



Paulinian Law Journal

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SAINT PAUL SCHOOL *of* PROFESSIONAL STUDIES

Paulinian Law Journal

Volume 4, Issue No. 1 | A.Y. 2024 – 2025

The Official Publication of the Saint Paul School of Professional Studies
- School of Law

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www.spsps.edu.ph



The **Saint Paul School of Professional Studies Law Journal** is published once during the academic year by the students of the SPSPS – School of Law, Brgy. Campetic, Palo, Leyte, Philippines.

The **Saint Paul School of Professional Studies Law Journal** contains articles and contributions of interest to law students and law practitioners; however, the views expressed by the contributors do not necessarily reflect the views of either the Saint Paul School of Professional Studies – School of Law or the **Saint Paul School of Professional Studies Law Journal** Editorial Board and Staff.

The Editorial Board reserves the right to edit articles submitted for publication. The **Saint Paul School of Professional Studies Law Journal** may be cited as “Paulinian L.J.”



Message from the Dean:

“Warmest congratulations to the entire Editorial Team behind the Paulinian Law Journal for your tireless efforts in bringing this esteemed publication to life! I extend my sincerest appreciation to each one of you for your dedication to excellence and scholarly work.

To our law students and professors who have shared their insights and expertise through written articles on diverse but relevant legal and social issues in this 4th edition, thank you for enriching our understanding of the law and its applications. Your work is a testament to the vibrant academic community that thrives within our Faculty of Law.

Writing for the Paulinian Law Journal is indeed a transformative experience that offers law students a unique opportunity to hone their skills, expand their knowledge, and make a meaningful contribution to the legal community. Through this publication, students can develop their research and analytical skills, refine their writing and communication abilities, engage with complex legal issues and contribute to scholarly discourse, and build their portfolio and establish themselves as emerging voices in the legal field. I encourage all law students to seize this opportunity, share their insights, and contribute to the Paulinian Law Journal’s tradition of excellence.

As we celebrate this achievement, I wish the Paulinian Law Journal continued success and relevance in the legal community. May this publication remain a beacon of intellectual discourse and a platform for innovative thinking.

Here’s to many more volumes and editions that will inspire, educate, and challenge us all. Congratulations once again and best wishes for all your future endeavors.”

Atty. Felma Freda L. Lopez, MBA
Dean, Faculty of Law
Saint Paul School of Professional Studies



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Editor's Note:

It is with great pride and anticipation that we present this latest issue of the Paulinian Law Journal, a testament to the journey of legal excellence and experiences of the law student within the past year of St. Paul's School of Professional Studies

In this issue we present a remarkable experience of our law student in their Jail Visit in Ormoc City. With this we read different perspectives on such experience. Also in this issue we will be introduced to the research made by a group of classmates in their class on legal research in connection to the role of mediation and Judicial Dispute Resolution in the Philippine Legal System. In this issue also we will be introduced to a new perspective on the topic of "Facebook Privacy" made by one of our law professors.

We extend our deepest gratitude to our editorial board, peer reviewers, and contributors, whose meticulous work and intellectual generosity have shaped this publication. May this issue inspire further dialogue and serve as a valuable resource for those who seek not only to understand the law But to experience a glimpse of the future profession.

As we turn each page, let us be reminded that the law is not static. It evolves through scholarship, advocacy, and the courage to question. We invite you to engage with these pages and contribute to the ever-unfolding narrative of legal thought.

Isaiah Dan G. Avarque
Editor-in-Chief, Paulinian Law Journal
Saint Paul School of Professional Studies



Message:

This has been a tough year for the Paulinian Law Journal. From the last issue, this organization was left with seven (7) members. These members were left to multi-task and outdo double designations and task just to make sure that we could release an issue for this year. Thank you Isiah, Joedel, Adrian, Meco, Krizza, Ariem and JC.

I am thankful that despite the scarce in human resource, we still have a number of contributors – both students and professor-alumna - who entrusted their works to be published in this issue. We are also thankful to some professors and students who have consented in having their academic work and output from different subjects be included in this publication.

I would also like to thank our ex-officio and former Editor-in-Chief, Atty. Dave Paulo Batula, for making himself available for the organization and helped us out in reviewing the contents of this issue.

Our organization would also like to thank the SPSPS Faculty of Law through our Dean, Dean Felma Freda L. Lopez for encouraging us and believing in the organization that we can release an issue as scheduled. Thank you also for backing us up to the SPSPS Administration for the approval of our proposal and the fast release of our budget.

Indeed, the support, guidance, constant reminders and encouragement of this administration has fueled the desire of the organization to publish an output worth sharing with other students and the SPSPS Community.

By the way, the team has also decided to maintain a fixed lay-out for the cover page which will be used in the succeeding issues. This is a step to standardized lay-out for the upcoming releases.

Lastly, let me again take this opportunity to invite other students, professors and Paulinian alumni who have works worth publishing and sharing with others to submit the same with our team. We hope to welcome more members and contributors soon. Thank you and have a good read!

Atty. Barbette Joanne B. Reposar
Adviser, Paulinian Law Journal
Saint Paul School of Professional Studies



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THREE-PEAT VICTORY: SPSPS Faculty of Law Crowned National Champion at Prestigious Moot Court Competition

Melboy R. Bulan

Cebu City—The Saint Paul School of Professional Studies (SPSPS) Faculty of Law has once again carved its name into legal academic excellence, clinching the National Championship title at the UC-Konrad Adenauer Stiftung International Environmental Law Moot Court Competition held on October 21–23, 2024, at Bai Hotel, Cebu City.

Team 432 of SPSPS, composed of oralists Joedel Peñaranda (JD 3A) and Hesus Adolfo Bucatcat (JD 3B), and researchers Melboy Bulan (JD 2B) and Ma. Trina Celine Cugas (JD 1B), showcased unwavering grit, intellect, and commitment. Their exceptional performance earned them not only the National Champion title but also the Overall Best Memorial and Best Memorial for the Applicant awards.

Their triumph did not end there. In a pool of eloquent and articulate advocates from law schools nationwide, Joedel Peñaranda stood the tallest as he was declared the Top 1 Best Oralist of the tournament. His teammate, Hesus Bucatcat, was also among the top oralists, ranking 9th overall, solidifying the team's dominance both in written and oral advocacy.

Meanwhile, Team 418 of SPSPS, composed of Lourieniel Dacillo (JD 5), Jacquelyn Isidro (JD 4), Patrick Anthony Cañedo (JD 1A), and Mac Bruen Ibañez (JD 1B), also made their mark by securing the 5th Best Memorial—a proud feat in itself.

Behind these brilliant minds are dedicated coaches who continue to nurture SPSPS's tradition of legal excellence—Judge Angiebel Divinagracia-Go and Atty. Dick Guillen Delfin. Their guidance, grounded in both academic rigor and real-world expertise, has been instrumental in preparing the teams for high-level national discourse.

The competition, spearheaded by the University of Cebu (UC) and supported by the Konrad Adenauer Stiftung (KAS) Law Programme Asia, challenged students to explore complex issues on Protection of Forests, Rights of Environmental Defenders, and State Responsibility—themes that resonate powerfully in today's global legal landscape.

This victory marks SPSPS Faculty of Law's third National Championship within a span of a year—a rare feat that cements its status as a rising powerhouse in legal advocacy and education. The law school also emerged victorious at the 3rd Alternative Dispute Resolution (ADR) Moot Court Competition on April 27, 2024, and the 2nd Inter-Law School Human Rights Debate Tournament on December 5, 2023.

The SPSPS Law Moot & Debate Society extended heartfelt gratitude to the SPSPS community, especially to President Erwin Vincent G. Alcala, Dean Raymund S. Gallardo, VD Felma Freda L. Lopez, and the Faculty of Law, whose steadfast support has fueled the team's victories. Special recognition was also given to the SPSPS Faculty of Law Bar Operations Team and the Lex Circle, whose behind-the-scenes support was pivotal to the team's preparation and morale.

More Than a Win, A Mission

For SPSPS, this championship is not just a trophy—it is a testament to what passion, preparation, and purpose can achieve. As the world faces pressing environmental challenges, the victory of these young legal advocates serves as a clarion call: that the next generation of lawyers is ready not only to argue but to act, defend, and lead.

As the school continues to rise in national and global academic circles, one thing remains clear: the Pauline spirit of excellence and service burns brighter than ever.



Cebu City - From the left (Shiela, Mac Bruen Ibañez, Lourieniel Dacillo, Atty. Dick Guiller Delfin, Joedel Peñaranda, Hesús Adolfo Bucatcat, Judge Angiebel Divinagracia-Go, Melboy Bulan, Ma. Trina Celine Cugtas, Patrick Anthony Cañedo, and Jacquelyn Isidro.)

A Reflection on Ormoc City Jail Visit

Jude Martin Capalar

On August 6, 2024, the Juris Doctor (JD) students from SPSPS, under the guidance of Attorney Kenneth Fabila, executed a visit to a correctional facility. This visit aimed to immerse the students in the experiences of Persons Deprived of Liberty (PDLs) and to understand the conditions within the facility. The excursion served as an academic exercise and a valuable opportunity for the students to observe, listen, and reflect on the legal and human realities incarcerated individuals face.

Immersion into the Life of the PDLs

The primary objective of the visit was to provide the students with a firsthand experience of the challenges faced by persons deprived of liberty (PDLs). Upon entering the facility, we were immediately struck by the significant contrast between our expectations and our observed reality. For many participants, it was the first occasion witnessing the environment that PDLs endure daily, and it imparted a lasting impact.

Listening to the narratives of the individuals was one of the most enlightening experiences during the visit. Several participants recounted their challenges in navigating the legal system, with some expressing frustration regarding delayed trials and the lack of accessibility to legal representation. These accounts underscored the systemic issues present within the justice system, which frequently lead to prolonged incarceration, even for those merely awaiting trial. As a Juris Doctor student, absorbing these narratives emphasized the vital role that attorneys fulfill in advocating for the rights of the accused and ensuring that justice is neither delayed nor denied.



Ormoc City: SPSPS law students and supervising lawyer pose with detention facility personnel during their jail visitation under the Clinical Legal Education Program.

Legal and Ethical Reflections

The visit elicited numerous reflections on the legal profession and attorneys' ethical duties. A primary takeaway was the recognition that the law, although intended to uphold justice, frequently fails to implement it, especially for marginalized individuals. Many of the persons deprived of liberty with whom we conversed originated from economically disadvantaged backgrounds and could not procure competent legal representation. Consequently, they encountered substantial obstacles in defending themselves in court or securing their release.

This experience underscored the significance of legal aid and pro bono work in remedying the disparities within the justice system. It also reminded us, as aspiring legal professionals, that our responsibilities extend beyond the confines of courtrooms and administrative tasks. We are tasked with advocating for individuals unable to secure legal representation and combat the systematic delays and inefficiencies that frequently result in prolonged detention of Persons Deprived of Liberty (PDLs).

Emotional and Human Impact

Beyond the legal issues, the jail visit also had a profound emotional impact on us students. Many PDLs shared personal stories of regret, loss, and hope. Hearing these stories made it clear that PDLs are not just case numbers or legal issues to resolve; they are human beings with families, emotions, and dreams. This realization added a human dimension to the study of law that is often absent from textbooks and lectures.

The visit challenged many of us' preconceived notions about criminal justice. It made us question the effectiveness of incarceration as a tool for rehabilitation and highlighted the importance of empathy and understanding legal practice. While the law often focuses on punitive measures, the visit reminded us that justice should also be restorative, focusing on rehabilitation and reintegration into society.



Ormoc City: A person deprived of liberty (PDL) receives a token from SPSPS law students during their Clinical Legal Education Program visit, highlighting the human side of detention and the importance of dignity, empathy, and engagement in legal advocacy.

Lessons and Takeaways

The jail visit provided us with invaluable insights into the realities of incarceration and the complexities of the justice system. It reinforced the importance of compassion in our future legal careers and our understanding of justice. The experience taught us that while laws and regulations are essential, the human aspect of law should always be noticed.

Moreover, the visit emphasized the importance of legal reforms that address the needs of society's most vulnerable. It is not enough to merely study the law; we must also advocate for changes that ensure the law serves everyone equally, regardless of their socio-economic status.

Conclusion

The jail visit on August 6, 2024, proved to be a transformative experience for us, the JD students. It granted us a profound understanding of the challenges encountered by persons detained in custody (PDLs) and the deficiencies within the justice system that frequently exacerbate these challenges. As aspiring legal professionals, the visit underscored the significance of empathy, advocacy, and the necessity for systemic reforms to ensure that justice is genuinely accessible to all individuals. We left the facility not only with an enhanced appreciation for the legal profession but also with a revitalized sense of purpose and responsibility in our impending roles as lawyers.



***Ormoc City:** Atty. Kenneth Fabila briefs the law students on proper conduct and key observations inside the detention facility, emphasizing legal protocols, detainee rights, and the ethical responsibilities of future practitioners during their field visit.*

BEYOND THE COURTROOM: THE ROLE OF MEDIATION AND JUDICIAL DISPUTE RESOLUTION IN THE PHILIPPINE LEGAL SYSTEM

Abinguna, Nathan Obie James D., Arpon, Alvin R., Espiritu, Cris Anthony G., Gerilla, Jessa Ervina B., Llanita, Arthur M., Mallari, Adrian Kenneth N., Mallari, Krizza Mae N., Tejero, April Rose C.

Professor: Atty. Robbin S. Docena

ABSTRACT

Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) are mainstream alternative dispute resolution (ADR) mechanisms of the Philippine judiciary to decongest cases, expedite the resolution of disputes, and reduce litigation costs. CAM involves the referral of cases to expert mediators at the Philippine Mediation Center, and JDR involves active mediation by judges in resolving disputes to promote settlements before trial. Both mechanisms have significantly improved judicial efficiency by reducing court caseloads, expediting the resolution of cases, and promoting cost-saving and amicable settlements.

Empirical data indicate that CAM and JDR have been accountable for substantial case decongestion, with historically high success rates in resolving disputes short of complete litigation. Recent trends indicate a decline in the success rates of mediation, attributing this to problems such as a lack of adequate mediator training, parties' resistance to settle, and the occasionally adversarial conduct of lawyers during mediation proceedings. Addressing these issues through better training, better remunerations of mediators, and better public awareness of the benefits of ADR is crucial to ensuring and increasing the effectiveness of these mechanisms.

In spite of these constraints, CAM and JDR are still components of the Philippines' judicial reform. Their ongoing development and integration into the legal system will make a more efficient, accessible, and problem-solving judiciary, and thus the courts and parties to the case.

INTRODUCTION

Alternative Dispute Resolution (ADR) is a process used to amicably settle legal conflicts between parties without going to court. In the Philippines, there are two ADR methods that enable parties to reach mutually acceptable solutions: Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR). While JDR involves a judge assisting in dispute resolution before a trial, CAM relies on a neutral mediator to guide the parties toward an agreement. Both techniques offer a faster and less adversarial approach to resolving conflicts, saving time, money, and the emotional stress of lengthy court proceedings.

CAM and JDR are game changers in the Philippine court system, offering a fresh and more

human approach to resolving conflicts. Instead of getting caught in long, expensive, and stressful trials, people can now resolve their disputes through communication, understanding, and cooperation. These alternative methods not only help speed up the judicial process but also ease the heavy burden on courts, which are often swamped with cases.

For many Filipinos, the traditional court system can feel intimidating, slow, and costly. It is a place where people often feel like their voices are not heard, and the process can drag on for years. CAM and JDR offer a different way, a chance for people to find solutions without the financial strain and emotional toll that often comes with protracted legal battles. These methods provide an opportunity for both sides to talk things out with the help of a neutral mediator or even a judge, making the whole process less confrontational and more focused on reaching an agreement that works for everyone.

For first-level courts, the case disposition rate of 53% in 2021 increased to 60% in 2022 and to 61% in 2023. For second-level courts, the case disposition rate increased from 32% in 2021 to 39% in 2022 and 42% in 2023. The disposition rate in the Supreme Court also improved from 19% in 2022 to 25% in 2023, when it disposed of 4,730 cases.^[1]

Senior Associate Justice Leonen highlighted that the Supreme Court has consistently prioritized the binding nature and enforceability of arbitral awards in a series of decisions. He stated that when parties voluntarily submit their disputes for arbitration, that choice must be upheld and respected.

“These rulings should boost public confidence in arbitration as a private alternative to litigation,” stressed the Senior Associate Justice. “They reflect our commitment to uphold party autonomy and limit unnecessary judicial interference. These are pillars of a more innovative, more efficient, and more accessible justice system, it gives families the opportunity to reconcile and preserve healthy relationships. Arbitration, given its confidential, transparent, and neutral nature, reduces the risks to integrity that usually accompany public adjudication. Since arbitration proceedings are also faster and more specific expert-driven, the susceptibility for external interference is significantly reduced. It levels the playing field regardless of one’s connection to the powers that be or one’s financial resources. -Leonen”. (See, Senior Associate Justice Leonen: Mediation Can Help Further Decongest Courts – Supreme Court of the Philippines)

The traditional legal system used by many Filipinos seems slow, expensive, and frightening. CAM and JDR enable individuals to get solutions free from the financial load and stress of a protracted legal dispute by offering a more friendly and speedy replacement. These techniques help couples and individuals in a society where maintaining ties to communities and relationships is valued to settle their problems in a less antagonistic and more targeted on finding mutual accord.

^[1] Senior Associate Justice Leonen: Mediation Can Help Further Decongest Courts – Supreme Court of the Philippines

These ADR methods are a means to create a legal system more sensitive to the needs of the people one that is both fair and efficient, so allowing everyone an opportunity to solve their problems without overwhelming the courts as they become more well-known in the Philippines.

With the emerging importance of ADR in the legal system and its complexities, the subject requires the group to conduct an observation on the proceedings and interview the mediator and JDR Judge to come up with better understanding of the practical aspects of JDR.

PERSONAL PROFILE OF THE MEDIATOR



Mr. Eduardo P. Agron is a dedicated and experienced Court-Annexed Mediator with a deep passion for fostering peaceful resolutions. At 75 years old, he has devoted the past two decades to mediation, playing a crucial role in helping individuals and parties reach fair and amicable settlements. His expertise in conflict resolution stems not only from his extensive experience in the field but also from a strong background in education, administration, and community service.

Mr. Eduardo graduated with a Bachelor of Science in Elementary Education degree from Leyte State College (now Leyte Normal University) in 1971. He began as a teacher, teaching and shaping the minds of his students with lessons of knowledge and discipline. Through the years, he shifted to different positions that further developed his leadership and interpersonal skills. He was the Municipal Secretary of LGU-Babatngon, where he was instrumental in local governance and administrative functions to ensure efficient and smooth operations. He was also a NMPC Officer in Malacañang, where he gained worthwhile experience. His working life also included him as a salesman, an experience that sharpened his negotiation and communication skills, skills that have been invaluable to his career in mediation.

Aside from his professional life, Mr. Eduardo has always been quite interested in civic and community service. He is an active member of some organizations, including the Senior Citizen Association, in which he upholds the cause of senior citizens and ensures they are given the dignity and respect they deserve. Through his active membership in the Knights of Columbus, he remains committed to the values of charity and unity in serving various outreach programs and activities. His faith and service spirit can also be observed in his active membership in the Association of Lay Ministers in Babatngon Parish, where he participates actively in church activities, spiritual guidance, and community support. He has also invested time and effort in volunteering work for the KOFC-Babatngon, expressing his unstinting service to others.

Mr. Eduardo's dedication to his career as a mediator is shown in his constant pursuit of learning and self-improvement. He has undergone extensive training in court-annexed mediation, which has equipped him with the knowledge and experience to settle even the most complex disputes. His listening abilities, objective analysis of the problems, and bringing parties together to mutually acceptable agreements have earned him the respect and trust of the individuals he assists. His efforts not only settle disputes but also heal relationships and bring peace between communities.

On a personal level, Mr. Eduardo is a committed husband and proud father of three children. He loves family above everything else and believes that strong family relationships are the secrets to a peaceful society. His wisdom, patience, and sheer dedication to service are the hallmarks of his personality, and he is a man of vast respect in his professional and personal life as well. Through his life-long commitment to education, mediation, and community service, Mr. Eduardo P. Agron continues to have a positive impact on the lives of many, leaving a legacy of leadership, compassion, and integrity behind.

PERSONAL PROFILE OF THE MEDIATOR

Honorable Judge Minerva A. Viojan-Siosana is a highly skilled and devoted legal expert with a broad career in the judiciary for more than 14 years. She currently occupies the prestigious role of Presiding Judge at the Municipal Trial Court (MTC) in Liloan and Acting-Presiding Judge for the Municipal Circuit Trial Court (MCTC) of Sogod, Libagon, and Bontoc, Southern Leyte. Her legal acumen and dedication to maintaining the tenets of justice, equity, and integrity have established her as a respected member of the legal community. An important facet of her judicial trajectory is her involvement in Judicial Dispute Resolution (JDR), in which she has participated for three years, assisting litigants in resolving disputes effectively and fairly through alternative dispute resolution processes.



As a JDR Judge, Hon. Judge Minerva plays an important role in helping parties to reach an amicable settlement before trials. Her efforts aim to lessen the burden on the courts by promoting amicable resolutions. She has undergone specialized training for JDR judges, equipping her with advanced skills in mediation, negotiation, and conflict resolution. Her capacity to handle intricate legal issues with objectivity and knowledge has greatly improved case management and facilitated access to justice.

Her academic journey reflects her passion for law and dedication to continuous learning. She is a graduate of Bachelor of Science in Accountancy from the University of San Carlos in Cebu in 1999, where she developed her analytical and financial skills and pursued her Juris

Doctor degree at Leyte Colleges, where she graduated with honors, achieving the distinction of Cum Laude in 2009. Her exceptional academic achievement and dedication to public service prepared the ground for an extraordinary legal career. She received the renowned "Best PAO Lawyer of the Year" award, which recognizes her outstanding contributions to the legal profession and her devotion to excellence.

In addition to her judicial responsibilities, Hon. Judge Minerva is also a passionate legal educator, serving as a law professor at Saint Paul School of Professional Studies. As a law professor, she shares her legal knowledge and experience with aspiring lawyers. Her teaching inspires students to pursue professions in law with integrity and dedication.

As an active member of the Integrated Bar of the Philippines (IBP), Hon. Judge Minerva continues to engage with the broader legal community. Despite her demanding career, she remains deeply committed to her personal life as a devoted mother of three. Her ability to balance the responsibilities of motherhood, a judicial career, and her role as an educator is a testament to her resilience, discipline, and strong work ethic.

As a resident of Tacloban City, Hon. Judge Minerva serves as an inspiration for her community. Her steadfast dedication to justice and broad legal knowledge has won her respect and confidence. With her enthusiasm for legal education, exceptional legal acumen, and commitment to public service, Hon. Judge Minerva A. Viojan-Siosana continues to make a significant impact in both the judiciary and the academic field, ensuring that fairness and integrity remain at the core of the legal system.

OBSERVATIONS DURING THE MEDIATION PROCEEDINGS

The mediation case involved a civil claim for damages, wherein the complainant company sought compensation from the respondent, a driver-employee of another company, for damages resulting from a vehicular incident. The driver-employee, who was reportedly under the influence of alcohol at the time of the accident, caused substantial damage to the complainant's store, including structural impairments and loss of inventory. The mediation proceedings were attended by the respondent (the driver-employee, who had been dismissed from his job following the incident), while the complainant was represented by its store manager. Notably, neither party was represented by legal counsel during the mediation, and the complainant's representative did not possess a Special Power of Attorney (SPA) to negotiate and enter a binding settlement on behalf of the company.

During the conduct of the mediation proceedings, several significant observations emerged, highlighting the dynamics, challenges, and strategic methodologies employed in alternative dispute resolution (ADR).

One of the primary observations was the critical role of the mediator in establishing the tone and direction of the mediation process. The mediator commenced the session by outlining the procedural framework, setting ground rules, and emphasizing key principles such as confidentiality, impartiality, and voluntary participation. This introductory phase was

essential in fostering a collaborative atmosphere and ensuring that both parties felt acknowledged and respected.

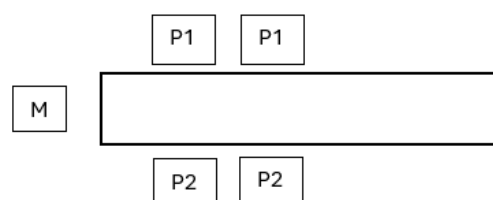
The mediator meticulously ensured that all participants were properly identified, clearly defining their respective roles as the complainant and the respondent. To facilitate effective communication, the mediator employed a language known and understood by both parties, thereby minimizing the risk of misinterpretation and fostering a more coherent dialogue.

In the Philippine context, three mediation approaches are commonly utilized: (1) The Problem-Solving Approach, which focuses on identifying the root causes of the dispute and collaboratively formulating resolutions; (2) The Transformative Approach, which aims to empower the disputing parties by enhancing their communication skills and restoring interpersonal relationships, and help transform individuals involved in both dimensions of moral growth; and (3) The Narrative Approach, which encourages the parties to share their experiences, reframe their narratives, and gain a deeper understanding of each other's perspectives.

During the mediation proceedings, the mediator predominantly employed the Problem-Solving Approach, guiding the parties in jointly identifying the core issues and exploring potential solutions. Additionally, elements of the Transformative Approach were integrated into the discussion, aiming to empower the parties by fostering improved communication and interpersonal growth. This approach facilitated moral development in both parties by encouraging empathy, recognition, and mutual respect. By shifting the focus from adversarial positions to shared human experiences, the Transformative Approach may not only aid the parties in resolving the immediate dispute but may also contribute to the long-term personal growth of the individuals involved, enhancing their ability to engage in constructive conflict resolution in the future.

Regarding the physical setting, the mediation center implemented a head-of-the-table seating arrangement, ensuring that all parties were equidistant from one another. This layout was strategically designed to promote neutrality, facilitate open communication, and create an environment conducive to conflict resolution. An illustration of the seating arrangement is provided below:

Illustration: Physical Set-up during the Mediation



This illustration depicts the setup and its significance in maintaining fairness and balance during the mediation.

However, despite the structured and collaborative nature of the mediation, the dispute was not settled during the proceeding. The respondent expressed hesitation and stated that he was not in a position to make a final decision on a settlement at that time. Furthermore, the absence of legal counsel for both parties and the lack of an SPA for the complainant's representative presented legal and procedural challenges. The complainant's store manager, without proper authorization, could not validly enter into a settlement agreement on behalf of the company, leading to further complications in the negotiation process.

While the absence of counsel may have influenced the parties' ability to navigate the legal complexities of the case, the mediator ensured that the discussions remained constructive and that both parties had the opportunity to explore possible resolutions.

Moreover, several key advantages of mediation were also observed. One notable benefit was the preservation of party autonomy, as the mediator functioned merely as a facilitator, providing guidance and insights while leaving the final decision to the disputing parties. This autonomy reinforced the principle of self-determination, allowing both sides to craft a resolution that best suited their respective interests.

The mediation provided a more expedient and cost-effective alternative to litigation. By circumventing a prolonged and expensive court trial, the process alleviated financial and emotional burdens on both parties. Given the respondent's limited financial capacity to fully compensate for the claimed damages, mediation enabled discussions on alternative solutions, such as staggered payment arrangements or other feasible settlements, without necessitating protracted legal proceedings.

Overall, the mediation process underscored the significance of alternative dispute resolution mechanisms in achieving fair, amicable, and efficient settlements. It highlighted the effectiveness of structured, non-adversarial approaches in resolving disputes while promoting dialogue, cooperation, and mutual understanding. Despite the failure to reach an immediate resolution due to the respondent's indecision and the complainant's lack of proper authorization, the mediation served as a valuable platform for constructive discussions and potential future negotiations. Given the impasse, the proceedings were formally reset to a later date to allow the respondent additional time to deliberate on the proposed settlement terms and for the complainant to obtain the necessary authorization to finalize an agreement.

INSIGHTS FROM THE COURT-ANNEXED MEDIATOR

On February 1, 2025, while awaiting the arrival of the parties for the scheduled mediation proceeding, the group conducted an interview with Mr. Eduardo P. Agron, a court-annexed mediator at the Philippine Mediation Center (PMC) in Tacloban City.

With a diverse background and no formal legal training, Mr. Agron provides a unique perspective on the mediation process, shedding light on the skills, challenges, and techniques involved in his role.

Background of Mr. Eduardo P. Agron

Mr. Eduardo P. Agron's journey to becoming a mediator is unconventional. Currently a sari-sari store owner and tricycle driver, he has held varied roles in the past, including an agent for Asia Brewery and an insurance company, as well as a communicator in the Office of the President during the Marcos era. Despite lacking a legal background, Mr. Agron was accredited as a mediator, a process he attributes to his endorsement by Atty. Giron. His diverse life experiences appear to inform his approach to mediation, emphasizing practical wisdom and interpersonal understanding over legal expertise.

Skills and Qualities of a Mediator

When asked about the skills required for mediation, Mr. Agron emphasized that no specific prerequisites are needed, as mediators undergo training provided by the PMC. He distilled the essence of mediation into a simple yet profound principle: "Open your heart and open your mind." According to him, this openness facilitates problem-solving by fostering empathy and reducing emotional barriers. He identified pride as a common root cause of disputes, suggesting that a mediator's ability to address this emotional obstacle is key to successful resolutions. Additionally, Mr. Agron highlighted the importance of being a good listener, which is an essential characteristic that enables mediators to understand the parties' perspectives and guide them toward compromise.

Experience and Case Examples

Mr. Agron shared several examples of cases he has mediated, illustrating the range of disputes that come before him. In one instance, a conflict arose between siblings over a fallen coconut, which one accused the other of stealing. The situation escalated to the point of near violence, prompting Mr. Agron to relocate the mediation to a botanical garden to diffuse tension and facilitate dialogue. Another case involved a boundary dispute over a mere inch of land, which had escalated to the Supreme Court, costing the parties approximately Php600,000. Through mediation, this costly legal battle was resolved more efficiently. A family dispute over the partition of a 1,000-square-meter lot required four sessions, demonstrating the patience and persistence needed in mediation.

Mr. Agron also recounted a complex personal dispute involving a married couple. Frustrated by their childless marriage, the husband sought not only one (1) but two (2) paramours, fathered a child with each of them, and faced mediation to settle a support payment of P7,000 per month. These cases highlight the mediator's role in navigating emotionally charged and legally nuanced situations, often without relying heavily on strict legal citations.

Challenges and Techniques in Mediation

Mr. Agron noted that every case presents unique challenges, with no two disputes being identical.

He explained that settling family disputes is often challenging due to a mix of emotional, psychological, and practical factors. Family conflicts are deeply personal and frequently fueled by strong emotions such as resentment, betrayal, or hurt, making it difficult for individuals to remain objective and open to compromise.

Unresolved past issues can further intensify tensions, as old grievances resurface and hinder productive discussions. Psychological factors such as pride, fear of losing control, or deep-seated grudges can prevent family members from engaging in meaningful dialogue. Emotional attachments and personal biases may also cloud judgment, making resolution more complicated.

Additionally, power imbalances within the family can make negotiations difficult. In hierarchical family structures, certain members, such as elders, parents, or those with financial influence may dominate discussions, leaving others feeling unheard or pressured.

Mr. Agron employs practical techniques, such as allowing each party to share their perspective without interruption, actively listening, and encouraging them to express their emotions and concerns. He also recognizes and validates emotions such as frustration, hurt, or anger and fosters empathy by helping each party see the issue from the other's perspective.

Additionally, he ensures that each party has equal time to speak and prevents any one individual from dominating the conversation. Whenever there is a power imbalance, he holds separate caucuses with each party to privately understand their concerns before bringing them together again. Ultimately, he reminds the parties that resolving the conflict is in the best interest of the family as a whole.

He avoids overemphasizing legal technicalities, focusing instead on listening and facilitating offers from the parties. This approach underscores his belief that mediation is less about legal authority and more about human connection.

He admitted that early in his career, he sought advice from lawyers, but with experience, he has grown more confident in his abilities.

Interestingly, Mr. Agron clarified that compromise agreements reached through mediation do not require notarization; signature of both parties and of his as the mediator suffices, streamlining the process. Financially, mediators like him receive no salary, only an honorarium of PHP 1,500 per case, which is an increase from PHP 500 in the past. For Mr. Agron, the motivation lies not in monetary reward but in the service rendered to the community.

Reflections on Mediation's Purpose and Impact

Mr. Agron's insights reveal mediation as a dynamic process that prioritizes reconciliation over retribution. He views his role as a service to the people, helping them resolve disputes

that might otherwise drain their resources in prolonged litigation. Even in cases like acts of lasciviousness, which he described as the “easiest” due to their straightforward monetary settlements, the mediator’s role remains pivotal in ensuring fair outcomes. His emphasis on listening, adaptability, and emotional intelligence reflects a mediation philosophy grounded in practicality and compassion rather than rigid legal frameworks.

Conclusion

The interview with Mr. Eduardo P. Agron offers a compelling glimpse into the world of court-annexed mediation in the Philippines. His lack of legal professional training, unconventional background, and reliance on empathy and experience challenge traditional notions of what qualifies someone to mediate disputes. Through his stories of sibling rivalries, boundary conflicts, and personal betrayals, Mr. Agron demonstrates that mediation is as much an art as it is a process, one that requires patience, creativity, and a genuine commitment to helping others. As the Philippine Mediation Center continues to promote alternative dispute resolution, mediators like Mr. Agron play a vital role in fostering peace and understanding, proving that an open heart and mind can indeed pave the way to resolution.

JUDICIAL INSIGHTS: A JDR JUDGE’S PERSPECTIVE ON DISPUTE RESOLUTION

Judicial Dispute Resolution (JDR) is a court-supervised settlement process where the trial judge takes an active role as a neutral facilitator in exploring possibilities for amicable settlement among litigating parties. It is part of a broader alternative dispute resolution framework intended to expedite case disposition, decongest court dockets, and foster a more conciliatory approach to litigation.

On February 16, 2025, we interviewed Honorable Judge Minerva A. Viojan-Sosiana, the Presiding Judge of MTC Liloan, Southern Leyte, and an Acting Presiding Judge of MCTC Sogod-Libagon-Bontoc, Southern Leyte.

Judge Sosiana stated that being a JDR Judge is not voluntary on the part of the judge; the Supreme Court mandates all judges to undergo JDR training. Judges who are unable to attend such training cannot handle JDR proceedings regardless of the reason for their non-attendance. It is not about what inspired them to be a JDR judge, but rather it is to fulfill the purpose of resolving mediatable cases to avoid costly litigation and thus unclog the dockets in court.

To be an effective JDR Judge, certain essential skills are required. Judge Sosiana stated that patience is necessary to determine the real problem causing the litigation and to see beyond the surface issues. Effective communication skills are crucial to making parties feel at home. Judges must have control over their emotions, remain calm, and exhibit empathy without showing favoritism. Additionally, they must know when to call a break and balance being nice yet firm and strict to gain the trust of the clients while maintaining authority.

Recognizing deadlocks and identifying possible solutions that can be offered to both parties are essential skills, as is being understanding, open-minded, prepared, and convincing.

One memorable case that highlights Judge Sosiana's effectiveness in mediation involved a married couple on the verge of separation. They were trying to divide everything equally, even minuscule items like plates, beds, and fences. With Judge Sosiana's help, they realized that litigation was useless and costly when their problem was simple, and she guided them to agree on how to divide their properties amicably. In situations involving intense emotions or contentious issues, Judge Sosiana ensures the JDR setting is comfortable, perhaps not necessarily held in a courtroom, and offers water or snacks. Her friendly personality and control over the proceedings help parties feel comfortable and engaged.

To foster trust and build rapport, Judge Sosiana lets the parties see her as one of them while maintaining a business-like tone. She guides them to a settlement, ensuring empathy without favoritism. In cases of power imbalance, especially in family disputes, she may speak to parties individually to allow them to speak freely. Her strategies to inspire problem-solving and collaboration include asking questions that make parties feel that they are crafting their solutions with the judge's guidance. She assures confidentiality in JDR, telling parties that what is discussed remains confidential and cannot be used outside the JDR setting. When handling uncooperative or disengaged parties, Judge Sosiana tries to talk to them to understand the cause. If efforts fail and a party remains disengaged, she may decide that the case cannot be settled.

Overall, the significance of JDR lies in its ability to achieve efficient and just outcomes by fostering a more conciliatory approach to litigation. The loyalty of a JDR judge is dedicated to upholding the purpose of the Supreme Court, rather than favoring any party involved. This commitment ensures that the mediation process remains fair, impartial, and focused on resolving conflicts in a manner that benefits both the parties and the judicial system as a whole.

Insights Learned From This Activity

Through this activity, the group was able to personally witness the actual mediation proceedings and have an opportunity to interview one of the pioneering mediators in the PMC Tacloban. To complete the picture of an alternative dispute resolution process, we are enlightened by the wisdom and knowledge of the esteemed JDR Judge. The experience provides us the deeper understanding of alternative dispute resolution in actual practice. Seeing alternative dispute resolution in action makes theoretical knowledge more concrete. Interacting with experienced mediator and JDR Judge gives the group a broader perspective on real-world challenges and strategies in dispute resolution. Understanding the emotional and procedural aspects of mediation and JDR reinforces the importance of ADR in achieving fair, amicable settlements.

Seeing alternative dispute resolution in action makes theoretical knowledge more concrete. Interacting with experienced mediator and JDR Judge gives the group a broader perspective on real-world challenges and strategies in dispute resolution. Understanding the emotional and procedural aspects of mediation and JDR reinforces the importance of ADR in achieving fair, amicable settlements.

The group picture out the importance of alternative dispute resolution not only settling disputes and decongesting court dockets but also in rebuilding the relationships between the parties.

Common reason why dispute reaches the jurisdiction of the court is because of emotional, and psychological factors such as pride, fear of losing control, or deep-seated grudges, more particularly between family members. This raise concerns on about how the mediator and JDR Judge handle such disputes effectively.

With this activity, the group learned that mediation is more about emotional intelligence and communication than legal expertise. Their approach emphasizes listening, empathy, and problem-solving rather than strict legal procedures. By acknowledging the feelings and experiences of the parties, the mediator helps create a supportive and compassionate environment.

Establishing trust and rapport is essential for effective mediation. The mediator and the JDR Judge connect with parties on their level to fosters a sense of safety and respect, encouraging open and honest communication. This was the first step that the mediator and the JDR Judge has to establish, they delve into the wisdom of stepping into the shoes of either or both parties so as to understand what causes the dispute.

Effective mediation hinges on creating an environment where all parties feel heard and valued. Their ability to connect on a human level can make a significant difference. When people feel respected and safe, they're more likely to share their true concerns and work towards a mutual resolution.

Effective mediation is all about creating a space where everyone feels valued and understood. It's like building a bridge of trust between the parties, allowing them to communicate openly and honestly. When people feel safe and respected, they are more likely to open and work towards a solution that benefits everyone involved.

Their role is not just to facilitate the conversation but also to connect with each party on a personal level. This connection fosters a sense of empathy and understanding, making the mediation process smoother and more productive.

Additionally, the group valued the learning that patience is a fundamental characteristic of an effective mediator. It helps the mediator build trust with the parties involved. By taking the time to listen actively and understand each party's perspective, the mediator can create a safe

and supportive environment where parties feel comfortable sharing their concerns. It also allows the mediator to encourage open communication between the parties. This involves giving each party the opportunity to speak without interruption, allowing them to express their emotions and thoughts fully.

Disputes can be emotionally charged, and parties may feel frustration, anger, or anxiety. A patient mediator can help manage these emotions by remaining calm and composed, guiding the parties through the process without escalating tensions enabling the mediator to explore the issues thoroughly, ensuring that all relevant aspects of the dispute are addressed. This comprehensive approach helps identify the root causes of the conflict and develop more effective solutions.

Moreover, the group recognize the importance of private caucuses which play a crucial role in the mediation process. It allows each party to speak openly and confidentially with the mediator. This confidentiality encourages honest communication and helps parties share their true concerns, interests, and potential settlement options without fear of judgment. By meeting separately with each party, the mediator can build trust and rapport. This trust is essential for effective mediation, as it ensures that parties feel comfortable and supported throughout the process.

The group found great significance on the mediator's and JDR Judge's neutrality and impartiality, which are essential in maintaining trust and fairness in the settlement process. By staying unbiased, the judge ensures that both parties feel heard and respected, creating an environment conducive to honest and productive discussions. This impartial stance helps prevent any perception of favoritism and ensures that the final settlement is just and equitable for all parties involved.

They did not coerce or pressure the parties into settling; rather, they facilitate the process and help the parties reach a voluntary agreement. By facilitating discussions and providing guidance, the judge helps the parties explore their options and find common ground without exerting any undue influence or pressure. This approach ensures that any settlement reached is genuinely agreed upon by both parties, leading to more sustainable and satisfactory resolutions. Their impartiality and respect for the parties' autonomy are key factors in achieving a fair and voluntary settlement. A judge's ability to balance firmness with empathy, maintain neutrality, and guide disputing parties toward problem-solving is crucial in the success of JDR. The group gained insights that alternative dispute resolution is not just come up with an amicable settlement, but it ensures that the settlement is fair and just and always upholding the principles of justice.

Lastly, it is true that, “an kagawasan in guin papakigbisog, an madig-on nga prinsipyo diri napalit” but then this does not always offer the best solution to a problem. Instead, “waray deperensya nga diri nadadara hin maupay nga iristorya” emphasizes that open and meaningful dialogue can lead to resolution.

ANALYSIS ON THE IMPACT AND EFFECTIVENESS OF COURT-ANNEXED MEDIATION AND JUDICIAL DISPUTE RESOLUTION IN THE PHILIPPINES

Court-annexed mediation (CAM) and Judicial Dispute Resolution (JDR) are alternative dispute resolution (ADR) mechanisms integrated into the Philippine judicial system to address case congestion, reduce the cost of litigation, and expedite the resolution of disputes. While both share the common goal of facilitating amicable settlements, they differ in their approaches. Under the Administrative Matter No. 11-1-6-SC-PHILJA, CAM is the first stage in the court diversion of cases. It is where the judge refers the parties to the Philippine Mediation Center (PMC) for the mediation of their dispute by trained and accredited mediators. If a settlement is not reached during this first stage, a second attempt is made at the JDR stage, where the JDR judge sequentially becomes a mediator-conciliator-early neutral evaluator in a continuing effort to explore possibilities for an amicable settlement. Both mechanisms play an important role in improving the efficiency and effectiveness of the Philippine judiciary.

Impact of Court-Annexed Mediation and Judicial Dispute Resolution

Reduce Court Caseloads

Both CAM and JDR were introduced in the Philippines to reduce the overburdened judicial system, where backlogs of cases result in delays in the resolution of disputes. The Philippine court system faces a significant number of cases every year, causing judicial delays, extended waiting periods, and case congestion. By resolving disputes outside of the full trial process, CAM and JDR reduce the number of cases that must be heard in court.

Speed and Efficiency of Case Resolution

Both CAM and JDR are designed to expedite the resolution of disputes. Traditional litigation can take several years before a case is fully resolved, leading to delayed justice. CAM and JDR provide quicker alternatives to a full trial by facilitating settlement discussions earlier in the litigation process.

Cost-Effectiveness

Litigation is expensive due to court fees, attorney fees, and the costs associated with prolonged trials. Both CAM and JDR are designed to offer more affordable alternatives to traditional litigation by shortening the time and complexity involved in resolving disputes.

Promoting Amicable Settlements and Collaborative Solutions

One of the primary benefits of both CAM and JDR is that they promote amicable and collaborative solutions between parties. In traditional litigation, the focus is often on determining a winner and a loser, which can lead to protracted conflict and damaged relationships. In contrast, both CAM and JDR encourage cooperative approaches to resolving disputes.

CONCLUSION

In conclusion, Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) have emerged as critical components in the Philippine judicial system, playing an essential role in alleviating the persistent challenges of case congestion, protracted litigation, and high legal costs. Both mechanisms were designed to offer effective alternatives to the traditional litigation process, fostering quicker and more cost-effective resolutions for the parties involved. CAM, with its focus on a neutral third-party mediator facilitating communication between disputing parties, and JDR, wherein judges actively intervene at the pre-trial stage to guide settlement efforts, share a common objective: to reduce the burden on the court system while encouraging amicable resolutions.

Over the years, these mechanisms have successfully addressed some of the fundamental issues within the Philippine judiciary. CAM and JDR have helped expedite case resolutions by providing a more flexible and informal setting where parties can discuss their disputes in a collaborative manner. By resolving disputes before they escalate to full trials, these ADR mechanisms prevent case backlogs, thereby improving the overall efficiency of the judicial process. This, in turn, has led to better access to justice for parties seeking timely and affordable dispute resolution. However, despite these successes, several challenges persist that limit the full potential of CAM and JDR. These challenges include inadequate training and development of mediators and judges, reluctance of parties to settle through mediation, and the involvement of lawyers in both CAM and JDR. Addressing these issues is essential to maximizing the effectiveness of CAM and JDR.

In the long run, CAM and JDR represent a transformative shift in the way disputes are handled in the Philippines—fostering a more holistic, collaborative, and efficient legal environment. With sustained efforts to address their limitations, these mechanisms can help alleviate the pressure on the judiciary, reduce the financial and emotional strain on parties, and foster a culture of resolution that benefits all stakeholders involved. Thus, with the proper support and enhancements, both CAM and JDR will continue to be vital tools in the pursuit of justice.



Tacloban City: Group 3 of the subject “Conflict Resolution in Family Disputes” under Atty. Robbin Docena. Photo taken at Philippine Mediation Center after observation of mediation case and interview with Mediator.

Facebook Privacy: A Review of Cases

Atty. Dick Guillen G. Delfin

Since 2014, the Supreme Court has pronounced two leading cases about the constitutionally-guaranteed right to privacy. In both cases, the petitioners claimed their right to privacy over their activities in cyberspace. They averred that their Facebook posts were private remarks on their individual Facebook accounts, meant to be shared only with their circle of friends of which their opposing parties are not part.

In particular, this empirical report reviews the cases in *Vivares v. St. Theresa's College* and *Belo v. Guevarra*, the recent leading cases involving Facebook informational privacy. In light of court rulings, this article explores the space in which the right to privacy exists amid the technological advances in the contemporary world and suggests practices to protect the right to privacy in this modern day.

Facebook is one of the leading social networking sites in the world. As of June 30, 2018, Facebook had 2.23 billion monthly active users worldwide (CNN, 2018). In the case of *Vivares, et al. v. St. Theresa's College*, the Supreme Court explained that through a Facebook "friend request," the user may invite another to connect their accounts so that they can view all "Public" and "Friends Only" posts of the other. The Supreme Court further discussed in *Belo-Henares v. Guevarra* that restricting the privacy of one's Facebook posts to "Friends Only" does not guarantee absolute protection from the prying eyes of another user who does not belong to one's circle of friends. Both the cases of *Vivares* and *Belo* are novel decisions reflecting the development of new media.

Cyberspace is a borderless world. Hence, with the shrinkage of constructed self-boundaries, activities in cyberspace become a potential challenge to every individual's right to privacy. This claim dates back to the case of *H v. W*, penned on January 30, 2013, where the South African High Court cautioned the netizens that, although Facebook's policies make every effort to protect users' information, its privacy settings are not "foolproof."

One of the constitutional rights afforded to all individuals is the right to privacy. The essence of the right to privacy is the "right to be left alone" (*Ople v. Torres*, 1998). Under the Philippine laws, the right to privacy is enshrined and protected in a few provisions of the 1987 Philippine Constitution, as follows:

"Sec. 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

“Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.”

“Sec. 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.”

Even before the 1987 Constitution, a 1968 ruling of the Supreme Court first introduced a jurisprudence on the right to privacy. Here, the Court recognized that:

The right to privacy as such is accorded recognition independently of its identification with liberty; in itself, it is fully deserving of constitutional protection. The language of Prof. Emerson is particularly apt: The concept of limited government has always included the idea that governmental powers stop short of certain intrusions into the personal lives of the citizen. This is indeed one of the basic distinctions between absolute and limited government. (Morfe v. Mutuc, 1968)

Privacy Before the Age of Facebook Era

Before the foundation of Facebook in February 2004, the right to privacy barely received attention. Though it first appeared in the 1968 Morfe case, the right to privacy has not gained favorable judgment from the highest tribunal. In the words of Justice Enrique Fernando, the compulsory revelation of a public officers’ assets and liabilities, including the statement of the amounts of his personal and family expenses, and the amount of his income taxes paid for the next preceding calendar year provides no unconstitutional intrusion into an individual’s private sphere.

Moreover, the right to privacy was again tested under Ople v. Torres. In this 1998 case, Justice Reynato Puno invalidated the adoption of a National Computerized Identification Reference System (NCIRS) on the primary ground of usurpation of legislative power. The right to privacy issue was entertained less, being premature, speculative, or conjectural pending issuance of the NCIRS’ implementing rules. However, after 20 years, Congress passed a similar bill which was signed by President Rodrigo Duterte on August 6, 2018 as R.A. No. 11055, otherwise known as “Philippine Identification System Act.” A possible judgment on privacy rights is again set on the table, waiting to be penned for another historic court decision.

Upon closer inspection in the *Ople v. Torres* case, the ponencia took cognizance of the dangers that can come from biometrics – especially when the government pressures people to surrender their privacy by giving information about themselves on the pretext that it will facilitate the delivery of basic services (*Ople v. Torres*, 1998). In the same case, the Court noted in its closing statement that the right to privacy was not engraved in our Constitution for flattery. This pronouncement is a reminder to future legal battles under the recent law.

In Fairness with the Zulueta Case

Who would not forget the case of *Zulueta v. C.A.*? This 1996 Decision decided by Justice Vicente Mendoza at the Second Division of the Supreme Court is a relief in the effort to protect the privacy of communications.

Under this case, petitioner Cecilia Zulueta forcibly opened the drawers and cabinet in her husband's clinic and took 157 documents consisting of private correspondence of her husband's alleged paramours, greetings cards, canceled checks, diaries, her husband's passport, and photographs. Zulueta seized the papers and documents for her evidence in a legal separation case she filed against her husband.

The Zulueta case is a clear picture of the marital right to privacy. As enunciated by the Supreme Court, “intimacies between husband and wife do not justify any one of them in breaking the drawers and cabinets of the other and in ransacking them for any telltale evidence of marital infidelity. A person, by contracting marriage, does not shed his/her integrity or his right to privacy as an individual and the constitutional protection is ever available to him or to her” (*Zulueta v. C.A.*, 1996).

Looking before the rise of Facebook, the 1996 Zulueta Decision, though not decided in full court, is a novel case championing the right to privacy invoked against a private individual. In contrast, the right to privacy invoked against public officials does not yet get a favorable judgment in the Philippines as shown in the 1998 *Ople* and the 1968 *Morfe En Banc* cases.

Vivares, et al. v. St. Theresa's College

The applicants are parents of minor senior high school students enrolled in St. Theresa's College (STC) in Cebu City. Here, STC barred the concerned students from participating in the graduation rites for violations of the school's Student Handbook. The offense stemmed from the students' post in Facebook where they took pictures of themselves only in their undergarments.

In this case, the applicants argued that the privacy setting of their children's Facebook accounts was set in "Friends Only." Hence, they plead for respect of their children's privacy. The parents contended that the saving of the digital copies of their children's photos by Mylene Escudero, a computer teacher at STC, and the subsequent showing of the pictures to Kristine Tigol, STC's Discipline-in-Charge, without consent, violated their children's right to privacy.

Decided by Justice Presbitero Velasco, Jr., the Supreme Court ruled that STC did not violate petitioners' daughters' right to privacy. Further, the Court's Third Division inquired upon the manifest intention of the petitioners' daughters to keep certain Facebook posts private. Such intention was identified through the utilization of Facebook's privacy tools.

The undisputed testimony that the photos shown by the minors' Facebook "friends" to Escudero, using their own Facebook accounts, negates the minors' intention to keep the posted images within their zone of privacy. In this case, the Court reasonably assumed that the photos were, in reality, viewable by their Facebook "friends," contrary to one of the minors' contention that the subject photos were only viewable by the five of them. Therefore, the petitioners cannot invoke the right to privacy.

The Supreme Court only treated Escudero, Tigol, and other STC officials, as mere recipients of the pictures shown to them by the students. The senior high school students of STC were responsible for showing and giving the images to the officials. Thus, STC cannot be held liable for any violation of the right to privacy.

Belo-Henares v. Guevarra

This case is a reiteration of the Vivares Decision. Here, the complainant, "Vicky" Belo, is a medical doctor and the principal stockholder of the Belo Medical Group, Inc., while Atty. Roberto Guevarra is the counsel of Josie Norcio, who filed against Belo for an alleged botched surgical procedure on her buttocks, which purportedly caused her infection and illness.

In this connection, Atty. Guevarra posted on his Facebook account insults and verbal abuses against Belo. The latter filed a disbarment case against the former, whose defense was anchored on the constitutionally-guaranteed right to privacy. He contended that his Facebook posts were private remarks on his private account on Facebook, meant to be shared only with his circle of friends of which Belo was not a part of.

Decided by Justice Estela Perlas-Bernabe, the Supreme Court ruled that the defense of the right to privacy was of no moment. Atty. Guevarra failed to offer evidence that he utilized

any of the privacy tools or features of Facebook available to him to protect his posts. The Court's First Division, following the Vivares Case, inquired upon the manifest intention of the lawyer to keep certain Facebook posts private. Such intention was identified through the utilization of Facebook's privacy tools.

In this case, Atty. Guevarra insisted that his posts against Belo were set to a private view, without evidence that he utilized any of the Facebook privacy tools. Even if such is the case, the Court then, ruled that there is no assurance that the same - or other digital content that he uploads or publishes on his Facebook profile - will be safeguarded within the confines of privacy. The Court discussed that restricting the privacy of one's Facebook posts to "Friends" does not guarantee absolute protection from another user who does not belong to one's circle of friends. The user's own Facebook friend can share said content or tag his or her own Facebook friend, regardless of whether the user tagged by the latter is Facebook friends or not with the former. Hence, the defense of the right to privacy is untenable.

Available Protection to the Modern Right to Privacy

Given the recent Supreme Court Decisions, remedies for the protection of the right to privacy are still available.

1. Through the Facebook's "Custom" setting, a limited access to the post can be a defense of the right to privacy; however, jurisprudence was unclear as to the number of the chosen few for the user to benefit from the intention to have kept the post in private.
2. Adjusting the privacy level of a Facebook post to "Only Me" is a manifest intention to keep posts in private; though the post may be useless, disclosure of the same by another person is a violation of the user's right to privacy.
3. The Zulueta Case remains controlling; though the defense of the right to privacy is only limited to spouses and it did not include seizure of information through Facebook, the Court clearly pronounced that by contracting marriage, a person does not easily give up his/her integrity or his right to privacy as an individual.

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The 1987 Constitution: Born to Break the Marcos Chains but Now Served Stale Like Daily Lechon — How Political Dynasties Have Turned Mini Dictatorships into a National Indigestion

Mac Bruen Servana-Ibanez

Author's Personal Note (Opening)

The presence and relentless proliferation of political dynasties in the Philippines reminds me of eating lechon every single day. At first, it's a delight — crispy, savory, the star of every feast. But after the third day? Nakakaumay (it sucks) and nakakasawa (tedious)! Like a never-ending buffet of the same dish, political dynasties keep serving us the same old brand of politics — only it's stale, greasy, and worse, sometimes toxic.

You know that feeling when you say, "Maybe tomorrow I'll have something different," but tomorrow comes, and it's the same lechon again, just reheated? That's our political scene every election season. Political families keep recycling themselves, like a badly written rerun of a telenovela that refuses to end.

If these political mushrooms continue to sprout unchecked, they might just choke the democratic appetite of our people. Unlike lechon, however, we cannot just send this "leftover" dynasty back to the kitchen and order something fresh. The problem is that these mini dictatorships have seasoned themselves into our system, making it a challenge to dislodge them without a serious change in recipe.

Introduction: A Constitution's Broken Promise

The 1987 Philippine Constitution emerged from the ashes of dictatorship with a bold vision. The framers intended to prevent the concentration of political power in the hands of a few families. Article II, Section 26 reads:

"The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law."^[1]

Four decades later, this provision reads like a poetic joke. Political dynasties, far from disappearing, have multiplied — transforming the political landscape into a family reunion that never ends. How did a Constitution designed to liberate Filipinos from one dictatorship end up enabling hundreds of mini-dictatorships?

^[1] Philippine Constitution, Article II, Section 26: "The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law."

The Constitutional Provision: A Toothless Tiger in the Jungle

The framers, bless their optimism, tasked Congress with defining and outlawing political dynasties. One might say they handed the fox the keys to the henhouse.

Congress — overwhelmingly composed of members from political families — has not only failed to enact the enabling law but has often avoided the issue like a well-trained evasive maneuver. The absence of this vital law makes Article II, Section 26 a constitutional decorative plaque, admired for its idealism but powerless to bite.^[2]

In other words, the provision exists — but it does not bite.

Political Dynasties: The Family Business That Won't Close

Political dynasties have firmly entrenched themselves at every level of government. As of late 2024, 80% of district seats in the House of Representatives are occupied by dynastic politicians. Among governors, the figure rises to 87%.^[3]

This system is no longer about public service. It is about family legacy and preserving power — like a family heirloom, only less shiny and more corruptible.

Imagine the government as a family-owned restaurant, where only the relatives get to cook, manage, and serve. Customers (the public) have no choice but to keep dining at the same establishment, even if the food is getting worse.

Political Dynasties: The Lechon Leftovers Turned Rotten — Machines of Graft and Corruption

If political dynasties were lechon, they wouldn't just be stale — they'd be the kind of leftover lechon that's been sitting out all day, getting colder, greasier, and sprouting uninvited maggots of graft and corruption. Imagine biting into that crispy skin, expecting the usual savory goodness, only to find it's been secretly stuffed with nepotism, kickbacks, and patronage politics.

These families have taken the concept of “family recipe” and turned it into a recipe for disaster. They've mastered the art of reheating the same old lechon until it's unrecognizable — only now it's more about who gets the fat, who gets the skin, and who ends up with the

^[2] Macalintal v. COMELEC, G.R. No. 208510 (2013), Supreme Court decision affirming that the anti-dynasty provision is non-self-executing.

^[3] Democratic Erosion Consortium, “The Role of Cultural Norms in Sustaining Political Dynasties,” 2020.

burnt bits of public funds. They slice the pork so thin, they leave nothing for the rest of us except the greasy grease.

And don't think for a second that they're just sharing the feast fairly. No, this is a buffet where the family only invites themselves and their closest cronies. They pass around government contracts like extra lechon slices — but only to their in-laws and loyal hangers-on. It's a pasalubong center of corruption, where kickbacks are the main delicacy, and accountability is the dish nobody ordered.

You know how with lechon, the first bite is heavenly, but by the fifth day it's just nakakaumay and you start wondering if it's actually doing you more harm than good? That's exactly what these political dynasties are — a political indigestion that the whole country is suffering from. Except instead of curing it with some tangy vinegar, we keep pouring more gravy on it and calling it progress.

If this political lechon keeps getting served at every election, no wonder democracy feels bloated, sluggish, and sickly. It's time to toss out the reheated leftovers and demand a fresh, clean dish. One that isn't just for the family but for every Filipino's table. Because honestly, we deserve more than political lechon that's been reheated, recycled, and rotten inside.

Judiciary's Silent Role: When Watching Becomes Enabling

The courts have largely stayed silent on the issue. By declaring that the anti-dynasty provision is “not self-executing,” the Supreme Court politely passed the hot potato back to Congress. The judiciary, thus, has been more a spectator than a guardian of the Constitution.^[4]

If the courts fail to hold the legislature accountable, political dynasties will continue to feast on the Constitution's weaknesses. This silence is a subtle yet effective endorsement of dynastic rule.

Cultural Enablers: The Padrino System and Pakikisama

The law is not the only culprit. Filipino culture, with its values of padrino (patronage) and pakikisama (smooth interpersonal relations), often places family loyalty above merit and public interest.

^[4] Ibid.

Voters tend to support familiar names, expecting favors or stability. This cultural tendency allows political families to recycle power under the guise of tradition and loyalty.

In this way, dynasties sustain themselves not only by lawlessness but by the warmth of familial and social obligation. Even the most ironclad laws flounder when cultural dynamics support the opposite.^[5]

Regional Rays of Hope: BARMM's Bold Attempt

While the national government stagnates, the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) has taken steps to restrict political dynasties within its territory.

Despite legal challenges and political pushback, BARMM's initiatives provide a glimpse of hope. These regional efforts show that when political will exists, meaningful reform is possible.^[6]

Could BARMM be the canary in the coal mine, warning the nation that political dynasties are indeed winnable?

Recommendations: Charting a Way Out of the Dynastic Maze

If the Philippines truly aims to revitalize its democracy, it must take decisive steps:

1. Enact the Enabling Law

- Congress must act on its constitutional duty to define and prohibit political dynasties clearly. This law should specify degrees of consanguinity and affinity, plus firm enforcement mechanisms. No more excuses.

2. Judicial Assertiveness

- The Supreme Court should revisit its position on the self-executing nature of the anti-dynasty provision and clarify its role in protecting democratic principles against familial monopolies.

3. Electoral Reforms

- Strengthening the party-list system and implementing robust campaign finance reforms can democratize politics, providing alternatives to dynastic candidates.

4. Public Education and Awareness

- Educating voters on the dangers of political dynasties can empower them to make informed decisions and resist patronage politics

^[5] Ibid.

^[6] Bangsamoro Organic Law (RA No. 11054), provisions on political dynasties within BARMM.

Conclusion: Time to Reclaim the Constitution's Promise

The 1987 Constitution was born from a desire to end tyranny. Its failure to check political dynasties reveals the challenge of translating ideals into reality.

Without political courage and cultural evolution, the dream of equal access to public service will remain a distant ideal. Filipino democracy cannot thrive as long as family dynasties dominate the political scene.

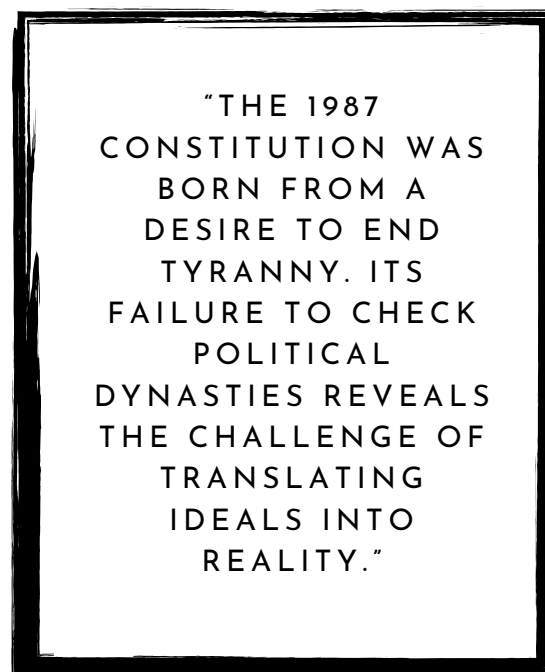
If the Philippines wants to serve democracy a fresh lechon — not the same old leftovers — then reform is no longer optional. It is essential.

Author's Personal Note (Closing)

Returning to my lechon analogy: imagine if after decades of the same dish, you finally demand variety. You refuse to accept reheated leftovers disguised as fresh meals. That is the stance Filipinos must take toward political dynasties.

Our democracy cannot flourish on stale family recipes of power. It demands innovation, fresh ideas, and accountability — a menu change, if you will.

The Constitution gave us the recipe for a free and fair democracy. Now, it is up to us, the diners and chefs of this nation, to insist on a better feast. No more lechon reruns. Let's serve democracy the way it was meant to be — rich, flavorful, and available to all.



Fading Fields: The Silent Collapse of Philippine Agriculture

Zyrhelle Leih M. Macanas

Once hailed as a thriving agricultural nation, the Philippines now stands as a shadow of its former self. We were once among the world's major exporters of rice, coconut, sugar, and abaca. Today we import even the very staple that fed generations of our people—rice. From a country that once flourished through the strength of its farmlands, we now witness the slow death of the sector that built our nation.

The systematic decline did not occur overnight. It is the cumulative result of decades of inadequate support, flawed land reform, disjointed policy direction, and legislative decisions that prioritized liberalization over sustainability. The implementation of Republic Act No. 11203, known as the Rice Tariffication Law, marks a fundamental transformation in Philippine agricultural policy. It abolished quantitative restrictions (QRs) on rice imports, substituting them with tariffs, and substantially diminished the National Food Authority's (NFA) regulatory powers. The legislation seeks to liberalize the rice market under the Philippines' commitments under the World Trade Organization (WTO), specifically the Agreement on Agriculture (AoA).^[1] It also established the Rice Competitiveness Enhancement Fund (RCEF), a ₱10 billion annual fund designed to assist farmers in adjusting to a liberalized framework.^[2] However, in addition to these aims, the law has precipitated extensive repercussions, especially for smallholder rice farmers, eliciting legal, socioeconomic, and constitutional issues.

Since its enactment, R.A. No. 11203 has led to a dramatic influx of cheap imported rice, especially from ASEAN member states, which enjoy tariff privileges under the ASEAN Trade in Goods Agreement (ATIGA).^[3] This has depressed the farmgate price of palay (unmilled rice) to levels below production cost in many regions.^[4] As a result, local farmers have suffered severe income losses, with many forced to abandon cultivation. Although mechanization, credit, training, and seed distribution^[5] are all part of the RCEF's plan to increase farmers' productivity, many eligible recipients are left out due to the Registry System for Basic Sectors in Agriculture's (RSBSA) ineffective implementation, and administrative bottlenecks have caused delays and unfair distribution of aid.

^[1] WTO Agreement on Agriculture, Art. 4 April 15, 1994

^[2] Rep. Act No. 11203 Sec. 13 (2019)

^[3] Exec. Order NO. 23 (2020)

^[4] PSA Farmgate prices of Palay (2020-2025) available at psa.gov.ph/taxonomy/term/20 (last visited 06/3/2025)

^[5] Rep. Act No. 11203 Sec. 14 (2019)

The constitutionality of R.A. No. 11203 is up for debate. The state is required by the 1987 Constitution to "protect the rights of subsistence farmers" and advance social justice in the agricultural sector. However, this mandate may compromise the law's exposure of domestic producers to unregulated competition with heavily subsidized foreign rice.^[6] This law goes against jurisprudence that upholds the state's police authority over economic activity and compromises the state's capacity to regulate and safeguard vulnerable sectors.^[7]

The law also drastically diminished the powers of the NFA, confining it to maintaining buffer stocks for emergencies. Previously, the NFA was authorized to import rice, regulate trading activities, and stabilize prices through market intervention.^[8] With its reduced role, the government now lacks a credible mechanism to mitigate the volatility of rice prices or protect farmers from speculative practices by private traders. This void is particularly troubling given the Constitution's recognition of the role of government in regulating trade in pursuit of distributive justice and economic equity.^[9]

Additional issues concern the authority to set tariffs under Section 10 of the R.A. No. 11203 permits the President to alter tariff rates on the advice of the Department of Agriculture (DA) and the National Economic and Development Authority (NEDA). Although this type of delegation is allowed by the Tariff and Customs Code and related laws, it must adhere to the non-delegation doctrine, which calls for adequate guidelines to direct discretion. If not, the measure risks violating Congress's sole taxing authority under Article VI, Section 28(2) of the Constitution.

Economically speaking, liberalization has enabled a few powerful private traders to regulate rice import, leading to oligopolistic practices that undermine the goal of competitive pricing. Retail rice prices have stayed high despite record-high import volumes, suggesting consumers have not reaped the benefits. In the meantime, producers are disproportionately affected by low farmgate prices, which exacerbates income inequality in rural areas.

Another recurring problem is the lack of transparency in the RCEF's administration. There is little oversight and unclear reporting procedures, even though the law lists the allocation channels: machinery (50%), seed development (30%), credit (10%), and extension services (10%). Without strict oversight, there is a chance that funds will be misallocated or that political influence will be swayed. In this regard, strict enforcement of public accountability procedures mandated by laws such as the Government Auditing Code (P.D. No. 1445) is necessary.

^[7] *Ynot v. Intermediate Appellate Court*, G.R. No. 74457, March 20, 1987 available at https://lawphil.net/judjuris/juri1987/mar1987/gr_74457_1987.html (last visited Jun 3, 2025)

^[8] Rep. Act No. 8178 (1996), as amended; see also NFA Charter (Pres. Decree No. 4)

^[9] Const. (1987), Art. XII, Sec. 1

In conclusion, the Rice Tariffication Law demonstrates a technocratic approach that puts distributive justice last and market efficiency first. How the law is drafted and applied reveals serious institutional flaws in maintaining the nation's agricultural economy. Its provisions need to be reviewed by policymakers with the aim of:

1. Ensuring proper farmer participation, the RSBSA should be expanded and improved.
2. Restoring, at least partially, the price stabilization functions of the NFA;
3. Demanding greater authority and openness in the management of RCEF.
4. Putting in place WTO-compliant safeguards in the event of a pricing emergency;
5. Adding statutory restrictions on the authority to revise tariffs by amending Section 10.

The demise of Philippine agriculture is neither accidental nor inevitable. It is the byproduct of legal, policy, and administrative choices that can and must be corrected. What is needed is not another temporary fix but a reassertion of the nation's commitment to its farmers, food supply, and constitutional duty to uphold social justice. The survival of agriculture is not a nostalgic ideal; it is a matter of national survival.

Ban on Commercial Fishing in Municipal Waters under Republic Act No. 10654

Camille Jo G. Avorque

Republic Act No. 10654, which amended the Philippine Fisheries Code of 1998, includes a major safeguard for small-scale fishers. Section 15 of the law reserves municipal waters, defined as those extending up to 15 kilometers from the shoreline, for the exclusive use of registered municipal fisherfolk and their organizations.

Commercial fishing vessels, defined as those weighing more than 3 gross tons, are not allowed to operate within this zone. The aim is to protect the livelihoods of small fishers and conserve nearshore marine ecosystems.

Section 86 of the same law makes it a punishable offense for commercial fishing vessels to operate in these areas, with corresponding administrative penalties and fines for violations.^[1] Despite these legal protections, enforcement has been weak. Reports of commercial vessels encroaching on municipal waters persist due to limited patrol capabilities, lack of surveillance tools, and, at times, local officials turning a blind eye.

This legal framework took a sharp turn in 2024, when the Supreme Court issued a controversial ruling in *Mercidar Fishing Corporation v. Department of Agriculture* (G.R. No. 270929, August 19, 2024).^[2] The Court ruled that municipal waters could not be entirely off-limits to commercial fishing if local ordinances and national policies allowed it. The justices held that the fixed 15-kilometer restriction was an undue limitation on the State's control over its natural resources. The decision replaced the distance-based rule with one based on water depth. Commercial fishing may now take place in municipal waters, provided the depth is at least seven fathoms.^[3]

This ruling alarmed many fisherfolk and environmental groups. Organizations like Pamalakaya criticized it for opening the door to more aggressive fishing methods, such as trawling and purse seining, which rapidly deplete fish stocks and damage coastal habitats.^[4] Traditional fishers, who rely on simpler and more sustainable gear, stand to lose both their catch and their way of life.

^[1] Rep. Act No. 10654 (2015), available at https://lawphil.net/statutes/repacts/ra2015/ra_10654_2015.html (last visited June 2, 2025)

^[2] *Mercidar Fishing Corporation v. Department of Agriculture*, G.R. No. 270929, August 19, 2024

^[3] FA Angelo, Court Ruling Opens Municipal Waters to Commercial Fishing, January 8, 2025, Available at <https://dailyguardian.com.ph/court-ruling-opens-municipal-waters-to-commercial-fishing/> (last visited June 2, 2025)

^[4] J. Kayguan, Why fishers are against the SC ruling allowing commercial fishing within municipal waters, Jan. 15, 2025, Available at <https://www.bulatlat.com/2025/01/15/why-fishers-are-against-the-sc-ruling-allowing-commercial-fishing-within-municipal-waters/> (last visited June 2, 2025)

The Karapat-Dagat report by the John J. Carroll Institute on Church and Social Issues also raised concerns. It noted that some local governments had already begun issuing permits to commercial fishers in exchange for economic gains such as increased supply and local revenue.^[5] However, these short-term benefits may come at the cost of long-term sustainability and equity.

The Court's decision relied heavily on the principle that natural resources are owned by the State, not local governments. The Regional Trial Court had earlier ruled that only national agencies, not LGUs, have authority over municipal waters. The Supreme Court upheld this view in its November 7, 2024 resolution.^[6] As a result, national bodies like the Department of Agriculture - Bureau of Fisheries and Aquatic Resources (DA-BFAR) now hold primary regulatory power, with LGUs limited to consultative roles.

In its decision, the Court issued a directive stating that the Philippine National Police, the Philippine Coast Guard, and local government units are permanently prohibited from enforcing the 15-kilometer limit.^[7] The ruling cited President Ferdinand Marcos Jr.'s 2023 State of the Nation Address, where he proposed amendments to the Fisheries Code to introduce science-based zoning.^[8]

DA-BFAR filed a motion for reconsideration to overturn the decision, warning that allowing commercial fishing in previously protected areas would worsen overfishing and cause irreversible damage to fish habitats.^[9] However, the Court ruled that these concerns could not outweigh constitutional principles regarding state ownership and control of natural resources

Although the legal landscape has changed, the original goal of Section 15 remains important: to prioritize small-scale fishers and protect marine life. Whether this new system, based on depth rather than distance, will strike the right balance between development and conservation remains to be seen.

^[5] M.A. Ramos, Poor fishers should have preferential access to municipal waters, Phil. Daily Inquirer, January 29, 2025, Available at <https://opinion.inquirer.net/180405/poor-fishers-should-have-preferential-access-to-municipal-waters> (last visited June 2, 2025)

^[6] Supreme Court Decision - G.R. No. 270929, November 7, 2024

^[7] Ibid.

^[8] Marcos Jr., F. (2023). State of the Nation Address.

^[9] Department of Agriculture (DA) Press Office, DA appeals SC ruling allowing commercial fishing in municipal waters, Jan. 17, 2025, Available at <https://www.da.gov.ph/da-appeals-sc-ruling-allowing-commercial-fishing-in-municipal-waters/> (last visited June 2, 2025)

TOWARDS CREATING A RESPECTFUL COMMUNITY BEHAVIOR: A Critical Review of the Safe Spaces Act's Enforcement and Challenges

Arra Patricia L. Aralar

Republic Act No. 11313 otherwise known as Safe Spaces Act or the Bawal Bastos Law was enacted in 2019 that aims to combat all forms of gender based sexual harassment in various public and private places which includes streets, educational institution, office or workplace, online platforms, among others. The law covers a broad scope that would ensure that everyone is safeguarded and protected from unwanted sexual actions or remarks in multiple environments and of different form of sexual harassment. Violation of the law imposes penalties such as imprisonment or fines.

Safe Spaces Act or the Bawal Bastos Law has marked its purpose showing strength through its comprehensive coverage that extends to a broad scope of protection that includes the streets, public spaces, workplaces, schools, and online environment. It sends a clear message that any forms of harassment will not be tolerated whether a simple catcalling on the streets, improper behavior in schools, and unwarranted online advances. Its intent to cover physical and online spaces acknowledges the realities of modern harassment especially in the online community which is equally serious and damaging as physical harassment. With the increasing use of internet and social media, this is a crucial aspect of the law. Vulnerable groups are also given particular protection where it reinforces the law's commitment to protect human dignity and ensure that everyone enjoy the public spaces without fear of harassment. The inclusive nature of the law, as provided in its comprehensive definition of harassment, ensures that it adapts to various form of harassment making it more difficult for perpetrators to escape accountability and hide behind the gray areas of the law. By addressing sexual harassment in areas of less attention, responsibility is not just projected towards victims to avoid harassment, but is an idea of shared responsibility enjoining society as a whole to ensure that public areas remain free from harassment.

While the law takes a significant step toward addressing such issues, its implementation is facing several challenges hindering its effectiveness. Despite mandating institutions to establish policies and mechanisms in the addressing and reporting complaints, many educational institutions and workplaces have failed to effectively implement mandates. Several testimonies from educational institutions show inconsistent enforcement and institutional accountability. One instance happened in one of the schools in Bacoar where one student had reported of being harassed by one of his physical education teachers however, despite courageously exposing the predatory behaviors of faculty members, faculty members of the school favored the teacher accusing the student of tarnishing the teacher's honor. Administrators outright dismissed their complaints and said they were just overthinking.

Instead of immediate action, the school officials failed to conduct immediate investigation and provide psychological intervention.^[1] Said instances indicate that perpetrators face minimal consequences, some merely being transferred to a different school rather than facing criminal or administrative charges. The lack of accountability shouts for stronger policies and strict implementation of the law, to create a systematized investigatory procedure that would instill bravery rather than fear when faced with such unwanted sexual advances.

One factor that deters effective implementation of the law is the deep-rooted cultural norms such that institutions and workplaces prioritize reputation over the safety of its constituents, discouraging victims from telling their stories then end up secluding themselves contrary to the goal of the law to protect human dignity. Such resistance in reporting is often seen in environment with hierarchical structures. To break such resistance, the law should emphasize a comprehensive approach that would incorporate effective legal enforcement, educational initiatives, and community engagement that would help shift culture-based perceptions and promote respect and inclusivity.

In the efforts of strengthening public education and awareness, the law's reach and effectiveness remain limited. Such gap in the widespread understanding of the law prevents people from realizing their rights and the protections afforded to them. One way to inform the people of the provisions of the law, is to hold awareness sessions, seminars, or public information drive. For example, the Department of Trade and Industry (DTI) organized an awareness session to educate their employees of the significance of the law and emphasizing discussion in creating safer environments for all individuals.^[2]

Such efforts are recognized, however the wider audience can be found on the community, the law should have extended efforts to reach educational discussions to the community incorporating lessons on consent, respect, and gender equality. To promote community engagement and localized implementation, the law should provide intensified approach in compelling community leaders such as barangay officials to make sure that they have a strong foundation of the law and a clear understanding of their roles in its enforcement.

The law also failed to include the provision of institutional support to the victims that would encourage them in reporting and ensuring that justice be served. Aside from the perpetrators, victims should be given attention more through establishment of support services such as counseling, legal assistance and financial support the victims of harassment. Through these

^[1] G. David, How Lax Implementation of Safe Spaces Act Fails to Exact Justice for Survivors (2024) available at <https://phkule.org/article/1213/uncovering-how-legal-systems-fail-to-exact-justice-for-sexual-harassment-survivors/> (last visited June 3, 2025)

^[2] <https://www.dti.gov.ph/pab/pab-news/dti-pab-holds-awareness-session-on-safe-spaces-act-in-celebration-of-womens-month/#:~:text=In%20celebration%20of%20this%20year's,Makati%20City.>

policies that protect victims, it can help mitigate the trauma associated with harassment and ensure that they feel safe when reporting sexual harassment incidents.

Same with some of our laws, the Safe Spaces Act also operates alongside other laws addressing sexual harassment and gender-based violence such as the Anti-Violence Against Women and Children Act. While these laws complement each other, they also show overlapping provisions that can lead to confusion regarding jurisdiction and what appropriate legal recourse to be availed by the victim that potentially complicates seeking for justice. To address these issues, it is essential for law enforcement agencies and legal practitioners to know the distinctions between these laws.

Though the Safe Spaces Act entails a progressive move in addressing gender-based sexual harassment in the Philippines, its effectiveness is compromised with its enforcement, cultural resistance, victim support, and overlapping legal frameworks. The Safe Spaces Act is not just a piece of legislation but a tool for cultural transformation. The success of its implementation depends on changing the perspective and attitude of people towards harassment and setting the norm of respectful behavior.

Prior Rights: A Breakout in the RA 7586 Otherwise Known as National Integrated Protected Area System (NIPAS), as Amended by RA 11038 or the Expanded National Integrated Protected Area System (ENIPAS)

Mamerto A. Caliwán Jr.

The Philippines has always been considered one of the major biodiversity hotspots in the world. With ecosystems that boasts of one of the highest levels of diversity and endemism of life forms and some of the most unique habitats in the world, it is also home to some of the planet's critically endangered species of wildlife, such as the Philippine eagle – one of the most magnificent raptors in the world and our country's symbol of biodiversity conservation. However, the country's habitats and ecosystems, which play a major role in maintaining ecological balance and in the day-to-day lives of Filipinos, are in constant threat, mainly from unwise resource use and development paradigms that tend to increase pressure on the world's already scarce resources.^[1]

For this reason, the Philippine government, in cooperation and consultation with local and foreign conservation partners, embarked on a mission to establish a system of protected areas in the country. The last remaining representatives of Philippine habitats and ecosystems were set aside for conservation through innovative approaches spelled out in the National Integrated Protected Areas System (NIPAS) Act of 1992, a landmark piece of legislation which provides the framework for a decentralized, community-based reserve management strategy.^[2]

Two landmark laws were enacted for the establishment and management of protected areas, to wit: Republic Act No 7586 or the National Integrated Protected Areas System Act of 1992 and Republic Act No 11038 or the Expanded National Integrated Protected Areas System (E-NIPAS) Act of 2018. With the passage of these laws, priority conservation areas were identified through innovative approaches and the legislation provided the framework for a decentralized, community-based reserve management strategies.

On the one hand, the passage of the Republic Act 7586, otherwise known as NIPAS act, during the Fifth Regular Session of Congress on the 22nd of July 1991 represented a significant move toward the management of the protected areas in the country.

^[1] G. Mayo-Anda, PRIMER on PROTECTED AREAS and the Expanded National Integrated Protected Areas System (ENIPAS) Act of 2018 and its Implementing Rules and Regulations. Oceana Philippines International. 6 (2021) Available at https://ph.oceana.org/wp-content/uploads/sites/16/ENIPAS-Primer_Oceana_For-viewing1.pdf (last visited on May 30, 2025)

^[2] R. Senga, Establishing Protected Areas in the Philippines: Emerging Trends, Challenges and Prospects. 18 The George Wright Forum. No. 2, 56 (2001) Available at <https://www.jstor.org/stable/43597746?seq=1> (last visited on May 30, 2025)

Its Implementing Rules and Regulations were issued as DENR Administrative Order No. 25 (DAO 25) on 29 June 1992. At the heart of the NIPAS Act is the Declaration of Policy that underscore, among other things, “the critical importance of protecting and maintaining the natural biological and physical diversities of the environment, notably of areas with unique features to sustain human life and development, as well as plant and animal life.”^[3]

In view of the magnitude of this task, no less than the powers of the State are invoked in order to secure for present and future generations of the Filipinos “the perpetual existence of all native plants and animals.”^[4] To this end, a comprehensive system of integrated protected areas within the classification of national park has been established, as provided for by the Constitution. This law thereby recognized that these identified areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan representative of our natural heritage; that effective administration of this area is possible only through cooperation among national government, local government and concerned private organizations; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development.^[5]

Hence, the lawmakers established a National Integrated Protected Areas System (NIPAS), which shall encompass outstandingly remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as "protected areas".^[6]

On the other hand, RA No. 11038 otherwise known as Extended National Integrated Protected Area System (ENIPAS) Act of 2018 was passed by the 17th Congress on June 22, 2018, thereby amending RA 7586. It declares numerous protected areas and provides for their management. The law provides that the government secure the existence of all native flora and fauna for all generations of Filipinos, and it specifically aims to achieve a comprehensive approach to biodiversity conservation. The law recognizes the importance of the integrated protected areas system as a powerful mechanism to conserve Philippine biodiversity. It recognizes conservation areas and management regimes implemented by local government units (LGUs), local communities, and indigenous peoples (IPs).^[7]

^[3] Rep. Act. No. 7586 (1992)

^[4] Ibid.

^[5] Ibid.

^[6] Ibid.

^[7] Rep. Act No. 11038 (2018)

Pursuant to DENR Administrative Order 2019-05, Protected Areas should complement each other in terms of taxonomic representation, species migration patterns, maintenance of essential ecological processes and life support systems, and efficiency in conservation costs.^[8] Moreover, the management of the NIPAS is intended to contribute to the significant reduction of biodiversity loss. It shall consider the ability of ecosystems to adapt to the impacts of rapid climate change, reduce disaster risks, and mitigate anthropogenic greenhouse gas emissions.^[9]

It is by virtue of these two laws that the Guiuan Marine Resource Protected Landscape and Seascape (GMRPLS) was established. As early as 1994, the GMRPLS was already as Protected Area under Protected Landscape and Seascape pursuant to the NIPAS Law, as amended. It is a relatively large interconnection of marine, coastal and terrestrial biodiversity. It covers a total area of 66,725.26 hectares which encompasses the neighboring islands – Candulom, Calicoan, Suluan, Manicani, Tubabao, Victory, a portion of Homonhon, and other surrounding islets.

Under Sec. 20 of the NIPAS Act, as amended, “undertaking mineral exploration or extraction within the protected area is prohibited. Any violation of this provision is penalized by a fine of not less than one million pesos (P1,000,000) but not more than five million pesos (P5,000,000) or imprisonment from six (6) years but not more than twelve (12) years, or both.”^[10] However, in the case of GMRPLS, the controversy exist because of the presence of mining activities within the protected area. Accordingly, there are islands within GMRPLS which host mining operations, namely Homonhon Island and Manicani Island, except that in the former, the boundary of the protected area only includes the coastal areas of Barangays Casuguran, Bitaugan, Habag, and Cagusuan. Whereas, the mining activities in said island is outside of the PA. However, in the case of the Manicani Island, mining operations are undeniably within the protected since the whole island is covered by GMRPLS. Hence, it is a big question why such mining operation allowed in the protected area when the very statute itself explicitly prohibits undertaking mineral exploration or extraction within the PA.

Based on available information, the company operating in the area is the Hinatuan Mining Corporation. The subject project is within Mineral Production Sharing Agreement (MPSA) No. 012-92-VIII between Hinatuan Mining Corporation (HMC) and the Republic of the Philippines. The MPSA was signed August 13, 1992 with at total aggregate area of 1,165 hectares. Moreover, an Environmental Compliance Certificate (ECC) for the MNP was

^[8] DENR Adm. Order No. 05 (2019)

^[9] Ibid.

^[10] Rep. Act No. 11038 (2018)

issued in February 8, 1992 covering a mining area of 419.75 hectares and production capacity of 250,000 Wet Metric Tons of nickel ore.

Prior the amendment of the NIPAS Act, the operation of the Hinatuan Mining Corporation was primarily grounded on the fact that their permit on mineral exploration and extraction was approved prior to the proclamation of the GMRPLS as Protected Area. Hence, they were able to justify their operation under the constitutional guarantee of non-impairment of the obligation of contracts.^[11]

However, on 2017, the 25-year MPSA of the Hinatuan Mining Corporation in Manicani Island had expired. But they were able to renew such contract and started again their mining operation on 2024. Again, the big question is: How did the able company able to secure such permit, when the provisions of the NIPAS Act, as amended, is straightforward to its prohibition on mining activity within the protected area.

It should be noted that RA 11038, which amended the RA 7586, inserted in its provision under Section 22 which established the Existing Rights provision. Accordingly, “All property and private rights within the protected area and its buffer zones already existing and/or vested upon the effectivity of this Act shall be protected and respected in accordance with existing laws: Provided, That the exercise of such property and private rights shall be harmonized, as far as practicable, with the provisions of this Act. Notwithstanding this Act, all existing rights, contracts, or agreements entered into by government for utilization of natural resources within protected areas shall continue to be recognized and governed by Philippine laws.”^[12]

This new provision in the amended law, recognizes all existing rights, contracts, or agreements entered into by government for utilization of natural resources within protected areas. This now includes the mining activities. It is remarkable that this provision is not present in RA 7586. In fact, in Senate Bill 1444, which is the Senate version of the ENIPAS LAW, the same provision is nowhere to find. But in the House Bill 6772, it was inserted as a new provision.

This “Prior Rights” provision is actually a strategic breakout of the law. It was introduced in 2017, when the Hinatuan Mining Corporation tried to lobby their cause in the House of the Representatives as their MPSA deemed expired. The company knows very well that upon the expiration of their MSPA, and the effectivity of the NIPAS Act, they would not be able to renew their mining permit in the island as the same is within the protected area. This existing

^[11] Const. (1987), Art. III, Sec. 10

^[12] Rep. Act No. 11038 (2018)

right/prior right was used as an exemption of the law in order to justify mining activities without being tag as illegal or prohibited acts within the protected area.

However, pursuant to DENR Administrative Order 2019-05, the exercise or property and private rights shall be harmonized with the provisions of the NIPAS Act, as amended. The holders of property or private right shall be consulted in the preparation of the Protected Area Management Plan (PAMP). It clear from the provisions and intent of the law, that the establishment of the National Integrated Protected Areas Systems is actually aimed to protect, preserve, conserve and promote sustainable utilization of the country's natural resources.

Therefore, the “Prior Right” provision should only apply to those already existing establishments, private properties and local communities who are already present before the enactment of the aforesaid, provided that, such presence or existence is not detrimental to the protected area. The fact that under Section 22 of the same law states that the exercise of such property and private rights shall be harmonized, as far as practicable, with the provisions of the law,^[13] then such rights is only to protect and respect the already existing and/or vested rights upon the effectivity of the law.

It cannot be applied as an exemption to mining activities despite being already present in the place prior to the enactment of the law. It illogical and futile to consider as exemption such act/s which the law was enacted to suppress. It the NIPAS law, as amended, was crafted to protect and conserved the country's unique and exception habitats and ecosystems, there is no way to interpret the prior rights provision enclosed in the statute as to favor one of the acts which the law ought to suppress being detrimental to the country's ecosystem and biodiversity – Mining.

^[13] Ibid.

Echoes of Fear: How the Anti-Terror Law Haunts Philippine Democracy

John Cavin M. Sabonsolin

How far should a nation go to defend itself from terror? When the Philippines enacted a law, did it truly fortify our safety, or did it plant the seeds of silence? Can a law meant to stop violence also threaten the critics who speak up? Why do lawyers, journalists, activists, and ordinary citizens now warn that a shield against extremists may double as a sword against dissent? And ultimately, if the law that promises security begins to weaken our basic constitutional freedom, who will protect democracy from its protector?

One of the controversial laws in the country was when the Philippine government enacted Republic Act No. 11479, otherwise known as the Anti- Terrorism Act (ATA), with the stated goal of strengthening the country's ability to prevent and respond to terrorism.^[1] However, amid the global rise in authoritarian measures cloaked in national security rhetoric under President Rodrigo Duterte, the ATA has sparked a growing chorus of alarm from legal scholars, human rights advocates, journalists, activists, and even, ordinary citizens. This article examines how the ATA, while designed to safeguard public safety, simultaneously endangers democratic freedoms, weakens constitutional safeguards, and invites the abuse of state power.^[2]

All over 37 consolidated petitions challenged the constitutionality of ATA due to the transcendental issues on freedom of expression and other fundamental rights.^[3] Local human rights groups have raised concern that the climate of killing, and impunity will worsen under the ATA.^[4] Authorities have harassed, prosecuted, and even killed hundreds of activists, leaders, and journalists branded as communist sympathizers, with a UN report noting at least 248 such killings between 2015 and 2019. This record has spurred various groups—including those behind online petitions on Action Network—to call for a veto.^[5]

^[1] Rep. Act No. 11479 (2020)

^[2] Human Rights Watch, Philippines: New Anti-Terrorism Act Endangers Rights Special Council Would Usurp Court Powers, June 5, 2020, Available at <https://www.hrw.org/news/2020/06/05/philippines-new-anti-terrorism-act-endangersright> (last visited May 23, 2025)

^[3] Calleja, et al. v Executive Secretary, G.R. Nos. 252578, et al., December 7, 2021

^[4] Altermidya, On the red-tagging of Altermidya Network at the Dec. 1 senate hearing (1 Dec. 2020), <https://www.altermidya.net/on-the-incredulous-red-tagging-ofaltermidya-network-at-the-dec-1-senate-hearing/> (last visited June 2, 2025)

^[5] Action Network, Duterte, DOJ, Philippine Supreme Court: Junk the Anti-Terrorism Law, Available at <https://actionnetwork.org/petitions/duterte-veto-the-anti-terrorismbill> (last visited May 23, 2025)

Moreover, international human-rights organizations have urged the Philippine government to scrap the Anti-Terrorism Act, calling it a grave threat to civil liberties. Amnesty International's Asia-Pacific Regional Director Nicholas Bequelin warned that "even the mildest government critics can be labelled terrorists," describing the law as "a new weapon to brand and hound any perceived enemies of the state," and stressing that its vague definition of terrorism will only worsen attacks on human-rights defenders.^[6] Tess McEvoy, Programme Manager and Legal Counsel at the International Service for Human Rights, echoed these concerns, noting that the measure "fails to comply with international human rights law" and will "severely restrict due process and the rule of law," leaving defenders "even more vulnerable."^[7] Additionally, Human Rights Watch's deputy Asia director Phil Robertson likewise branded the statute "a human-rights disaster in the making," warning that it "will open the door to arbitrary arrests and long prison sentences for people or organizations that have displeased the president."^[8]

Dangers of ATA

The ATA possesses overbroad and vague definition of terrorism, warrantless arrest and extended detention without charges, power of the Anti-Terrorism Council (ATC) to designate terrorists, surveillance and interception of communications, and criminalization of "Inciting to Terrorism."

Section 4 of the law criminalizes acts intended to "intimidate the general public," "create an atmosphere or spread a message of fear," or "provoke or influence by intimidation the government"—even when such acts are not directly linked to violence, so long as they are "intended" to cause harm.^[9] The law criminalizes not only violent acts but also those intended to cause fear, intimidate the government, or interfere with infrastructure. In other words, it does not clearly distinguish between actual terrorism and acts of protest, dissent, or civil disobedience, as long as authorities interpret them to have "terroristic intent." The Philippine government's increasingly expansive and ambiguous definition of "terrorism" has allowed security agencies and officials—particularly the Armed Forces, NICA, and the National Task Force to End Local Communist Armed Conflict—to label a broad spectrum of peaceful critics and civil-society actors as "terrorists" or "communists," a tactic known as

^[6] Amnesty International, Philippines: Dangerous anti-terror law yet another setback for human rights, July 3, 2020, Available at <https://www.amnesty.org/en/latest/news/2020/07/philippines-dangerous-antiterrorlaw-yet-another-setback-for-human-rights/> (last visited June 2, 2025)

^[7] T. McEvoy, Philippines | Anti-Terrorism Law further threatens the safety of human rights defenders, July 22, 2020, International Service for Human Rights, Available at <https://ishr.ch/latest-updates/philippines-anti-terrorism-law-further-threatens-safetyhuman-rights-defenders/> (last visited June 2, 2025)

^[8] Human Rights Watch, Philippines: New Anti-Terrorism Act Endangers Rights Special Council Would Usurp Court Powers, June 5, 2020 Id. at 01

^[9] Rep. Act. No. 11479 (2020) Id. at 01

red-tagging that is carried out without due process and often without a shred of evidence beyond their dissenting views.^[10]

By stretching the term far beyond the model definition, which confines terrorism to intentional hostage-taking, lethal or seriously injurious violence, or other acts that already amount to serious crimes under national law, the 2020 Anti-Terrorism Act and its implementing rules give the executive unchecked powers of surveillance, arrest, and prolonged detention; human rights defenders, labor organizers, public-interest lawyers, journalists, religious groups, and political opposition figures have consequently faced harassment, arbitrary arrests, and even extrajudicial killings.^[11] Human Rights Watch says the new Anti-Terrorism Act drops the 2007 law's human-rights safeguards and instead gives the executive broad powers to target peaceful activists, repeating the abuses of Duterte's drug war and weakening Philippine democracy by cutting the courts out of the process.^[12]

The overbreadth doctrine, long recognized by the Supreme Court of the Philippines, holds that laws should not infringe on protected freedoms more than necessary.¹³ Under the ATA, acts of protest, dissent, or advocacy may fall within the scope of terrorism, depending on how authorities interpret "intent" and "intimidation." This renders legitimate expression potentially punishable by law, creating a chilling effect on freedom of speech and assembly. Peaceful protests against government policies, like rallies or pickets, may be interpreted as acts meant to "intimidate" government or "create an atmosphere of fear." In 2020, youth activists, such as members of Kabataan Partylist, have been red-tagged and threatened with arrest under this provision. Student leaders and protesters in Iloilo were profiled by police, with social media posts being monitored and linked to terrorism simply for criticizing the government.^[14]

Another legal flaw is the grant of extended detention. Under Section 29, law enforcement agencies may detain a person suspected of terrorism without a judicial warrant for up to 24 days, far exceeding the 3-day period allowed under the Constitution during suspension of the writ of habeas corpus.^[15]

^[10] Commission on Human Rights of the Philippines (CHR), Report on the Situation of Human Rights Defenders in the Philippines (Jul. 2020), <http://chr.gov.ph/wpcontent/uploads/2020> (last visited June 2, 2025)

^[11] International Commission of Jurists, *Danger in Dissent: Counterterrorism and Human Rights in the Philippines* (2022) Available at <https://www.icj.org/wp-content/uploads/2022/01> (last visited June 2, 2025)

^[12] Brent H. Lyew, Comment, *An Examination of the Philippines' Anti-Terror Law—Suaviter in Modo, Fortiter in Re*, 19 Pac. Rim L. & Pol'y J. 187 (2010). Available at: <https://digitalcommons.law.uw.edu/wilj/vol19/iss1/8> (last visited May 24, 2025)

^[13] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, G.R. No. 178552, October 5, 2010.

^[14] Center for International Law. (2021). *The Impact of the Anti-Terrorism Law on Freedom of Expression in the Philippines*. <https://centerlaw.org.ph> (last visited May 24, 2025)

^[15] Const. (1987), Article VII, Sec. 18

This provision raises significant concerns about the right to liberty, protection from arbitrary detention, and the right to be informed of charges and to bail, as enshrined in Article III, Section 1, 2, and 14 of the 1987 Constitution. The lack of immediate judicial oversight creates an avenue for abuses, especially in politically charged contexts where activists, journalists, or opposition figures are often labeled as “enemies of the state.” It gives law enforcement a powerful tool to detain critics or activists preemptively, even if there's insufficient evidence for a formal charge.

Amanda Echanis, a peasant rights organizer, was arrested in 2020 while with her one-month-old baby. She was accused of illegal possession of firearms and explosives—a common charge used against activists—and tagged as a terrorist sympathizer.^[16] Although her detention did not fall squarely under the ATA, the law's aftermath has made warrantless arrests of dissenters—framed as anti-insurgency measures—appear routine.

Another point is on giving the superpowers of the Anti-Terrorism Council (ATC), a body composed of Cabinet officials under the Executive branch. Under Section 25 of the law, ATC is empowered to designate individuals or groups as terrorists, freeze their assets, and recommend their arrest—without trial or judicial determination.

This violates the principle of presumption of innocence and due process under the Bill of Rights. The Supreme Court in the case of *David v. Macapagal-Arroyo* emphasized “any intrusion into the rights of the people must be accompanied by safeguards anchored on judicial review and fairness”.^[17] The ATA veers away from these standards, effectively concentrating police and quasi-judicial functions into a single executive body.

In May 2021, community doctor Naty Castro, who worked with lumad communities, was arrested and designated as a terrorist due to alleged links to communist groups. Her detention caused public uproar due to the lack of due process and evidentiary hearing.^[18]

Further, under Section 16- 19 of the law, is the surveillance and interception of communications. The law authorizes 60 to 90 days of surveillance on suspects with minimal

^[16] L. Buan, Daughter of slain activist Randy Echanis arrested in Cagayan – Anakpawis, Rappler, December 2, 2020, Available at <https://www.rappler.com/philippines/anakpawis-says-echanis-daughter-amandalacaba-arrested-in-cagayan-december-2020/> (last visited June 3, 2025)

^[17] *David v. Macapagal-Arroyo*, G.R. No. 171396, May 3, 2006.

^[18] H. Gomez and F. Gallardo, Family cries foul over way police arrested doctor Natividad Castro, Rappler, February 19, 2022, Available at <https://www.rappler.com/philippines/family-cries-foul-over-way-police-arrested-natividad-castro/> (last visited June 3, 2025)

judicial oversight.^[19] It permits interception of private communication, including digital and personal correspondence, even before a person is formally charged. Imagine this effect to the person in community? It violated their basic and fundamental rights of liberty, privacy, and free speech. These provisions could be weaponized by the government to silence critics, monitor journalists, force opposition candidates to mum, and compel civil society organizations to be passive, as people who dissented will be vulnerable to this possible abused of power.

Although, there is no direct case has surfaced where this provision was publicly used. However, journalists and human rights groups report heightened fear that their conversations are being tapped, especially those covering counterinsurgency programs and military operations in Mindanao and Northern Luzon.^[20]

Since the passage of the ATA, red-tagging has intensified. The mere threat of being accused under the ATA discourages free expression and civic engagement—key pillars of a functioning democracy. This climate of fear mirrors tactics used during authoritarian regimes, where security laws served to suppress dissent rather than protect the public. The Philippine experience during martial law under Ferdinand Marcos Sr. serves as a historical warning about how broadly framed laws can be used to dismantle democratic institutions from within. Therefore, red-tagging should never been normalize in today's society, more even in the passage of this law. What to do about it? Fight back!

In the case of *Deduro v Vinoya*, the decision underscores the court's duty to protect constitutional rights amid practices like red-tagging that can lead to severe violations. The Supreme Court highlighted that red-tagging constitutes a legitimate threat justifying the issuance of a writ of amparo and ordered the petition to return to the lower court for full adjudication.^[21] Moreover, in the infamous landmark case of *Broadcast Journalist Atom Araullo v Lorraine Badoy and Jeffrey Celiz*, the Quezon City Regional Trial Court held that red-tagging is a threat to an individual's right to life, liberty, and security.^[22] This case empowers the victims of red-tagging to seek legal redress.

^[19] Rep. Act. No. 11479 (2020)

Id. at 01

Id. at 02

^[20] Høiby, M. (2019). Covering Mindanao: The Safety of Local vs. Non-local Journalists in the Field. *Journalism Practice*, 14(1), 67–83. <https://doi.org/10.1080/17512786.2019.1598884> (last visited June 3, 2025); Amnesty International, *supra* note 2

^[21] *Deduro v Vinoya*, GR No. 254753, July 4, 2023

^[22] K. Daguno-Bersamina, *Atom Araullo wins P2M damages in red-tagging case vs Badoy, Celiz*, Phil Star, December 14, 2024, Available at <https://www.philstar.com/headlines/2024/12/14/2407367/atom-araullo-wins-p2mdamages-red-tagging-case-vs-badoy-celiz>, (last visited June 3, 2025)

Lastly, one of the fearful provisions of the law is Section 9 which criminalize inciting to terrorism. The law penalizes those who "incite others to commit terrorism" through speeches, writings, or other expressions, without needing a direct link to an actual terror act. It criminalizes intent, a subjective concept that can easily be weaponized against political opponents. People may be punished for critical works if their messages are interpreted as radical or provocative determined by ATC and the government.

In 2021, poet Ericson Acosta in Negros were reportedly surveilled and harassed by state agents. Acosta was later killed, but earlier linked his art to insurgency—raising concerns over cultural expression being interpreted as incitement.^[23]

SC Ruling: A Partial Win

In December 2021, the Supreme Court upheld nearly all of the Anti-Terrorism Act, invalidating only two of its provisions which are the following: the qualifier in the protest exemption of Section 4 — the phrase “which are not intended to cause death or serious physical harm to a person, to endanger a person’s life, or to create serious risk to public safety”; and the second mode of designation in Section 25 that allowed the Anti-Terrorism Council (ATC) to tag persons or groups as terrorists upon mere “request of another jurisdiction or supranational jurisdiction.” Corresponding references in the Implementing Rules and Regulations were likewise voided.^[24]

The rest of Section 4’s definition of terrorism, the 14- to 24-day warrantless detention under Section 29, ATC powers of asset freezing and surveillance, and other challenged sections survived facial attack. The Court ordered the Court of Appeals to draft special procedural rules for proscription cases under Sections 26–27, to ensure due-process safeguards before organizations are outlawed as terrorist entities. Moreso, the Court ruled that Congress may legislate stronger counter-terror measures and that most of the Act passes strict-scrutiny review for a compelling state interest in national security.^[25]

Despite the unconstitutionality of the said provisions, the totality of the law is still in place under the principle of partial unconstitutionality and severability. In the case of *Layno Sr. v Sandiganbayan et al.*, the court ruled that that only the unconstitutional application or provision may be struck down, not necessarily the entire law.^[26]

^[23] Commission on Human Rights, Statement on the Killing of NDFP Consultant and Peasant Organizer in Negros Oriental, Available at <https://chr.gov.ph/2022/statements/press-statement/statement-of-the-commissionon-human-rights-on-the-killing-of-an-ndfp-consultant-and-a-peasant-organizer-in-negros-occidental/> (last visited June 3, 2025)

^[24] *Calleja, et al. v Executive Secretary*, supra note 1

^[25] *Ibid.*

^[26] *Layno, Sr. v Sandiganbayan*, GR. No. 65848, May 24, 1985

Chilling Effect Despite SC Decision

The 2021 decision removed only two phrases; it left untouched the core machinery that merges policing, prosecution, and political discretion. As long as a Cabinet body can name “terrorists,” police can jail them for three weeks without charge, and prosecutors can stretch rhetoric into “incitement,” citizens will think twice before marching, posting, writing, donating, or organising. That pervasive self-censorship—the classic chilling effect—is precisely what keeps the ATA dangerous despite the Court’s limited pruning.

In an era when journalists and human-rights advocates are demonized, “fake news” spreads rapidly online, and dissenters are killed, the government could weaponize this law to silence critics and stifle free expression—rights that are essential to good governance and the very soul of democracy.

A nation must defend itself against terror, but only to the extent that doing so does not erode the civil liberties that define its democracy, for real safety is measured as much by the presence of rights as by the absence of violence.

The Anti-Terrorism Act claims to fortify public security, yet its vague definitions, warrantless-arrest powers, and executive authority to brand individuals as terrorists have instead sown seeds of silence, chilling legitimate protest and debate. A statute intended to stop violence can indeed imperil those who speak out: by criminalizing “incitement” on the basis of intent that officers alone infer, and by allowing detention for up to twenty-four days without charge, the Act places critics almost as much at risk as criminals.

Lawyers, journalists, activists, and ordinary citizens sound the alarm because they have witnessed the law wielded as a weapon—community doctors tagged by the Anti-Terrorism Council, labor organizers jailed on thin evidence, indigenous leaders frozen out of their own bank accounts. These cases prove that the shield against extremists can quickly become a sword against dissent.

And when a law promising security begins instead to weaken constitutional freedoms, it falls to an engaged public, an independent judiciary, and legislators willing to amend or repeal overreaching provisions to protect democracy from its self-declared protector. Unless its excesses are curbed, the Philippines may succeed in guarding its people from bombs only to leave them exposed to the quieter but longer-lasting damage of fear and silence.

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