

**DEPARTMENT OF JUSTICE  
CRIMINAL CODE COMMITTEE**

**EXECUTIVE SUMMARY**

In line with His Excellency's directive in 2010 to review existing laws to ensure consistency, the Department of Justice constituted the Criminal Code Committee ("CCC"). This inter-agency body's mandate is to bring together criminal justice stakeholders to review all existing penal laws of the country and to draft a simple, modern, and organic Criminal Code of the Philippines.

The CCC, with support from the Hanns Seidel Foundation of Germany, is composed of representatives from the executive, legislative and judicial branches of government. Through regular meetings, consultations with stakeholders from various sectors, in-depth research and international exchanges, the CCC draws from best practices in the world and considers the precepts of the two great legal traditions – common law and civil law.

At the onset, the approach is to engage and tap experts and practitioners in the field – the operatives, the law enforcers, the prosecutors, the judges, the corrections officers, the civil society organizations, and business and media groups, but with an eye towards a lay approach to make the criminal code easy to understand and accessible. This is to instil inclusive justice.

The conventional approach of using a code commission is subsumed under the inter-branch, inter-department and inter-agency that is the Criminal Code Committee. A practical and field approach backed up with strong research and consultative processes is favoured over a purely academic style.

The CCC has completed Book 1 of the New Criminal Code after one year of work. It contains innovative provisions that address the chronic problems that have beleaguered the criminal justice system since the founding of the Republic.

## ISSUES

1. An antiquated Revised Penal Code passed way back in 1932 which has become unresponsive to current needs and which has failed to keep up with evolving progressive criminal justice principles through the years.
2. A body of criminal laws (consisting of the Revised Penal Code and its amendments; special penal laws; and general laws with penal provisions) that is unsystematic and incoherent, making it difficult to easily pinpoint the exact law/s applicable to a particular criminal behavior.
3. An archaic criminal law framework that does not take into account modern developments in criminal behavior like cybercrimes, transnational crimes and organized crimes.

## SUMMARY OF PRESENTATION

### *1. The Criminal Code Committee (“CCC”)*

#### Mandate

To craft a new Criminal Code of the Philippines that is updated, modern, simplified, responsive and truly Filipino, in order to improve the administration of justice in the country and enhance access to justice of the poor and other marginalized sectors.

#### Policy Directive

- First State of the Nation Address of His Excellency, President Benigno Simeon Aquino III (26 July 2010), where he directed the recodification of laws to ensure consistency.

#### Legal Basis

- DOJ Department Circular No. 19 dated 20 April 2011 constituting the CCC
- DOJ Department Order No. 483 dated 01 June 2011 designating Assistant Secretary Geronimo L. Sy as CCC Chair

## Composition

1. Senate
2. House of Representatives
3. Supreme Court – Office of the Court Administrator
4. Philippine Judicial Academy
5. Philippine Judges Association
6. Integrated Bar of the Philippines
7. Philippine Bar Association
8. Philippine National Police
9. Chief Prosecutors Association
10. Regional Prosecutors Council
11. Philippine Association of Law Schools
12. Transparency International
13. National Bureau of Investigation
14. Bureau of Immigration
15. Board of Pardons and Parole
16. Bureau of Corrections
17. Parole and Probation Administration
18. Land Registration Administration
19. Public Attorney's Office
20. Office of the Solicitor General
21. Office of the Government Corporate Counsel
22. Presidential Commission on Good Government

## Philosophy

- Inclusive and consultative
- Multi-disciplinary and not narrowly legalistic or technical
- Systemic perspective; approaching issues from the point of view of all stakeholders of the criminal justice system
- “Tabula rasa” approach; not constrained by existing frameworks; adopting innovative solutions

## Activities

1. Experts Group Meetings
2. Special Lectures
3. Study visits
4. High Level Presentations

- (1) Legislators Forum, with Senate President Juan Ponce Enrile, House Committee on Justice Chair Niel Tupas and other members of Congress (28 July 2011)
- (2) Presentation to incumbent and retired justices and judges, criminal law professors and criminal law practitioners (23 September 2011)
- (3) Presentation to Chief Prosecutors of Metro Manila (07 October 2011)

5. Focus Group Discussions (“FGDs”)

- (1) Law Enforcement and Security Sector (26 August 2011)
- (2) Corrections Sector (09 September 2011)
- (3) Women and Children Sector (23 September 2011)
- (4) Investigators, Prosecutors and Defenders (11 November 2011)
- (5) Business Sector (20 January 2012)
- (6) Mass Media (26 April 2012)
- (7) Crimes against the State (16 August 2013)
- (8) Crimes against Property (13 September 2013)

6. Exchange and Study Program to Berlin and Munich, Germany

- (1) 22-29 October 2011
- (2) 20-27 October 2012

**7. 1<sup>st</sup> National Criminal Justice Summit (05-06 December 2011)**

8. Writeshop Sessions

9. Nationwide Public Fora and Roadshows

**2. *The New Criminal Code - Book 1***

Key Features

1. Change to universal jurisdiction of crimes instead of the current jurisdiction based on territory, given the evolving nature of crime, specifically transnational organized crime:

There will be provisions allowing the State to prosecute crimes committed outside the Philippines if

the said crimes are against national security, against Filipino citizens, or against humanity and the law of nations.

2. Simplifies the approach to criminalization based on conduct and not mental state;
3. Simplifies the categorization of crimes – there is no longer a frustrated stage of commission of crime or accomplices in the degree of participation:

There will be provisions classifying criminal participants as either “principals” or “accessories” (no more “accomplices” because they can be prosecuted as principals based on the extent of their participation in the crime) and defining the stages of criminal execution as “consummated” and “attempted” (no more “frustrated”).

4. The minimum age of criminal liability is 13 years old – those between 13 and 18 are penalized depending on the nature of the crime but with suspended sentence and referral to diversionary programs;
5. There is no longer a splitting of criminal and civil actions – the civil remedy is always embedded in the criminal action;
6. The scale of principal, alternative and accessory penalties with the restorative justice measures are presented in one table with numeral levels rather than old Spanish or Latin terms for easy reference:

There will be a new scale of penalties composed of five “levels”, and a level for “life imprisonment”, aimed at simplifying the sentencing process. Using this new scale, crimes can be classified easily according to their gravity, along with the corresponding alternative/accessory penalties and post-sentencing measures applicable to each level.

7. The rule on double jeopardy has been rationalized to prevent abuses:

There will be a provision stating that an appeal from a judgment of dismissal or acquittal shall not be treated as a second jeopardy

8. Modifying circumstances are now generically aggravating, mitigating or alternative without need of specific characterization for purpose of trial:

There will be sections defining modifying circumstances in broad strokes (unlike in the present Revised Penal Code where each circumstance is enumerated) in order to give the judge more leeway in appreciating factors that would aggravate or mitigate a crime on a case-to-case basis.

9. The prescription of crime and service of sentence is now combined.

### **Project Status**

- Draft Book 1 was completed in October 2012
- Priority legislative agenda of the Department to be endorsed to the Senate and House of Representatives
- **House Bill No. 2300 – Philippine Code of Crimes** was filed in Congress by Congressman Niel C. Tupas, Jr. on 06 August 2013
- Formal launch and presentation of HBN 2300 in Congress on 13 August 2013
- First public hearing with the Committee on Justice of the House of Representatives conducted on 20 September 2013 in Cebu City
- CCC was constituted as part of the Technical Working Group (TWG) of the Justice House Committee to work on HBN 2300

### ***3. The New Criminal Code - Book 2***

#### Outline of draft Book 2 consists of 3 parts

1. Crimes against Persons
2. Crimes against Property
3. Crimes against the State

### Project Status

- Conducted 21 Experts Group Meetings for 2013
- Draft of Book 2 is being finalized and will be ready by December 2013
- Legal research and comparative law analysis with Max Planck Institute for Foreign and International Criminal Law of Germany

### Way Forward

1. Finalize drafting of Book 2
2. Submitted to the President for certification as priority legislation and transmittal to Congress
3. Target: Passage into law on or before 2016

### **RECOMMENDED PLAN OF ACTION**

Given the foundational nature of Book 1 and the systemic issues and problems, the recommended plan of action is to push a phased implementation starting with the filing of the draft Book 1 as priority legislation. It is a commitment of this Administration especially of the present for transformational changes in the justice system.

Book 2 which deals with specific crimes require a different approach with the divergence of views from the stakeholders consulted thus far. In order not to unduly delay the criminal code reform and more importantly to allow a major undertaking to be more understandable and manageable, this implementation plan can consider a transition from the current Revised Penal Code, as amended, to the new Criminal Code of the Philippines by 2015.