



THE PARTICIPANTS

Nilo T. Divina, *DivinaLaw*

Mark S. Gorriceta, *Gorriceta Africa Cauton & Saavedra*

Regina Jacinto-Barrientos, *Puyat Jacinto & Santos (PJS Law)*

Rafael A. Morales, *Morales & Justiniano*

THE

PHILIPPINE

DIALOGUE

Last year, the Philippines was one of the top three fastest-growing economies in Asia, with its growth rate of 6.7 percent being shaded only by China and Vietnam. The booming financial services, energy, consumer goods and construction are propelling much of this growth, and in turn leading to a steady growth in legal work for the country's law firms. At the same time, rising competition and an increasingly sophisticated clientele pose stern challenges to the legal industry. Four law firm managing partners offer their reading of where the market is headed, and share their strategies for the future.

BY RANAJIT DAM

ALB: What are some of the notable trends you have witnessed in the Philippines' legal industry in the past 12 months in terms of the quantity and quality of work? What have you been doing more of, and what have you seen a drop in?

DIVINA: The legal industry is in a good place. We see several relatively new law firms who are doing well and getting good business. One trend I see is a lot of the young lawyers are getting very good international exposure through internships, jobs in foreign companies or firms, and higher studies abroad. Cross-border transactions and arbitration are increasingly enabling many local lawyers to practice in other countries and learn best practices of those jurisdictions. This is a trickle-down effect of globalisation, which can only be good for the local industry.

As far as our clientele is concerned, there has been an influx of foreign and local start-ups doing business in the Philippines and who seek our legal advice on corporate, tax, and other regulatory matters. I am used to meeting middle-aged CEOs of our institutional clients; now I deal with a lot more millennials who own businesses and are thriving in this high-tech age.

Since the present government is into spending on various kinds of projects, we also get a lot of requests for assistance in negotiating government contracts and procurements.

We also saw a notable increase in referrals relating to compliance with the new rules on mergers and consolidations with the advent of the Philippine Competition Act, on data privacy requirements under the Data Privacy Act, public-private partnerships in relation to the government's Build-Build-Build program, and conciliation and arbitration, as opposed to traditional litigation. Thus, we have been doing more work on these aspects.

GORRICETA: Notably, in 2017, we have seen the rise of the blockchain industry reflective of the blockchain movement across the globe. The Philippines presents itself as ideal sandbox for this technology as there are a lot of pain points that can be addressed by applying blockchain technology in both the private and public sector. If we look a bit further, for the past two years, we have also seen an increase in business restructurings in response to our new tax schemes. There is a lot of compliance work to be done here with the Data Privacy Act, the Philippine Competition Act, and of course, with the Tax Reform for Acceleration and Inclusion (TRAIN) law which recently overhauled our tax code. Moreover, notwithstanding our current bear market at the



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Stock Exchange, we also have an optimistic pool of venture capitalists and private equity investors due to a growing number of companies worth investing. This is a good indicator of the resilience of the Philippine economy and of its strong potential for growth.

JACINTO-BARRIENTOS: Data from the past twelve months shows that the Philippines continues to enjoy sustained economic growth which makes for an attractive environment for multinational companies seeking expansion opportunities. This is evident in the increase in the volume of M&A transactions particularly in the power and financing industries.

There is also a renewed vigour in the government's Build-Build-Build programme, an ambitious infrastructure program with a budget of 8 trillion pesos (\$150 billion) spending spread throughout 2022. Just recently, the government has announced that 34 of the 75 flagship infrastructure projects will break ground this year.

These transactions have kept PJS Law busy during the past few months. Also, as an offshoot of M&A transactions, we have also been active in providing clients with assistance on a range of cases involving implementation of the Philippine Competition Law, including filing of mandatory notifications for complex M&A transactions and enforcement matters covering anti-competitive and abuse of dominance investigations.

MORALES: I know, for a fact, that capital market projects, particularly initial public offerings, have not been many. However, infrastructure projects will rise in number because of the ambitious Build-Build-Build programme of President Rodrigo Duterte. This will correspondingly result in more financing transactions. My law firm has had a fair share of M&A and lending deals, as well as referrals on banking and financial regulatory matters, including those relating to derivatives and repurchase transactions. Our litigation and dispute resolution group has been particularly busy. We also foresee more foreign direct investments in the Philippines and expect to handle several referrals in this regard.

ALB: What have been the biggest challenges Philippine law firms have faced in the last 12 months? How have you as a firm looked to overcome them?

DIVINA: Since there are a lot more players now, the competition has become more vigorous not just in terms of securing new accounts or clients but also in recruiting talent. Honour graduates from the top universities are aggressively recruited by major law firms with compensation

packages and perks that were unheard of years ago.

We have managed to stay ahead because we have cultivated very good relationships with our clients and thereby instilling loyalty. On the side of recruitment, we have a very simple formula—top everyone else’s offers. Excellent skills are worth spending for and on this, we do not scrimp.

GORRICETA: The challenge now is to provide quality legal services by deeply understanding the nature of the client’s business. Because of this, there is an underlying necessity to understand the commercial aspect of every legal engagement. We also must bridge the gap between evolving and expanding business models vis-à-vis the treatment (or lack thereof) of various government regulatory bodies to these developments. The present administration also introduced several new laws and rules, which opened up a new set of opportunities as well as challenges. For example, the Philippine Competition Act made significant impact in the conduct of mergers and acquisitions in particular, and of all business deals in general.

To overcome these challenges, we encourage our lawyers to enhance their finance and business knowledge to better understand our client’s legal needs. In terms of addressing new laws and regulations, we have formulated specific teams to specialize, train, and master these developments. In turn, this enables us to conduct a more thorough and deeper due diligence practice.

JACINTO-BARRIENTOS: Competition is tight in the Philippine legal industry. Other than economic and regulatory headwinds, traditional law firms also have to contend with a growing market for legal process outsourcing and virtual law firms.

We are fortunate to have already carved a niche in specialized fields such as the power and infrastructure sectors. But my partners and I know that to be able to stay ahead of the competition, we should continuously evolve with and provide our clients with effective legal solutions and exceptional client care.

Internally, we continue to value the role that technology plays in helping us deliver cost-effective and timely services to our clients. As such, we have allocated a substantial portion of our resources in developing our IT infrastructure.

Talent retention is also one of the challenges that local law firms continue to face. To keep our attrition rate low, aside from maintaining competitive rates, we have committed to a mentoring system that ensures continuous guidance and support in the development of each lawyer.

MORALES: New laws have been enacted, and we must assist clients navigate the complex rules



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promulgated to implement these laws. In particular, I can mention the implementing rules of the new competition law as well as the data privacy act. The Philippine central bank has been issuing circulars almost on a weekly basis and we must keep abreast of them. I can also point out that the Securities and Exchange Commission (SEC) recently issued a more comprehensive set of rules governing mutual funds. The challenge is to keep pace with these new laws and rules, to be able to provide consistently accurate and up-to-date advice to our clients.

ALB: A number of Philippine companies are doing business overseas, particularly in countries in Southeast Asia. How would you describe your firm’s strategies for assisting them in these overseas ventures?

DIVINA: DivinaLaw’s strategy is two-pronged. We have competent local counsels who are adept at representing clients in negotiations involving cross-border agreements and regulatory compliance. These competencies are further honed by continued training and participation in international regulatory compliance and other training conferences. We also established DivinaLaw’s presence in Singapore through a corporate office.

DivinaLaw is the sole Philippine member of Lawyers Associated Worldwide, a top-rated international association of over 100 independent law firms from more than 50 countries. We are also the only Philippine member of LEGALINK, also a top-ranked global network of 68 independent law firms from a majority of the world’s commercial centres.

GORRICETA: Our engagements with Philippine companies doing offshore business allowed us to coordinate and establish relations with a network of equally minded law firms abroad. We are fortunate to share the same values and work ethic as these firms, allowing us to create seamless work streams. To be quite candid, we are contemplating the idea of a long-term partnership with a foreign firm, particularly one based in Singapore. Of course, so many factors must be taken into consideration with this kind of arrangement. We are particularly keen on making sure that we affiliate with a firm that shares our core values.

JACINTO-BARRIENTOS: We have assisted in some of our clients’ expansion programs in Southeast Asia. That said, to ensure that we continue to deliver the same standard of services and to always be a step ahead of the needs of our clients and the latest trends in the industry, the partners continue to develop programmes to help



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E-mail: info@divinalaw.com

METRO CEBU OFFICE

Unit 1504 Ayala Life-FGU Center, Mindanao Ave. cor. Biliran Road, Cebu Business Park, Cebu City 6000, Philippines

Telephone: (63) (32) 416-8018

SINGAPORE CORPORATE OFFICE

DivinalLaw Corporate Services Pte Ltd Level 39 Marina Bay Financial Centre Tower 2 10 Marina Boulevard Singapore 018983



“BLOCKCHAIN IS HERE TO STAY. IN PARTICULAR, IT WILL SPUR THE REVOLUTION OF FINTECH PLATFORMS THAT WILL COMPETE IN MANAGING RISING OVERSEAS REMITTANCES. AS FOR CRYPTOCURRENCIES AND INITIAL COIN OFFERINGS, IT REMAINS TO BE SEEN IF THEY WILL BE CONSIDERED A GAME-CHANGER IN OUR MONETARY SYSTEM... MSMEs WILL BE VISIBLE AND WILL NEED ACCESSIBLE LEGAL SERVICES.”

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younger lawyers navigate these changes and to equip them with tools to constantly improve and evolve in their practice. We collaborate with leading international counsels to give our lawyers the opportunity to enrich their knowledge in the different legal and political landscapes in this region.

MORALES: We have no office outside of the Philippines and do not intend to establish a shop whenever and wherever a client may want to locate overseas. This option is not absolutely necessary as we can provide advice and assistance to our client remotely by email or teleconferencing and the like. We can do this directly or through our client’s in-house counsel. We can also travel to our client’s offshore office, if required.

ALB: Firms across Asia say that clients today are different – more cost-conscious, and more savvy and judicious when it

comes to use of legal services. What are some of the changes you are seeing in the Philippines, and how are you as a firm looking to adapt to these changes?

DIVINA: It used to be that charging by the hour was the default payment scheme with clients. Of late, more clients are shifting to fixed fees or milestone-based fee structures. We adapt to the client’s requirements and we understand their need to manage legal expenses.

Clients are also increasingly becoming solution-oriented. They prefer a quick and more amicable settlement of their disputes than the traditional route of court litigation.

DivinaLaw prefers to advocate early settlement of disputes over a prolonged legal war of attrition. Where appropriate and to reduce the costs and delays often associated with litigation, the firm recommends the use of alternative dispute resolution

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Bonifacio Global City, Taguig City, 1630 Philippines
Tel. + 632 519.6892

Visayas Office (Iloilo):
G/F Gorriceta Building, #10 Guanco Street
Iloilo City, 5000 Philippines
Tel. +6333 337.2401

Mindanao Office (Davao):
Viking Street, Doña Vicente Village
Davao City, 8000 Philippines

counselors@gorricetalaw.com | www.gorricetalaw.com

techniques to bring about prompt and efficient resolution to complex legal disputes.

Likewise, people are finding more efficient means to communicate. We resort to emails and app-based communications more and meeting face-to-face less. This also helps efficiency and manage expenses.

GORRICETA: The rise in tech literacy paved the way for the “democratisation” of legal knowledge. This effectively unseated us lawyers from what was once our monopoly on the law. Because of this democratized playing field, the challenge now for us lawyers is to clearly present an added value to our brand of legal service. Another change is the rise of alternative legal service delivery models. These new legal delivery models will continue to emerge and gain momentum in the coming years.

To adapt to these changes, our firm employs our supreme values in servicing clients, which are proactivity and conscientiousness. At a time when clients ‘self-medicate’ legal questions, we make it a point to provide true content: authentic legal data to inquisitive clients. We make sure to provide data in digestible format, with instructions for every step of the way. We also do this now in a technology-driven environment that adapts to new mediums of communications. In particular, we employ real-time communication, such as high-level chat groups, to provide real-time answers to their inquiries.

JACINTO-BARRIENTOS: Clients are now looking beyond what

the traditional legal practitioners have to offer. They are also looking for alternative billing arrangements with lawyers. We understand these changes and have implemented policies that will help us navigate these changes.

I think I speak for most of the law firms in the Philippines that clients nowadays have higher expectation for value for money, and that is as it should be.

MORALES: Philippine law firms have already recognized the fact that clients do not necessarily accept any more billings based on time spent on the project. Most clients nowadays want a clear idea of the anticipated legal cost that is not based on hourly rates. As we are sensitive to client requirements, we are prepared to adjust our billing system on a case-by-case basis.

ALB: What are your predictions for the next year or two when it comes to the Philippine legal market?

DIVINA: With the Philippine President heading the Association of Southeast Asian Nations (ASEAN) and the unprecedented cooperation among member-states, it is just a matter of time before the ASEAN Economic Community is fully in place.

The transformation of ASEAN into a single market will require the “principle of singularity” applied across the region. The ASEAN Economic Community is more complicated when discussed in the context of services because services cannot be isolated from their political, security, economic, social



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and cultural dimensions. They involve human relations; they involve overcoming cultural differences and language barriers. For us lawyers, it involves knowledge of foreign law and procedure, codes of ethics, and acceptable social norms.

We should view it as an opportunity to showcase our facility of the English language and training in the Civil and Roman law tradition, inherited from Spain and the Anglo-American common law brought in the Philippine legal system by the Americans, which have its unique advantages.

Market access opportunities for Filipino firms will expand. To illustrate, direct foreign investments and loans in the ASEAN totalled roughly \$346,187 million in 2008, up from only \$23,541 million in 2000. In a span of eight years, exports for the same period doubled; imports rose from \$348,960 million to \$831,229 million. Thus, with the ASEAN integration, it is easy to see the coming in of more referrals, translating to income generation for private practitioners and law firms, and opportunity for business development across Southeast Asia.

Lawyers are indispensable in the negotiation, crafting and closing of these cross-border financial documents. The great demand for legal services in the whole of ASEAN is a certainty. Knowledge of international law, basic commercial and procedural law of each member country, and ability to think globally while protecting domestic concerns will increasingly become mandatory for legal practice.

There also will be cross-border supply of information using modern technology. Aside from the need to become technologically savvy, more and more Philippine law offices will start considering the possibility of opening up international offices and foreign branches to service foreign needs while offering a unique, Filipino service.

In short, the industry will continue to be robust. More partnerships will be forged between local and foreign firms as necessitated by more cross-border transactions. Whatever the political-economic situation is, good law firms will continue to thrive, and we are optimistic that ours will continue to flourish.

GORRICETA: In terms of trends reshaping the Philippine legal market, blockchain definitely comes on top of the list. Blockchain is here to stay. In particular, it will spur the revolution of fintech platforms that will compete in managing rising overseas remittances. As for cryptocurrencies and initial coin offerings (ICOs), it remains to be seen if they will be considered a



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Rafael A. Morales,
Morales & Justiniano

game-changer in our monetary system. Rise in technology start-ups will mean that MSMEs will be visible and will need accessible legal services. This means that the Ease of Doing Business Reforms must be sustained. Infrastructure law and policy will also be in focus for the next four to five years under the Administration’s Build-Build-Build Program.

As for the Philippine legal profession, we have seen a rise of boutique firms for the past five years. I foresee that these boutique firms will consolidate and merge with similarly situated or smaller firms soon. Lawyers and legal professionals are also expected to have a good grasp of social media. Social media tools such as LinkedIn, Facebook, Twitter, and YouTube are key marketing tools, that allows us to reach a broad audience and accomplish branding, advertising and client development goals.

JACINTO-BARRIENTOS: The government has committed to fast-track inclusive economic growth of the country. To achieve this goal, the executive branch has asked Congress to remove or reduce foreign investments limitations on some sectors. Another development that we are eagerly awaiting is the opening of the telecommunications industry to foreign investors’ participation thus breaking up the duopoly in this industry. We welcome this growth and position ourselves to establish a foothold in these sectors.

MORALES: I do not see significant changes occurring in the Philippine legal market in the next two years. However, the draft of the new Constitution of the Philippines providing for a federal form of government (as submitted by the consultative commission created by President Duterte) adds a twist to the entry of foreign lawyers in the local legal market. Under the present Constitution, the Congress of the Philippines must first pass a law enabling foreigners to practise law in the country. Then, the Supreme Court of the Philippines can promulgate the rules for their admission into the Philippine legal profession. The draft of the new Constitution retains the two-step procedure, but effectively states that the Supreme Court’s admission rules for foreign lawyers may be based not only on a “federal law” allowing them to practise law in the Philippines but also on “international agreements providing for reciprocity.” It will be interesting to know whether this formulation will be retained and contained in the new Constitution duly approved by the Filipino people. I might add that the Integrated Bar of the Philippines already submitted for the consideration of the Supreme Court a draft of the said rules.

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7th Floor, RCI Building, 105 Rada Street, Legaspi Village, Makati City 1229, Metro Manila, The Philippines
+ 63 2 834 2551 | + 63 2 832 7198 | + 63 2 833 8534

Contact Person: Rafael A. Morales, *Managing Partner* | ramorales@primuslex.com

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