

History of the Judicial System of the Philippines

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CHAPTER I

In order to understand fully the early judicial system prior to 1565, we should look at the early history of the Philippines even its pre-history. Those who would want to know our country can glimpse into its history, learn the folklore, the opinions, beliefs, longings, usages, tradition, idiosyncrasies, arts, costumes, superstitions, language, culture and civilization. Scholars reckon to the earliest in the islands to be the dawn men who lived 250,000 ago. They were massively built thickly haired. They came to the country by land bridges before the glacial epoch. Together with pre-historic mammals the dawn men roamed until they disappeared altogether. Only archeological findings around Laguna de Bay in Luzon attest to this early settlers. The glacial and interglacial periods which melted the glacial caps of the North Pole covered low land which is now the Philippines were separated from the rest Asia and also divided the once big mass into islands. Much of the lands from Africa to India and Ceylon and as far as the Philippines and Australia were inhabited by doted skinned race with varying height. In Central and South Africa, they were tall as much as six feet, in India, Ceylon and Australia they were shorter. In Australia they were called the Bushmen by the English who came to colonize their country. In the Philippines they were very short to as much as below 3 feet and were known as pygmies. The pygmy culture was centered on bow and arrow, sump tan or blowgun and stone implements. The African black were more characterized by spears while the bushmen in Australia were more adept on the boomerang, a curved hard wood that when thrown to hit a target returns to the subject. The pygmies roamed 25,000 years to 30,000 years ago. The next to settle the country were the Indonesians as early as 5,000 about 200 BC to 1,500 A.D. The Bosnians were in the Manila in 1572. The origin and nature of man are revealed in the scriptures. But the great theological understandings were not set in their proper perspectives. The Hebrew Christian theory was dominated by four errors, *infra*:

1. That man was created by the special act of God;
2. That there is no linkage between him and animal kingdom;
3. That man's presence on earth is a fixed center, and
4. That man, certain peoples are the elect of the deity and therefore superiors to the others.

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The first two errors were destroyed by the theory of evolution of Charles Robert Darwin of England and the theory of the Cell by Theodore Schwann of Neuss, Germany (1810 – 1882). The third is untenable by astronomy and the fourth dogma by anthropology. The doctrine of Count Arthur de Gobineau of France (1816 – 1882) in essence was; “Men are many, civilization is one”, meaning that the mental qualities and capacities of the races are not only different but immutable, and that one race alone – the white race (he claimed that Nordic Aryan of Germany were its present predecessor) has produced a true civilization. He stressed his thought that the human race is not unit but categories of ethnic groups intellectually unequal. This doctrine of Gobineau was upset by the theory of Franz Boaz (the Theory of Man: Franz Boaz 1859) of Germany and who has shown that just the opposite was true: man is one, civilization are many. When civilization is examined scientifically and dispassionately, no claim can be made that the culture of the white race is point by point superior to all others. It was not only Gobineau and other who were mistaken by their race mysticism. The list includes Friedrich Nietzsche, the Puritans of the Massachusetts Bay Colony, Cecil Rhodes, Houston Stewart Chamberlain, Ludwig Weltmann (1871 – 1907) Otto Hauser, Hans Gunther, the Italian Giuseppe Sergi (1841). Sergi is the anthropologist who thought that the blonde Nordics are bleached Negroes who came out of Africa. Aristotle, who declared that the Greeks were superior race fitted by nature to rule the world, and the French Jean Bodin. Anthropology, the youngest of all sciences, has made strides in explaining how man acquired different physical features men of all existing races belong to one and the same grouping. There exist many striking differences but despite of those differences fertile interbreeding is possible between all members. Four widely separated individuals – a German blonde and African pygmy, an American Indian, a Chinese: they are mutually fertile. Professor Lynn has compared the scores of Americans and Japanese in the mainly non-verbal parts of three Wechsler intelligence quotient test of American origin which had been standardized for use in Japan. Averaging the results of the three tests, covering various ages, Professor Lynn arrives at an “Overall Japanese mean IQ of 106.6. The United States average score is 72.7.

Aside from genetic factor other explanation for a high IQ is: better care for babies or child rearing, health, newspaper reading, nutrition and calorie consumption, environment like superior schooling, higher income and general better provision of that money can buy.

In the realm of psychology, Professor Richard Lynn of the University of Ulster, Londonderry, recently came out after a study that Japanese as a nation are more intelligent than the Americans. He concludes that the possible reason for the difference in intelligence is genetics – that some races or people are inherently brainer than others.

But scholars have grouped men according to their physical features, culture and civilization. The Indo-European or Aryan group of people roamed on the north of the Black and Caspian Sea, the Semitic people, said to have descended from the Biblical Truth. She belonging also to the Caucasian or White Race lived in the Arabian deserts and southern coast of the Mediterranean Sea.

The Mongolian or yellow race lived and settled near the city now called Peking or Beijing. This race is probably the mother branch of the Malay or brown race with the admixtures of the Indonesian, due to search of food and good climate elsewhere, the Malays moved downward to the Malay Peninsula, other crossed the Strait of Malacca and spread to the east Indies, while the rest ventures to the Pacific Islands using their swift bancas and "paros" (sailboats).

The Malays and Chinese have some differences in physical appearances like the eyes. The colors of their skin are yellow and brown, respectively. But they have much in common like, the size of the skull, high cheek bones, concave nose, black hair and black eyes and medium in height.

The red Indians are classified under Mongolian. The black race whose forerunners are the Bushmen, Hottentots, Sudamese and American Negroes are classified in another group.

Language

Once should not confuse the terms language, race, nation and state or country with each other. The language of a state or country may be one or many as the case of the state of Switzerland having the German and French language, both belonging to the mother language of Indo – European or Aryan tongue. A language may also be spoken of by many countries like the English language spoken by the Australians, Canadians, Americans and Zealanders. The word "race" should not be used to mean or to describe a language or nationality because it would be incorrect and is without meaning. For example, there can be no Aryan race as what the adherents of Gobineau like Hitler think of, no Indo – European race because it is the mother language of mostly all European tongue and there can be no Semitic also belongs to the Caucasian or white race.

Language belonging to larger families can be grouped into Indo – European, Semitic, Hamitic, Finno – Ugric, Turkic, Chuhchacan, Altatic which the Japanese and Korean can be under, Caucasian, Dravidian, Munda of which the Burmese and Cambodian can be under, Andamese, Sino – Tibertan of which belongs the Chinese, Thai, Laosian and Vietnamese, Mal – Polynesian, Mayan, American, Indian, Bantu, Hottentots and Bushmen.

The Indo – European is divided into Balto-Slavonic (Bohemian, Bulgarian, Croatian, Lettish, Lituanian, Polish, Serbian and Russian); the Teutonic Languages (Anglo – Saxon, Dutch, German and the Scandinavian language); the Roman languages and Greece – Latin, French, Italian, Portuguese, Spanish, Greeks, together with Provincial, Catalan, Romanian; the Celtic language (Bretonic, Erse, Manx, Welch, the Calic of Scotland, Devon Cornwall and Ireland.) Sanskrit of India – Northwest of India.

The Malayo – Polynesian is spoken by the people of the East Indies (Indonesia

and Malaysia) Including the Philippines and the Pacific Islands. The Dravidian, spoken by the inhabitants of Southern India and Ceylon, they were the people pushed down by the migration of the sturdier and skinned people, the Aryans of the North.

The Chinese is spoken by more than one billion Chinese of mainland China and overseas Chinese, while the Japanese by the inhabitants of the island nation Japan.

In the Philippines, there are seven major languages namely the Tagalog, Ilocano, Bicolano, Cebuano, Ilongo, Leyte – Samar Visayan and Pampango. But there are more than fifty other dialects spoken by several minorities. All fifty other dialects are spoken by several minorities. All these languages belong to the Malay – Polynesian language. To trace the people of the Philippines and its culture and civilization, we must first go back to the unrecorded past unveiled to us only through the artifacts and tools used by them which have not decayed for thousands of years.

Historians and scholars made divisions to describe the first inhabitants of the Philippines. After the dawn men were the Aetas or the dwarf black skinned people mentioned by the Spaniards who came to colonize the island as the Negritos or small black people. They are sometimes known as the pygmies. At present they have become extinct in Leyte and other island but they can still be found in the jungles of other islands of the Philippines. They usually are short less than 5 feet in height and live by hunting and fishing and from root crops.

Important Features of the Past

Ages are divided into: Old Stone Age 50,000 years ago; New Stone Age 10,000 years ago; Copper Age 4,000 years ago; Bronze Age 3,000 years ago; Iron Age 1,300 B.C

But before these people, modern science tells us that Java man roamed Java some 500,000 years ago, later the Peking man, Neanderthal man (100 – 50,000), the Heidelberg man and the Cro – Magnon Man Lived 50,000 years ago during the Old Stone Age or Paleolithic Era.

The Indonesians, who were found to inhabit all the parts of the Malay Peninsula and Indo – China reached the Philippines by the pressure of more civilized race, the Mongoloid people who came from the north of Indo – China. The Indonesians were tall, slim in the stature and dark browned skinned. They were taller than Mongolians. Some remained and intermarried with the Mongolians, the result of which is probably the Malays, who became lighter in complexion and shorter than the Indonesians but the feature of their eyes differ from the Mongolians who have oblique eyes while the Malay's show a more round and deeper set of eyes. What has remained in them is the high cheek bone and round concave nose. The Dravidians or the aborigines of the India have the same physical features as the Indonesians but were quite different from the Black African.

During the great Malay migration from the South of China, these warlike Malays settled the coast of the China soon reached as far as Korean and Japan. In Japan, they drove the aborigines known today as Ainu who have reached the island of Hunshu from Yezu. The origin of Japan and Korean started from those Malay immigrants with the blend of Chinese civilization.

In China, the Mongolians (3,000 B.C.) who occupied the central plains of China moved to the coast of the Pacific because of climatic changes and to find food. They displaced the earlier people found in the coast and river deltas. The Chinese state was thus formed. Some of the earlier people intermarried the newcomers while others retreated to Korea and Japan bringing with them the Chinese civilization.

The pre - Spanish civilization in the Philippines came from India. While the 2,500 B.C. Aryan invaders from the Caucasus plains near the Caspian and black seas were pouring down to the subcontinent of India, the southern portion of the continent were starting to build also a state. This portion was not invaded by the powerful empire of the Azoka which was the result of the Aryan invasion.

The southern tip of India had a culture akin to the Phoenicians and Arabians. This grew into an empire known as the Pallava (1,000 B.C. to 400 B.C). The Pallava Empire established colonies and settlements in the East Indies, the islands known to the Europeans as the Spice Islands and now covered by the country, Indonesia. Later, the colonies grew bigger and bigger, then grew to an empire, the Sri - Visayan Empire (400 B.C.) with capital in central Sumatra, a big island across the strait of Mallaca.

With the fall of the Buddhist Empire of the Sri - Visayan, its rival emerging state on its neighbor island Java, also a colony during the height of the Pallava but gained independence then resisted the Sri - Visayan conqueror and later replaced the weakened Buddhist Sri - Visayan Empire. The new empire was a Brahman State known as the empire of Majapahit (1300 A.D.).

KABULAIKHAN (1260 - 1294)

When the Mongol King seated himself at the throne of the Chinese empire by conquest, his ambassadors to the Empire of Madjapahit were insulted by the court of the Brahman King.

Kublai Khan sent punitive expedition to the Madjapahit capital in Java but returned without accomplishing its mission.

The first actual mention of the Philippines seems to date during the 10th century (972), certain people coming from Mai, now the island of indoor, in the Philippines, brought valuable merchandise to Canton China. From the 12th to the 15th century account of Sulu and Mai became frequent.

The colony of Brunei in Borneo Island, also a product of the Pallava, Sri – Visayan Majapahit empires, is more known because of the preservation of certain manuscript. There is a myth in the Philippines about the Nine Datus of Panay. Nine Datus (Chieftains) from the court of Brunei set sail to the Panay Island in the Philippines together with their wives and slaves (alipin). They were forced to leave because of the enmity of the ruling King (Rajah or Raja) When they arrived, the island was already occupied by the people we mentioned earlier the Indonesians (Ati). Other stories claimed they were Aetas.

Some of the Datus did not stay in Panay but moved northward and settled in a bigger Island, Luzon. Their Kingdoms were known as the kingdom of Soliman in Manila and Kingdom of Lakandula in Tondo. In Panay the story goes, they had written laws such as:

The Code of Sumakuel

1. Great penalty shall be imposed on laziness. Land cultivated and planted.
2. Lazy person shall be arrested and sold as a slave (alipin) to work on the fields.
3. When the slave becomes industrious and an able worker, the purchase money shall be returned to his purchaser and the slave shall be freed to till his own land.
4. When a man, after gaining his freedom again becomes lazy and improvident, he shall be re – arrested and thrown into the deepest forest to keep him from associating with his own people.
5. Theft and reaping of plants grown and cultivated by others shall be severely punished and the person found guilty shall have his fingers cut.
6. Marriage to many women may be permitted in the beginning in order to increase the population. Afterwards only those who can support many wives and children may be permitted for more than one wife.
7. Poor persons shall not have more than two children and in excess of two in number shall be killed or thrown into swift rivers.
8. The authorities shall arrest man who dishonors a woman, runs away and not marry.
9. If the man is not found, the illegitimate child shall be killed, if the man is caught and he does not marry the women, he is killed and they shall be both buried in one grave.
10. Parents shall no longer take care of their daughters who beget illegitimate children.

By virtue of the powers (given him by Datu Puti) Sumakuel accompanies the Nine Datus from the court of Brunei, Panay Island and by his election testified to by Datus Bankays, Pacberong Lubay, Padehinog, Dumansal and Dimalosdog, Sumakuel settled down to draft the Code of which was the charter of the Islands on Madias.

The Code of Kalantiao

From the clan of Datu Bangkay (head of Aklan ang Irong – Irong headed Datu Pacberong) the myth continued that another lawmaker, Datu Kalantiao emerged. Kalantiao Code allegedly done in 1250.

Code of Kalantiao

Article I. Ye shall not kill, neither shall ye steal neither shall ye do harm to the aged; last ye incur the danger of death. All those who infringe this order shall be condemned to death by being drowned in the river or in boiling water.

Article II. Ye shall obey. Let all the debts with the headman (principales) be met with punctuality. He who does not obey shall receive for the first time one hundred lashes. If the debt is large, he shall be condemned to thrust his hand in boiling water thrice. For the second time he shall be beaten to death.

Article III. Obey you. Let no one have women that are very young nor more than he can support; not be given excessive lust. He who does not comply with, or obey and observe this order shall be condemned to swim for three hours for the first time, and for the second time to be beaten with sharp thorns.

Article IV. Observed and Obey; let no one disturb the quiet of the graves. When passing by the caves and trees where they are, give respect to them. He who does not observe this shall be killed by ants or beaten with thorns until he dies.

Article V. Ye shall obey; he, who makes exchange for food, let it always be done in accordance with his word. He, who does not comply, shall be beaten for one hour, he who repeats the offenses shall be exposed for one day among ants.

Article VI. Ye shall be obliged to reserve sights that are held in respect such as those of trees of recognized worth and other sights. He who fails to comply shall pay one month's work in gold or in honey.

Article VII. Those shall be put to death, he who kills trees of venerable appearance;

who shoots arrows at nights of headmen (principals) without permission, he who kills the fish called shark or the dreaded Cayman.

Article VIII. Slavery for man (certain period of time) shall be suffered by those who steal away the women of headmen; by him who burns the fields of another.

Article IX. All those shall be beaten for two days; who sing while traveling at night, kill the manual; tear the documents belongings; or who mock the dead.

Article X. It is decreed an obligation; that every mother teach secretly to her daughters matters pertaining to lust, and prepare them for womanhood; let not be cruel nor punish their woman when they catch them in the act of adultery. Whoever shall disobey be killed by being cut into pieces and thrown to the Caymans.

Article XI. Those shall be burned who by their strength or cunning have mocked at and escape punish or who have killed young boys; try to steal the woman of the Agorangs.

Article XII. Those shall be drowned; all who interferes with the superiors, or their owners or masters; all those abuse themselves through their lust, those who disobeys or destroys their Anitos by breaking them or throwing stone.

Article XIII. All those shall be exposed to the ants for half a day; who kills black cats during the new moon, steal anything from the Chief or Agorangs, however shall be the object maybe.

Article XIV. Those shall be made slave for life; who have beautiful daughters and deny them to the sons of the chiefs, and with bad fate hide them away.

Article XV. Concerning beliefs and superstitions, those shall be beaten; who eat the diseased flesh of the beast which they held in respect, of the herb which they consider good, who wound or kill the young of the manual, or the white monkey.

Article XVI. The fingers shall be cut – off: all those who break idols of wood and clay in their alangan and temples; of those who destroy the daggers of the tagalons (used for killing pigs) or break the drinking jar of the latter.

Article XVII. Those shall be killed; who profane sights where idols re – kept, and sites where they buried the sacred things of the Diwatas and headman. He who performs his necessities in those places shall be burned.

Article XVIII. Those who do not cause these rules to be obeyed: if they are headman (principals). They shall be put to death by being stoned and crushed; if they are Agorangs they shall be placed in rivers to be eaten by sharks and Caymans, Done in the year 1433. So the myth ends.

When the Spaniards came, the term Visaya was applied to these people of Panay, Iloilo and Negros while the people of Cebu, Bohol, Leyte and Samar were for a long time known as the Pintados or painted because they tattooed their faces and body. The system of writing was brought to the country by the Borneans. Luzon, the Spanish later on romanized the alphabet.

The Ancient Visayas had a name for the days. They had seven days a week and twelve months a years and 355 days a year, each month having 30 days except for the last month having only 26. The names of the days are as follows: Monday – Tigburukad, Tuesday – Dumasum, Wednesday – Dukudukat, Thursdays – Baylo – baylo, Friday – Danghas, Saturday – Hingut – hingot, and Sunday – Ligid – ligid. Names of the months were: January – Ulalong, February – Dagangkahoy, March – Dagangbulan, April – killing, May – Himabuyan, June – Keny, July – Hidapdpon, August – Lubad – lubad, September – Kungurulsol, October – Baryo – baryo, November – Panglot Diutay, and December – Panglot nga Daku.

The Bornean system of writing common to all and the alphabet was only one known as the bayingbaying. It resembled to the Asokan Hebrew alphabet but scholars assigned that the origin was Sumatra. It has 17 letters, the three vowels serving as five because the E and I and O and U were interchanged having quite similar sounds. Every consonant was pronounced with vowels so that the sign for B is pronounced s /Ba/. A dot above makes it /be bi/ a dot below makes it /buh o/.

The system of writing was replaced by another Arabic origin but used by the European by the coming of Spaniards to the Islands. Every manuscript or inscriptions in bamboo showing the system were burned by the present Mangyans of Mindoro and Tagbanuas of Palawan who used it until the present time.²

² Gregorio F. Zaide, *The Philippine Political and Cultural History*, Vol. I. Revised Edition 1957 (Philippine Education Company: Manila, 1949) p. 10