

CRIMES AGAINST PUBLIC ADMINISTRATION: SPECIFIC CONSIDERATION OF CORRUPTION

by Prof. Marta Fernández Cabrera

Reaction of Sandiganbayan Associate Justice Karl B. Miranda

KNOWLEDGE SHARING ON THE MODERNIZATION OF CRIMINAL LAW (*Seminar-Workshop*)

June 6 to 9, 2022, The Judicial Academy Philippines, Tagaytay City



Spanish and Philippine Laws on Corruption Compared

SPANISH LAW	PHILIPPINE LAW
Corruption is punished criminally and administratively.	<u>Penal and Administrative Laws on Graft and Corrupt Practices, and the Sandiganbayan</u>
Conviction of crimes involving corruption is relatively low.	<u>Number of Conviction, Acquittal and Plea of Guilt in Graft and Corrupt cases</u>
There must be “economic damage” of public funds to sustain a conviction.	<u>The concept of “undue injury” in violations of R.A. No. 3019</u>
Judges practice the principle of minimal intervention or “ultima ratio” in deciding cases on corruption.	<u>The doctrines of “primary jurisdiction” and “exhaustion of administrative remedies”</u>

To browse, please click each link above.↑



PENAL LAWS ON GRAFT AND CORRUPT PRACTICES

- 1) Articles 204 to 245 of the **Revised Penal Code** (R.P.C.) on crimes committed by public officers
 - *punishes dereliction of duty, bribery, corruption, malversation, illegal use of public funds, infidelity of public officers, usurpation of powers, unlawful appointments*
- 2) Republic Act (R.A.) No. 3019 or the **Anti-Graft and Corrupt Practices Act**
 - *punishes graft and corruption; provides for suspension pendente lite of the accused*
- 3) R.A. No. 7080 or the **Anti-Plunder Act**
 - *punishes the crime of plunder with reclusion perpetua to death*
- 4) R.A. No. 9160, as amended or the **Anti-Money Laundering Act**
 - requires “covered” institutions to report “covered” and “suspicious” transactions



PENAL LAWS ON GRAFT AND CORRUPT PRACTICES

5) R.A. No. 6713 or the **Code of Conduct and Ethical Standards for Public Officials and Employees**

- *requirement on the filing of Statement of Assets, Liabilities and Net Worth (SALN)*

6) R.A. No. 1379 on the **Forfeiture of Illegally-Acquired Wealth**

7) Presidential Decree (P.D.) No. 46 or an **Act Punishing the Giving and Receiving of Gifts by Public Officers**



SANDIGANBAYAN: SPECIAL COURT trying graft and corruption cases



Exercises jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.



ADMINISTRATIVE SANCTIONS ON GRAFT AND CORRUPT PRACTICES

❖ DISCIPLINARY AUTHORITY OF THE OMBUDSMAN

All elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary. (Sec. 21 of R.A. No. 6770)

- **INVESTIGATION** and **PROSECUTION** arm of the government for graft and corrupt cases.



ADMINISTRATIVE SANCTIONS ON GRAFT AND CORRUPT PRACTICES

❖ DISCIPLINARY AUTHORITY OF THE CIVIL SERVICE COMMISSION (CSC)

2017 Revised Rules on Administrative Cases in the Civil Service (RRACCS) apply to all disciplinary and non-disciplinary administrative cases brought before the CSC , agencies and instrumentalities of the National Government, local government units, and government-owned or controlled corporations with original charters except as may be provided by law.



ADMINISTRATIVE SANCTIONS ON GRAFT AND CORRUPT PRACTICES

The CSC is the disciplining authority when the imposable penalties exceeds 30 days of suspension or a fine exceeding 30 days salary.

However, even if the penalty is below the 30-day suspension and 30-day salary fine, the complaint can still be heard by the CSC, if there is an allegation that the right to due process is violated.

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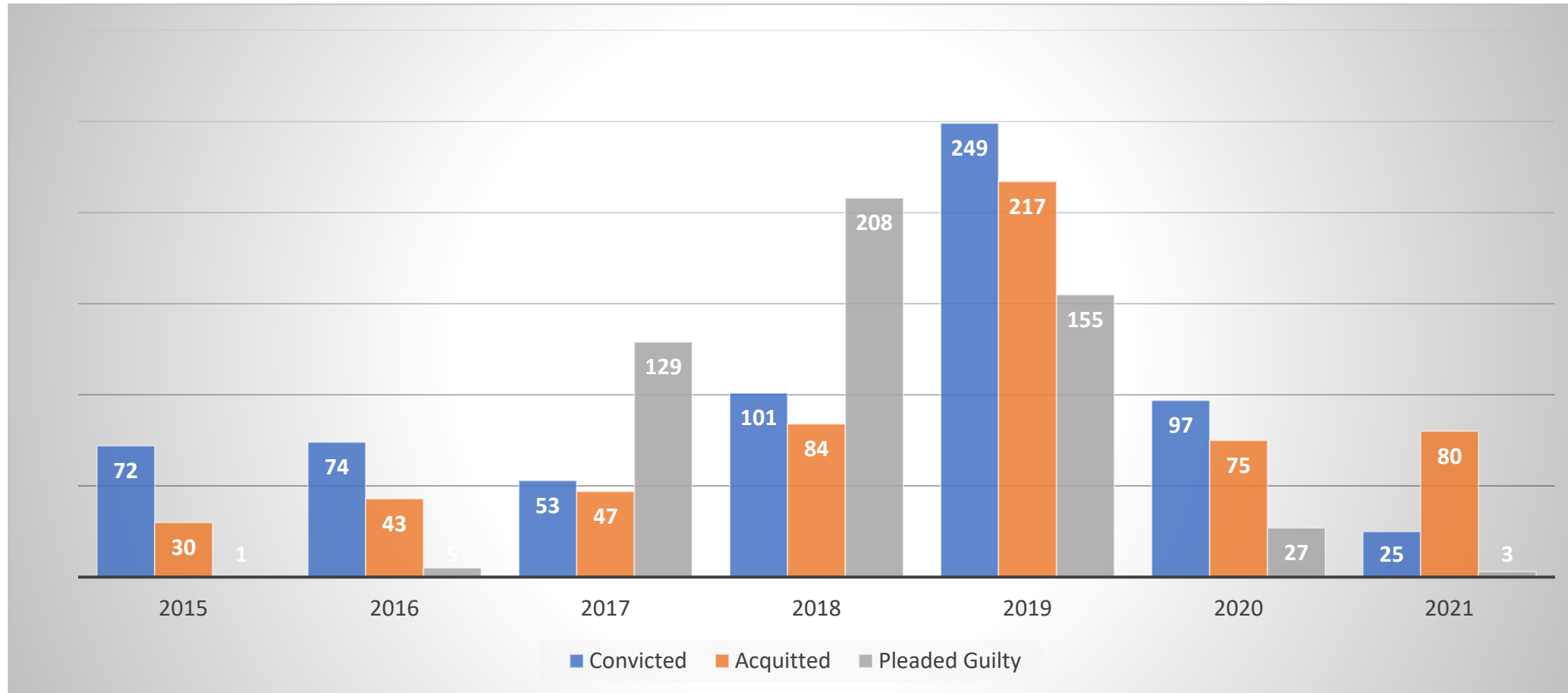


Number of Convictions, Acquittals and Plea of Guilt in Sandiganbayan from 2015 to 2021

YEAR	2015	2016	2017	2018	2019	2020	2021
Convicted	72	74	53	101	249	97	25
Acquitted	30	43	47	84	217	75	80
Pleaded Guilty	1	5	129	208	155	27	3

Source: Sandiganbayan Judicial Records Division





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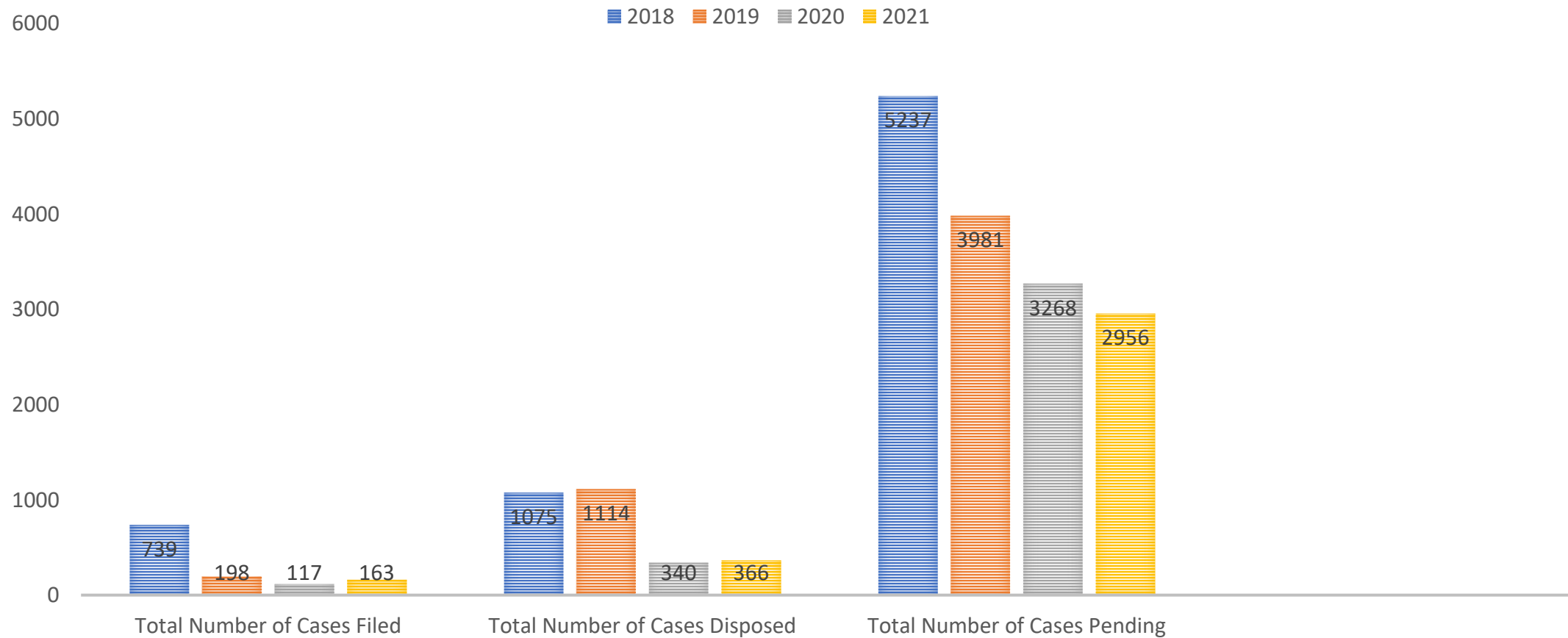


DISPOSITION OF CASES IN SANDIGANBAYAN FROM 2018 TO 2021

YEAR	2018	2019	2020	2021
Total Number of Cases FILED	739	198	117	163
Total Number of Cases DISPOSED	1075	1114	340	366
Total Number of Cases PENDING	5237	3981	3268	2956

Source: Sandiganbayan Judicial Records Division





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THE CONCEPT OF “UNDUE INJURY” IN R.A. NO. 3019

Section 3 (e) of R.A. No. 3019 punishes the act of causing any **undue injury** to any party, including the Government, or giving any private party any unwarranted benefits, advantage, or preference in the discharge of his official, administrative or judicial functions through *manifest partiality, evident bad faith or gross inexcusable negligence*.

ELEMENTS:

- 1) Accused is a public officer discharging administrative, judicial or official functions;
- 2) Accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- 3) Accused caused **undue injury** to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.



THE CONCEPT OF “UNDUE INJURY” IN R.A. NO. 3019

“Undue Injury” occurs when the government or any party sustains actual loss or damage. It must exist as a fact and cannot be based on speculations or conjectures.

The loss or damage need not be proven with actual certainty. However, there must be "some reasonable basis by which the court can measure it." The loss or damage must be substantial. It must be "more than necessary, excessive, improper or illegal." (*Cabrera v. People, G.R. No. 191511-14, July 29, 2019*)



DOCTRINE OF PRIMARY JURISDICTION

If a case is such that its determination requires the expertise, specialized training and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the courts is had even if the matter may well be within their proper jurisdiction.

(Euro-med Laboratories, Phil. v. Province of Batangas, G.R. No. 148106, July 17, 2006)



DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

This doctrine rests on the principle that the administrative agency, if afforded a complete chance to pass upon the matter again, will decide the same correctly. Courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence.

(Public Hearing Committee of the Laguna Lake Development Authority v. SM Prime Holdings, Inc, G.R. No. 190566, December 11, 2013)

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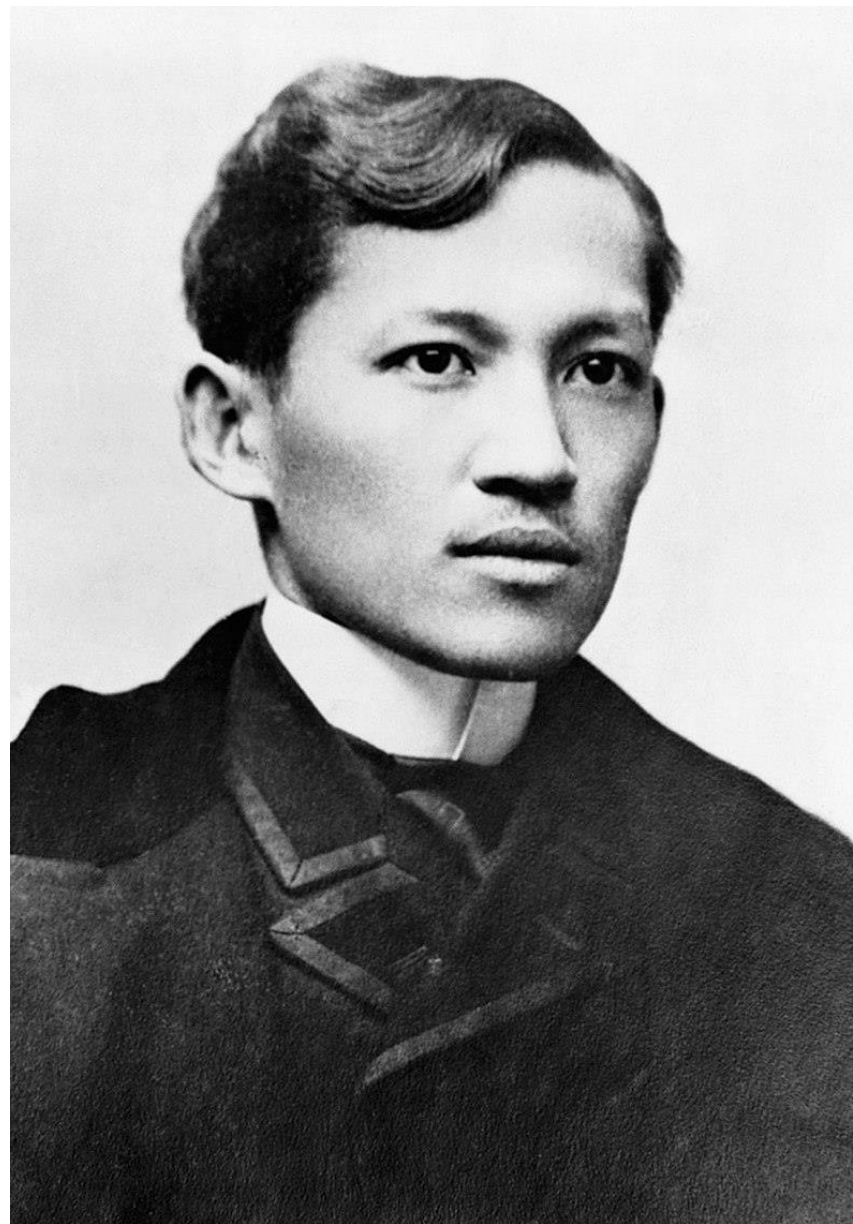








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