



## Centre for Democratic Institutions

### Australia–Philippines Judicial Cooperation: Judicial Study Tour

6–17 March 2000

Sydney

Following discussions with Chief Justice Michael Black of the Federal Court of Australia and Chief Justice Hilario G. Davide of the Supreme Court of the Philippines, the Centre for Democratic Institutions embarked on facilitating a program of judicial cooperation between the two countries and their senior judiciary.

- The first year of the Judicial Cooperation Program comprised four distinct activities: A Study Tour to Sydney by eight judges from the Philippines;
- The participation of Judge Zenaida N. Elepano, Deputy Court Administrator of the Supreme Court of the Philippines in an the Intensive Study Programme for Court Administration offered by the Commonwealth Judicial Education Institute of Canada;
- The visit to the Philippines by Australian Justices Bryan Beaumont and Arthur Emmett to the Philippines
- The visit of Livingston Armytage to Tagaytay, Philippines to conduct two
- workshops at the Philippine Judicial Academy

The Study Tour by eight judges from the Philippines to examine aspects of Australia's judicial system took place from 6–17 March 2000. The program was guided by one of Australia's leading figures in judicial education, Mr Livingston Armytage .

The visiting delegation comprised:

Mr Justice Bernardo P. Pardo, Supreme Court (equivalent to the Australian High Court), leader of the delegation

Mr Justice Romeo J. Callejo Sr, Court of Appeals

Mr Justice Cipriano A. del Rosario, Sandiganbayan (Anti-corruption court)

Retired Supreme Court Justice Antonie M. Martinez;

Mr Justice Adriano R. Osorio, Valenzuela City;

Mme Justice Josefina G. Salonga, Makati City;

Mr Justice Neri G. Duremdes, San Jose;

Mme Justice Virginia H. Europa, Davao City.

#### **Program – content, structure and method**

The program, provided below, for this delegation was designed by the Centre for Judicial Studies on behalf of the Centre for Democratic Institutions. This program was designed to attain the objectives of a useful judicial exchange. These objectives were to provide delegates with the means to:

- a. learn about the nature of the Australian justice system,

- b. observe at close range our courts in operation
- c. exchange experiences with judicial counterparts and
- d. develop comparative insights on systemic approaches which may assist them in their duties on return to the Philippines.

The 8-day program was intensive, and was packaged in four formats:-

- i. *Instruction* - informal lectures and workshop discussion groups - Armytage, Mahoney, Waddell, Curtis
- ii. *Consultations* - with judicial counterparts in both groups and pairs - Federal and Supreme Courts Family, Land & Environment Courts
- iii. *Visits* - to related institutions including ICAC, Judicial Commission, Long Bay.

The content of the program focused on developing an understanding of the role of the judge and the practical workings of the courts in the Australian system of justice. This approach was endorsed by the Philippine Judicial Academy (PHILJIA) which settled the final content on designated areas of interest, prior to commencement. During the planning phase, interest was expressed predominately in the superior and appellate levels of the courts; however it became clear during the visit that half of the delegates from the trial courts would have appreciated more of an intermediate trial courts perspective.

### **Faculty**

The faculty was selected to comprise the most senior and experienced judges available, recognising the adage "Judges should train judges".

We were very fortunate to secure the support and endorsement of Chief Justice Gleeson, Justices Beaumont and Emmet of the Federal Court, Justices Mason and Wood of the Supreme Court, and Chief Judge Pearlman of the L&E Court. There is no doubt that their involvement provided considerable authority and authenticity to the program, and was a highlight to delegates. However working judges are busy judges, so the time available for their involvement is limited; moreover, it is to be expected that their experience as trainers may be modest. As a result, much of the program devolved to pairing each visitor in individual judicial placements with counterparts in both the Federal and Supreme Court.

In addition, we included a selected number of instructional sessions to induct the visitors on specific issues prior to their observations and consultations, using both retired respected judges such as Mahoney and Waddell, and judicial educators such as Armytage and Curtis. These sessions focused on comparative systems and frameworks, the role of the judge in Australia, an overview of judicial management techniques, and practical techniques in managing complex trials. These sessions were designed to be as short as possible, relevant, practical, experiential and interactive to promote engagement and active learning.

### **Judicial placements**

Innovating a judicial placement aspect was the major challenge of this program in order to promote any meaningful exchange of professional experience and insight. Fortunately, both the Federal and Supreme Courts responded enthusiastically to our invitation for participation.

The placements involved the visiting judges consulting both in formal groups with their Australian colleagues, and in pairs with an individual counterpart in order to (a) observe trial proceedings from the proximity of the court bench, and (b) to discuss matters of shared interest informally in the chambers of their counterparts.

Participants have described this component of the program as a highlight. However, changes in court lists caused by unpredictable settlements or adjournments did make the placement aspect difficult to plan and some last minute changes were unavoidable. In some cases, court lists collapsed and the visitors were reallocated to other judges, and in others they had to make do sitting in the rear of other courts. Despite these inconveniences, however, most judges did observe proceedings from the benches of at least two courts for periods of up to half a day on each occasion. And delegates have requested that additional time be provided for placements in any future programs.

## **Evaluation**

### ***a Participant satisfaction***

The report of responses of delegates to an evaluation survey completed at the end of this visit is attached. Delegates were consistently extremely positive about their visit to Sydney @ 92.5% overall satisfaction. They described the program as well crafted and balanced. The court visits and materials each also rated equally highly @ 92.5%. Presenters of workshops sessions rated well @ 90%, although some comments indicated varying levels of interest which might indicate streaming should be considered in any future visits. Accommodation, travel and subsistence rated well @ 87.5%. The Savoy Apartments are well located in the CBD, offer comfortable facilities and are competitively priced; however, they do lack some of the facilities and services of larger hotels, and we note that accommodation and ground travel were two of delegates' perceived weaknesses of the visit.

Highlights of the program identified by participants including the court visits to observe proceedings and to meet senior judicial colleagues such as our Chief Justice; the placements sitting in court with their judicial counterparts; lectures by Dennis Mahoney (described as 'an inspiration') and on case management; and visits to Long Bay and the Judicial Commission.

Suggested improvement were few, but included giving more time to judicial placements, and improving ground transport arrangements between visits (you can never find a taxi when it rains - which it unfortunately did almost constantly). Some suggested that materials should be pre-circulated, and that pre-briefing would have been useful. Comments also focused on the usefulness of streaming future delegations to facilitate sharper focus for presenters.

### ***b Observations and commentary***

Delegates were very appreciative and actively engaged in proceedings throughout their visit. Overall, we consider the program "mix" between instruction, consultations and observations was about right. One workshop did need to be rescheduled at a speaker's request, resulting in one full day of continuous class-based instruction. While undesirable, this was unavoidable under the circumstances, and did not attract any criticism.

If anything, delegates' only complaint was that there wasn't enough time to accomplish everything desired. A number of additional areas of interest were identified including the Family Court and ADR, both of which we were able to

include during the course of the visit, the Children's Court and the criminal trial courts. Notwithstanding these additional interests, delegates indicated that the duration of the visit was optimal and expressed that they were satisfied with the priorities selected for program content, both at the outset and on completion of their visit.

### Programme

9.15	Morning	Afternoon
<b>Mon 6/3</b>	Arrival 06.20; Savoy Apartments, 37 King St, Sydney Orientation	Free afternoon
<b>Day 1</b>	Introductory session	2.00pm Visit to <i>Federal Court of Australia</i> (major commercial disputes) ; observations of proceedings and consultations with members of court (greeting, meet pairs, walking tour, tea)
<b>Tues 7/3</b>	Comparative legal systems: Australian constitutional framework, law-making, hierarchy, structure of courts, judicial review	
<b>Day 2</b>	Role of the Judge in Australian System	2.00pm:Federal Court - judicial placements
<b>Wed 8/3</b>		
<b>Day 3</b>	Appeal proceedings - role of appellate judges	1.30pm: Visit to <i>Supreme Court of NSW</i> (major criminal and civil trials) observations of proceedings; consultations with members of court; (meet SC pairs)
<b>Thurs 9/3</b>	Visit to <i>Court of Appeal of the Supreme Courts of NSW</i> and observations of proceedings; consultations with members of court	Federal Court - judicial placements
<b>Day 4</b>	Constitutional proceedings and ultimate review	Meeting with Chief Justice of Australia and members of the High Court (3.30pm – tea)
<b>Fri 10/3</b>	Visit to <i>High Court of Australia</i> (pinnacle court); observations of proceedings	Federal Court - judicial placements
<b>Day 5</b>	Special jurisdictions - Environmental law and town planning	Supreme Court - judicial placements
<b>Mon 13/3</b>	Visit to <i>Land &amp; Environment Court</i> of NSW; Observations of proceedings; consultations with members of court	
<b>Day 6</b>	Judicial administration and case management techniques in Australia	Managing complex commercial litigation;
<b>Tues 14/3</b>		Supreme Court - judicial placements
<b>Day 7</b>	Visit to <i>Long Bay Prison</i>	2.00pm Visit to <i>Judicial Commission of NSW</i> , demonstration

<b>Wed 15/3</b>		of electronic judicial database and sentencing system;  Supreme Court - judicial placements
<b>Day 8  Thurs 16/3</b>	Review of government, and role of special commissions Visit to <i>Independent Commission Against Corruption (ICAC)</i> ; observations of proceedings; consultations with members;	Review and closing session. (Q&A, evaluation.)  Special dinner
<b>Fri 17/3</b>	Departure to airport 11.00	Departure from Sydney 13.50