

JUSTICE FLORENTINO P. FELICIANO

Former Member and Chairman, Appellate Body, World Trade Organization

Born on 14 March 1928 in Manila, Philippines

Philippine citizen

Father - Dr. José Maria Feliciano; Head, Dept. of Geology and Geography, College of Liberal Arts, University of the Philippines

Mother - Anatolia Panlilio, B.Sc. Pharmacy

Married (Virginia Toralballa); have three children: two daughters (Josephine Ann and Regina Stella) and a son (Roberto Emmanuel)

Grade School – Ateneo de Manila University, 1941

High School – Valedictorian, De La Salle College, Manila, 1946

Bachelor of Arts (B.A.; *summa cum laude*), University of the Philippines

Bachelor of Laws (Ll.B.; *magna cum laude*), University of the Philippines, 1952; was Vice-Chairman, Board of Editors, Philippine Law Journal; admitted to Philippine Bar, 1953

Master of Laws (Ll.M.), Yale University, 1953; Carolinda Waters Prize in International Law, 1953

Doctor of Juridical Science (J.S.D.), Yale University, 1955; Yale Law Fellow, 1952 – 1955; Carolinda Waters Prize in International Law, Yale Law School, 1955

Ll.D. (*honoris causa*), Misamis University, Philippines, 1995

Partner, SyCip Salazar Feliciano & Hernandez, 1962 to 17 August 1986; Co-Managing Partner, 1 January 1981 to 21 October 1983; Managing Partner, 22 October 1983 to 17 August 1986 (firm known as SyCip Salazar Hernandez & Gatmaitan, since August 1986)

Associate Justice, Supreme Court of the Philippines, 18 August 1986 to 10 October 1994; Senior Associate Justice, 11 October 1994 to 13 December 1995

Member, House of Representatives Electoral Tribunal, 7 July 1988 to 1 February 1993; Chairman, 2 February 1993 to 31 July 1995

President, Asian Development Bank Administrative Tribunal, March 2007 – present

Member, Asian Development Bank Administrative Tribunal, 1991 – 1995

Chairman, Senate Electoral Tribunal, 1 August 1995 to 13 December 1995

Member, Appellate Body, World Trade Organization (Geneva), 13 December 1995 to December 2001

Chairman, Appellate Body, World Trade Organization (Geneva), February 2000 to February 2001

Member, World Bank Administrative Tribunal (October 2002 to present)

Senior Counsel, SyCip Salazar Hernandez & Gatmaitan (16 April 2003 – present)

Chairman, Fact Finding Commission on the military rebellion of July 2003, created by Administrative Order No. 78 dated 29 July 2003 by the President of the Philippines; Report of the Commission submitted to the President on 17 October 2003.

Academic and Professional Organizations:

Membre, Institut de Droit International

Member, Curatorium, Hague Academy of International Law, The Peace Palace, The Hague, 1996 to present

Vice Chairman, Institute of World Business Law, ICC-Paris, 1979 to present

Member, Panel of Arbitrators, International Chamber of Commerce (I.C.C.), Paris

Member, Panel of Arbitrators and Panel of Conciliators, ICSID, 2000 to present

Member, Panel of Accredited Arbitrators, China International Economic Trade Law Arbitration Commission (CIETAC), Beijing

Member, Panel of Arbitrators, Japan Commercial Arbitration Association, Tokyo

Member, Board of Directors, International Development Law Institute (Rome) 1986 to 2005

Member, International Institute of Humanitarian Law (San Remo)

President, Philippine Society of International Law, 1975 – 1983; Member, Executive Council, 1961 – 1989

Member, Executive Council, American Society of International Law, 1987 – 1990

Honorary Member, American Society of International Law, 2005

Member, Philippine Branch, International Law Association
Editor-in-Chief, Philippine International Law Journal, 1964 – 1975
Member, Editorial Board, Philippine Yearbook of International Law, 1978 to present
Member, Board of Trustees, Philippine Council for Foreign Relations, 1985 – 1994
Member, Editorial board, Foreign Relations Journal, 1985 to present
Corresponding Contributor, UNIDROIT, 1990 to present
Member, Advisory Board, Journal of the History of International Law
Member, Advisory Board, Journal of International Economic Law
Member, Advisory Board, Chinese Journal of International Law
Member, Senior Advisory Council, Southeast Asian Programme on Ocean Law and
Policy, Bangkok, Thailand, 1991 to present
Member, Governing Board Foundation for the Development of International Law in Asia
(DILA), The Netherlands
Member, Governing Council, World Trade Lawyers Association (WTLA), London
Member, Steering Committee, Project on International Courts and Tribunals (P.I.C.T.),
Center for International Cooperation, New York University Law School, 1998 to
present
Member, Steering Committee, Restatement of Customary International Humanitarian
Law, International Committee of the Red Cross (ICRC), Geneva, 1997 – 1999
Chairman, Board of Advisers, Hills Center for Governance at Asian Institute of
Management
Member, ICC Court of International Arbitration (Paris), 2000 to present
Member, Ad Hoc Committee, Amco Asia Corporation v. Republic of Indonesia, ICSID
Case No.ARB/81/1 Annulment Proceedings 1985-1986; Award Rendered 16 May
1986, annulling prior ICSID decision
Member, Arbitral Tribunal, Southern Bluefin Tuna Cases (Australia/New Zealand v.
Japan) 1999 – 2000; Award on Jurisdiction Rendered.
Member, Panel of Experts, The Future of International Labour Standards, International
Labour Organization, Department of Labour Standards and Social Security,
December 2003

President, Arbitral Tribunal, *Nomura International Ltd. v. The Russian Federation*, Arbitration Institute of the Stockholm Chamber of Commerce, 2000 – 2001; Case settled.

President, Arbitral Tribunal, *ADF Group, Inc. v. The United States of America*, ICSID/NAFTA 2001 to 2003; Award Rendered 2003

President, Arbitral Tribunal, *Societe General de Surveillance v. Islamic Republic of Pakistan*, ICSID Case No. ARB/01/13 2002 to 2003; Award Rendered 2003

President, Arbitral Tribunal, *Tembec Co. Inc. v. United States of America*, NAFTA/ICSID 2004 - 2005

Chairman, Ad Hoc Committee, *Hussein Soufraki v. United Arab Emirates*, ICSID Case No. ARB 02/7 Annulment Proceeding 2005 – 2007; Award Rendered 2007

Member, Arbitral Tribunal, *Interbrew Central European Holding B.V. v. Republic of Slovenia*, ICSID Case No. ARB 04/17 2005 – (case settled)

Chairman, Arbitral Tribunal, *Rolando M. Zosa v. Magellan Capital Management Corporation and Magellan Capital Holdings Corporation*, Ad Hoc Arbitration, Manila, Philippines January 2005 to March 2006; Award Rendered, March 2006.

Member, Arbitral Tribunal, *Development Bank of the Philippines v. Daiwa*, Ad Hoc Arbitration, Manila, Philippines, 2007 – Case ongoing

Member, Ad Hoc Committee, *Siemens v. Argentina*, ICSID Case No. ARB/02/8 Annulment Proceeding 2007 – Case ongoing

President, Arbitral Tribunal, *Azpetrol International Holdings B.V., Azpetrol Group B.V., and Azpetrol Oil Services Group B.V. v. Republic of Azerbaijan*, ICSID Case No. ARB/06/15 2008 – Case ongoing

Professional and Academic Activities, e.g.

Special Attorney, later Head Executive Assistant, Department of Justice, Manila, 1954 – 1960

Research Associate and Lecturer in Law, Yale University School of Law, 1957 – 1960

Lecturer, International Law Program, United States Naval War College, Newport, Rhode Island, U.S.A., 1959

Professorial Lecturer in Law, University of the Philippines, Quezon City, 1955 – 1957 and 1962 – 1982. Courses taught: *e.g.*, Public International Law; Corporation Law; Secured Transactions

Legal Consultant, Consultative Committee on Establishment of the Asian Development Bank; United Nations Economic Commission for Asia and the Far East; and Preparatory Committee on the Asian Development Bank – Bangkok, Tokyo, New York, 1965 – 1966

Visiting Scholar, New York University School of Law, 1966;

Lecturer, Hague Academy of International Law, Peace Palace, The Hague: “Legal Problems of Private International Business Enterprises: An Introduction to the International Law of Private Business Enterprises and Economic Development”, 1966

Lecturer, Public International Law, First Asian Foreign Service Course, Eastern Regional Organization for Public Administration (EROPA) and the Carnegie Endowment for International Peace, Manila, July – August 1967

Member, Philippine Government Panel of Negotiators on the North Borneo Claim, Bangkok, June – July 1968

Member, Committee of Experts on Human Rights in Armed Conflicts, United Nations, New York, April 1970

Lecturer, Hague Academy of International Law External Session: “Legal Regulation of Multinational Business Corporations”, Bangkok, February 1974

Lecturer, Hague Academy of International Law External Session: “Some Legal Problems of Multinational Enterprises”, Tokyo, Japan, March 1978

Director of Studies (English Speaking Section), Centre for Studies and Research, Hague Academy of International Law, August – September 1980 on “Legal Status of Refugees”

Lecturer, “The Status of Foreign Corporations under the New Corporation Code”, University of the Philippines Law Center, 1982

Lecturer, Symposium on the “Adaptation of Contracts and Government Investment Agencies in Developing Countries”, University of Bielefeld, Federal Republic of Germany, June 1983

Lecturer, Symposium on International Commercial Arbitration, 28 March 1985, of the ICC and the Korean Commercial Arbitration Board, Seoul; delivered paper on “The ICC Institute: Its Role in the Development of International Business Law and International Commercial Arbitration”

Lecturer, Symposium on Joint Development of Natural Resources, Section on Energy and Resources, International Bar Association, Singapore, September 1985; delivered paper on “The Joint Development of Mineral Resources in the Philippines”

Lecturer, International Symposium on Pacific Basin Dispute Resolution, San Francisco, California, 26 – 28 May 1987; delivered paper on “Criteria for Arbitral Decision, Applicable Law and Reasoned Awards”

Lecturer, Forum on the Practice of International Law, 19 February 1988, Yale Law School: delivered paper on “International Debt Problems: the Debtor’s Perspective”

Lecturer, First Canada – Australasia Law Conference, Canadian Institute of Advanced Legal Studies Canberra, April 1988; delivered paper on “The Problem of Delay in the Philippine Court System”

1990 Sherill Lecturer, Yale Law School: “The Application of Laws: Some Recurring Problems of Judicial Review and Judicial Decision Making”

1992 Director, English Speaking Group of the 1992 Session of the Centre for Studies and Research at the Hague Academy of International Law, The Hague, The Netherlands, entitled: “The External Debt”, from 17 August to 12 September 1992

1998 Chief Justice Claudio Teehankee Memorial Lecture: “The Global Economy and the Rule of Law: Towards the Judicialization of the WTO Trade Dispute Resolution System,” 17 April 1998, Makati City, Philippines

2002 Address on “WTO Law and Public International Law,” delivered at the Annual Meeting of the Canadian Council of International Law, 25 October 2002, Ottawa, Ontario

2003 Lecturer, Second Jaime V. Ongpin Memorial Lecture on Public Responsibility in Government and Business, “The Philippines, the WTO and Globalization:

- Misconceptions, Challenges and Prospects,” Ateneo de Manila University, 13 March 2003
- 2003 Lecturer, Fourth Dr. Ibrahim F. Shihata Memorial Lecture, Harvard Law School, “Reflections on the Role of Treaty Interpretation at the WTO: The Experience of the Appellate Body,” 21 April 2003
- 2004 Address delivered at the Graduation Exercises of the University of the Philippines Law Class of 2004 on “The Pathology of Corruption and the Legitimacy of Governmental Institutions,” 26 April 2004
- 2005 Address: “How to Make a Better Deal in WTO and Other International Economic Negotiations,” Fair Trade Alliance, National Conference on “Defining the National Development Agenda in Global Trade Talks,” 19-20 July 2005, Club Filipino, San Juan, Metro Manila, Philippines.
- Participant, International Conference on Foreign Direct Investment, 21-22 November 2005, University of Bonn, Germany.
- 2006 Participant, Round Table Discussion on “Exploring and Assessing Philippine Corporate Governance Practices”, 8 March 2006, Asian Institute of Management – Ramon V. de del Rosario Sr., Center for Corporate Responsibility – Hills Program on Governance, Makati City, Philippines.
- 2006 Panel Member, “Fair and Equitable Treatment in International Law,” Centennial Annual Meeting of the American Society of International Law, 30 March 2006, Washington, DC.
- 2006 Delivered paper on “Treaty Interpretation in the Appellate Body, WTO”; Conference on “WTO at 10”, 5-7 April 2006, Casa Italiana, Columbia University, New York City.
- 2007 Lecturer, “Constitutional Law Issues and the Tariff Regime of the Philippines,” The Justice George A. Malcolm Lecture Series, 24th Lecture, 13 June 2007, AIM Conference Center, Makati City, Philippines

Commercial Law, International Trade Law and Arbitral Experience:

Was for 25 years counsel, negotiator and legal advisor to, and sometimes sat in boards of directors of corporations (whether wholly owned or controlled by local or foreign

nationals or jointly owned by such nationals) engaged in *e.g.*, pharmaceutical manufacturing and distribution; health and personal care products; mining (gold or non-ferrous); petroleum refining and distribution; industrial and agricultural chemicals; iron and steel products; commercial, development and investment banking; *etc.*; *etc.*

Have acted as arbitrator and party's counsel in ICC arbitrations; have acted as President in a Stockholm Arbitration Institute case; have acted as Member and President, ICSID ad hoc Annulment Committees; President in a number of ICSID arbitration cases; have acted as co-arbitrator or sole arbitrator in domestic commercial law cases; have acted as Member of Arbitration Tribunal under Chap. XV, UNCLOS 1982 Convention.

Decided, while in Supreme Court of the Philippines, numerous cases involving commercial law and tax law issues, including issues relating to control and recognition of domestic and foreign arbitral awards, and commercial arbitration.

At the Appellate Body, WTO, served in 22 Divisions; have been Presiding Member in 8 cases. Also served as sole Arbitrator in 3 arbitrations under Art. 21.3(c) Dispute Settlement Understanding of the WTO.

Publications:

Effects of Joint Wills, 25 Philippine Law Journal 629 (1950)

Pledges and Mortgages of Shares of Stock, 25 Philippine Law Journal 660 (1950)

The Anglo-Iranian Oil Dispute, 26 Philippine Law Journal 55 (1951)

Classification and Preference of Credits in Insolvency, 26 Philippine Law Journal 98 (1951)

On Vicarious Liability of the Employer, 26 Philippine Law Journal 413 (1951)

1951 Annual Survey of Philippine Law – Criminal Law: Criminal Liability and Specific Crimes, 27 Philippine Law Journal 283 (1952) (with A.M. Ceniza)

On the Shareholders' Right of Preemption; Law and Practice, 28 Philippine Law Journal 443-505 (1953)

The Belligerent Occupant and the Returning Sovereign; Aspects of the Philippine Law of Belligerent Occupation, 28 Philippine Law Journal 645-703 (1953)

Studies in World Public Order; New Haven, Yale University Press (1961) (with Myres S. McDougal & Associates)

- Law and Minimum World Public Order: The Legal Regulation of International Coercion*; Yale University Press (1961) (with Myres S. McDougal)
- Conflicting Orders and Appraisal of Resort to Coercion*, 1959 Proceedings, American Society of International Law
- On Territorial Waters of Archipelagoes*, 1 Philippine International Law Journal 157 (1962)
- The Functions of Judicial Review and the Doctrine of Political Questions*, 39 Philippine Law Journal 444 (1964)
- The Asian Development Bank*, 1965 Proceedings, Philippine Society of International Law (mimeographed)
- Comments on the Relevance of International Law to the Development Process*, 1966 Proceedings, American Society of International Law 15
- Legal Problems of Private International Business Enterprises: An Introduction to the International Law of Private Business Associations and Economic Development*, 113 Hague Recueil 213 (1966)
- Section 13 (5) Problems: The Consequences of Obsolescence*, 1965 Aspects of Philippine Corporate Practice, U.P. Law Centre (1967)
- Some International Law Aspects of Economic Development*, IV The Philippine Yearbook of International Law 49 (1975)
- The Principle of Non-Refoulement: A Note on International Legal Protection of Refugees and Displaced Persons*, 57 Philippine Law Journal 598-609 (1982)
- Coerced Movements of People Across State Boundaries; Some Problems of International Humanitarian Law*, 58 Philippine Law Journal 256-279 (1983); also: Australian Yearbook of International Law, 113-129 (1983)
- Regional Conceptions of Public Order: Some Reflections on the Development of an International Law for a New World Order*, in the Spirit of Uppsala., p. 217 (Graul-Madsen and Toman, eds., [1984]) (with E.D. Solidum)
- Role of Investment Agencies in Developing Countries in the Management and Negotiation of Contracts*, in Adaptation and Renegotiation of Contracts in International Trade and Finance, p. 141 (Studies in Transnational Economic Law, Volume 3), N. Horn, ed. (1985)

The Problem of Delay in the Philippine Court System, 62 Philippine Law Journal 201 (1987) (with E.L. Caparas)

Reflections on the Voluntary Rescheduling Approach to the International Debt Problems: Framework and General Principles, Foreign Relations Journal, Vol. II, No. 3, p. 45 (October 1987)

Process and Culture in Development Negotiations: The Management of Consent, Foreign Relations Journal, Vol. V, No. 3, p. 84 (October 1990)

Refugees in Southeast Asia: A Note on Philippine Practice and Recent Developments (with M.P. dela Cerna), Proceedings of the 1990 Pacific Region and International Law (PRIL) Conference at the University of Melbourne; also published in World Bulletin: Bulletin of the Institute of International Legal Studies (U.P. Law Center), Vol. VI, No. 6 (November-December 1990)

Some Aspects of the Dispute Settlement Provisions of the 1982 United Nations Convention on the Law of the Sea, Selected Papers Published by the Southeast Asian Programme in Ocean Law, Policy and Management (SEAPOL), delivered at SEAPOL Workshops in Phuket and Chiangmai, Thailand, (1989 and 1991), p. 41

Marine Pollution and Spoliation of Natural Resources as War Measures: A Note on Some International Law Problems in the Gulf War, 14 Houston Journal of International Law, 483-519 (1992)

The Application of Law: Some Recurring Aspects of the Process of Judicial Review and Decision Making, American Journal of Jurisprudence, Vol. 37, p. 17 (December 1992)

Sovereign External Debt: A Note on Contemporary Legal Aspects (published under the title “1992 – La Dette Exterieur/The Present State of Research Carried Out by the English-speaking Section of the Centre for Studies and Research”, Hague Academy of International Law, Centre for Studies and Research in International Law and International Relations, p.43 (April 1993)

Qualities of a Good Judge, The Lawyers Review, Vol. III, No. 2 (28 February 1994) p. 68

The Doctrine of Sovereign Immunity from Suit in a Globalizing and Developing Economy: Philippine Experience and Caselaw, Paper delivered in the Centennial Symposium of the Japanese Association of International Law, Kyoto University (19 September 1997); in “Japan and International Law: Past, Present and Future” (International Symposium to Mark the Centennial of the Japanese Association of International Law, N. Ando, ed., Kluwer 1999) p. 173; revised and published in 3 *Austrian Rev. of International and European Law*, 1 (1998)

Dispute Settlement under the Aegis of the World Trade Organization (WTO), in *Odyssey and Legacy: The Chief Justice Andres R. Narvasa-Centennial Lecture Series*, 179 (1998), published by the Supreme Court of the Philippines and the College of Law, University of the Philippines

Reflections on Good Governance, Development and Judicial Reform: Some Perspectives on the Problem of Judicial Corruption, in *Liber Amicorum*, Ibrahim F.I. Shihata: *International Financial and Development Law* (S. Schlemmer-Schulte and K.Y. Tung, eds., Kluwer, 2001) p. 211

Some Structural Features of the Dispute Settlement System of the World Trade Organization: Address delivered at the Conference of the WTO Research Institute of Shanghai, Peoples Republic of China, 18 May 2001; text in *The WTO and China: The Road to Free Trade*, published by the Hong Kong WTO Research Institute, p. 21 (2003)

Some Perspectives on the Problem of Corruption: The Nexus Between Reform and Control of Corruption and National Development Processes: Address delivered before the University of the Philippines Chapter, Phi Kappa Phi International Honor Society, 18 April 2001: Published in Phi Kappa Phi UP Newsletter, January-March 2002.

Dispute Settlement in the World Trade Organization: Institutions, Process and Practice (with Peter Van den Bossche), in *Proliferation of International Organizations – Legal Aspects*, p. 297 (H. Schermers and N. Blokker, eds. Kluwer, 2000); reprinted in *Philippine Law Journal*, vol. 75, p. 1 (2000)