCE

Ferrer, Oscar P. Community organizing and governance, 109-149.

COMMUNITY GOVERNANCE — CASE STUDIES

Ferrer, Oscar P. Community organizing and governance, 109-149.

COMMUNITY ORGANIZING — CASE STUDIES

Ferrer, Oscar P. Community organizing and governance, 109-149.

COMMUNITY PARTICIPATION AND GOVERNANCE

Ferrer, Oscar P. Community organizing and governance, 109-149.

CONFLICT RESOLUTION

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

CONFLICTS

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

Convention on the Rights of the Child [Document Section], 325-349.

CRIMINAL JUSTICE SYSTEM

Sy, Geronimo L. Rethinking the five pillars of the criminal justice, 310-324.

CULTURAL DIVERSITY

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

CURRICULUM DESIGN AND DEVELOPMENT

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

DEMOCRATIZATION

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

DISCOURSE THEORY

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

FEDERALISM

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

FIVE PILLARS THEORY/MODEL

Sy, Geronimo L. Rethinking the five pillars of the criminal justice, 310-324.

GAVEL MODEL

Sy, Geronimo L. Rethinking the five pillars of the criminal justice, 310-324.

GLOBALIZATION

Cariño, Ledivina V., Leonor M. Briones, Ebinezzer R. Florano and Kristine C. Folloso. Reinventing Philippine governance for globalization, 150-199.

GOVERNANCE

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

Cariño, Ledivina V., Leonor M. Briones, Ebinezer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

INDIGENIZATION

Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.

INSTITUTIONAL DEVELOPMENT

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

JUDICIAL SYSTEM

Sy, Geronimo L. Rethinking the five pillars of the criminal justice, 310-324.

LOCAL GOVERNMENT CODE OF 1991

Ferrer, Oscar P. Community organizing and governance, 109-149.

MEDIUM TERM PHILIPPINE DEVELOPMENT PLAN (MTPDP)

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

MILLENNIUM DEVELOPMENT GOALS (MDGs)

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

MINDANAO PROBLEM

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

MINNOWBROOK CONFERENCE/PERSPECTIVE

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

MORO ISLAMIC LIBERATION FRONT (MILF)

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

MORO NATIONAL LIBERATION FRONT (MNLF)

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

MULTICULTURALISM

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

MULTIETHNIC SOCIETIES

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

MULTICULTURALIST GOVERNANCE

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

MUSLIMS IN MINDANAO

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

NEW PUBLIC ADMINISTRATION

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

ORGANIZATION DEVELOPMENT

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

PARTICIPATION AND GLOBALIZATION

Cariño, Ledivina V., Leonor M. Briones, Ebinezzer R. Florano and Kristine C. Pollosco. Reinventing Philippine governance for globalization, 150-199.

PARTICIPATORY GOVERNANCE

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

PEACE AND DEVELOPMENT

Muslim, Macapado, A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

PEACE POLICIES AND AGREEMENTS

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

PEOPLE'S PARTICIPATION

Ferrer, Oscar P. Community organizing and governance, 109-149.

**PHILIPPINE NATIONAL STRATEGIC FRAMEWORK FOR
PLAN DEVELOPMENT FOR CHILDREN See CHILD 21****POLITICAL ECONOMY**

Briones, Leonor M. Political economy and civil service reform, 279-309.

POVERTY ALLEVIATION

Muslim, Macapado A. Poverty alleviation and peace building in multiethnic societies: the need for a multiculturalist governance in the Philippines, 59-78.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

PRIVATE SECTOR

Cariño, Ledivina V., Leonor M. Briones, Ebenezer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.

PUBLIC ADMINISTRATION

Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.

PUBLIC ADMINISTRATION — STUDY AND TEACHING

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

Mangahas, Joel V. Strengthening the academic curriculum for teaching public administration in the Philippines: building institutional capacities to attain the Millennium Development Goals, 79-108.

Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.

PUBLIC ADMINISTRATORS

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

PUBLIC SECTOR

Cariño, Ledivina V., Leonor M. Briones, Ebenezer R. Florano and Kristine C. Follosco. Reinventing Philippine governance for globalization, 150-199.

REDEMOCRATIZATION

Briones, Leonor M. Political economy and civil service reform, 279-309.

REFOUNDING MOVEMENT

Ricote, Eleazar E. Indigenization as "Refounding" in Philippine public administration and governance, 264-278.

REORGANIZATION

Briones, Leonor M. Political economy and civil service reform, 279-309.

REPUBLIC ACT NO. 6734

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

SECESSIONIST MOVEMENT

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

SOCIAL EQUITY

De Jesus, Leonila D. Finding parallelism between postmodern's discourse theory and the new public administration's Minnowbrook perspective, 245-263.

TRIPOLI AGREEMENT

Brillantes, Alex Jr. B. and Jose O. Tiusongco. Institutional and politico-administrative responses to armed conflicts, 1-39.

Tanggol, Sukarno D. Democratization, governance and poverty alleviation in the Autonomous Region in Muslim Mindanao, 40-58.

WORLD FIT FOR CHILDREN (WFC)

Bautista, Victoria A. An Analysis of development frameworks for children, 205-244.

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