

The Spanish Roots of Philippine Law

[Abstract of Lecture]

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In 1565, Spanish sovereignty was established in the Philippine Islands by Miguel López de Legazpi in the wake of several expeditions beginning with Magellan's voyage of discovery in 1519-1522.

The Philippines remained a Spanish colony for more than 300 years – from 1565 to 1898. In the course of those three centuries, Spanish law, in the form of various codes, edicts, decrees, promulgations, etc. was the law in force in the colony.

The law was administered by the colonial government headed by a governor-general and a vast bureaucracy. Justice was administered by a judicial structure consisting of a colonial Supreme Court (the *Royal Audiencia*) and inferior courts which, with the *Audiencia*, constituted a three-tiered judiciary. (In essence, it is still the structural system operating in present-day Philippines).

There were broad reforms introduced in the late nineteenth century, consisting mainly in the extension to the colony of a number of important laws, chiefly the Penal Code, the Code of Commerce, and the Civil Code.

The change of sovereignty in the Philippines at the end of the nineteenth century — from Spanish to American — brought about fundamental political changes but the three aforementioned Codes, being laws of a non-political nature, continued to be in force. The Penal Code was not supplanted until 1932; parts of the Code of Commerce remain effective; and the Civil Code was not replaced until 1950. The Code that superseded the Civil Code is deeply and thoroughly influenced by its predecessor.

Commentaries on these three Spanish Codes were, for the most part, the treatises of the well-known Spanish commentators of the late 19th and early 20th centuries. Their opinions became authoritative sources of interpretation of both the Spanish codal provisions and, later, of the provisions of the new Philippine Codes. In civil law, local commentators flourished side by side

private law continued to grow and deepen even in post-Spanish Philippines.

The steady spread of the English language in the Philippines, however, resulted in a waning of the influence of the Spanish commentators. More and more, a new generation of scholars, proficient in English but knowing little or no Spanish, turned to American sources for their comments on Philippine private law, including civil law. The result is often a misplaced interpretation and application of the legal provisions and principles.

It is hoped that, with the series of conferences on Private and Public Law, begun in Málaga in 2015 and continued in Manila and Málaga in 2016 and 2017 respectively, will help re-establish the links between Spanish and Philippine law, and revive the dialogue between these two closely-related legal traditions: a dialogue that remained so active and robust until cut short by the historical accident of a linguistic shift in the Philippines.