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Paulinian Law Journal

The Official Student Publication of
Saint Paul School of Professional Studies
Faculty of Law

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My congratulations to the Editorial Team of the 2024 Paulinian Law Journal headed by Dave Paulo S. Batula and their Law Journal Adviser, Atty. Barbette Joanne B. Reposar for finally coming up with this much anticipated 3rd edition of our Paulinian Law Journal. Truly, another law journal worth reading is produced by these very hardworking editorial staff despite the challenges and obstacles that came their way.

This edition is a fitting follow up to the two previous editions as it focused on the more relevant and contentious legal and social issues our country is now facing as well as in showcasing the talent and flair for legal and analytical writing of our contributors.

The Faculty of Law considers this student-published law journal as a platform for our law students and professors to contribute their research, opinions and insights on diverse but relevant legal and social issues with the objective of encouraging a scholarly exchange, awareness and in promoting the importance of legal research in enhancing the overall quality of the legal academic learning of our law students. I strongly believe that this will play a vital role in the education as well as in the professional development of our future SPSPS lawyers.

Again, my commendation to our student writers and professors for their articles in this edition of our Law Journal. This experience surely provided our student-writers a valuable opportunity to enhance their research and writing skills, preparing them for a successful career in the legal profession in the future. It is also hoped that this law journal will serve as an inspiration to those would-be contributors for our succeeding editions. And to our law students, may this ignite your interest in doing legal research and in improving your legal writing skills.

To the faculty of Law, my deepest gratitude for wholeheartedly supporting this endeavour.

ATTY. RAYMUND S. GALLARDO, CPA
DEAN, FACULTY OF LAW

PAULINIAN LAW JOURNAL

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It is with much joy and anticipation that we celebrate the launch of the 3rd Volume of the **Paulinian Law Journal**. On behalf of the Editorial Team, I would like to extend a very warm welcome to the readership of our humble law journal. I take this opportunity to thank our authors and editors who have volunteered to contribute to the success of the journal.

The Paulinian Law Journal is dedicated to providing a platform for lawyers and students to publish scholarly articles and essays that contribute to the understanding and development of the law and legal practice and to inform the legal community about current issues and their legal ramifications.

The effort to continue the success of the previous publication was driven by a dedicated group of individuals determined to continue the legacy of the journal. Over the past months, our team has faced numerous obstacles, from coordinating Saturday meetings amid our law school classes to encouraging faculty members and students to contribute articles. Despite these challenges, the result is a testament to what can be achieved when passion, dedication, and talent converge.

This edition of the Paulinian Law Journal showcases a variety of articles and essays on critical topics such as International Law, legal counseling, environmental protection, the Philippine education system, and other topics. We are truly grateful to the law professors and students who have generously shared their wisdom and insights with the Paulinian community.

Over the past months, we have witnessed significant events including the ongoing international dispute with China over the South China Sea, the House of Representatives' approval of the divorce bill, the International Criminal Court's possible issuance of a warrant against former President Duterte, and the controversy surrounding Mayor Alice Guo's Chinese citizenship. While these events pose significant challenges, they also offer law students a fertile ground for legal research, critical analysis, and scholarly discussion. We hope that the journal becomes an ideal forum for the exchange of information and ideas on all legal topics.

Our hope for this law journal is to inform the Paulinian community about pressing legal issues and to contribute to the development of legal journalism. We also hope that this edition will inspire you on your journey to becoming a lawyer.

DAVE PAULO S. BATULA
Editor-in-Chief

To our dear Readers,

This is it! The making and publishing of this Law Journal took a while as the team went “yay and nay” to complete the articles which would represent not only the students but as well as the professors and the alumni.

It is true that since we are on an executive class and majority are working students, it was very difficult to invite and recruit writers and contributors. Some would tell us that they’d rather make use of the time to study especially that the law school in itself is demanding.

Hence, I would like to take this opportunity to thank the entire team, the student contributors, the professors and alumni who shared their articles and their work of art to be published in this journal.

We wanted to make something special especially that this is the 10th year since our first Barristers conquered the Bar Examination in 2013 to producing a 10th placer. This is also the reason for the excitement and the pressure to publish something remarkable and memorable.

To the entire SPSPS Law Journal Family especially to Dave who bravely took over the stirring wheel when the plane was going low and to the other members for the encouragement and making initiatives in completing this journal, DAMO NGA SALAMAT HA IYO!

Have a good read and until next edition.

ATTY. BARBETTE JOANNE “BETYA” B. REPOSAR

Paulinian Law Journal Adviser

CRIMINAL LAW

SMOTHERED AND SUBDUED

Decriminalizing Libel

by Krizza Mae N. Mallari (JD-2A) // Katryna Mae N. Mallari

Libel is a public and malicious imputation of a crime, or a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.¹

Libel is a criminal offense, as well as cyber libel, that is used by many, especially nowadays where there is rampant use of social media for spreading the latest news relevant to society. It is widely known that although there are positive effects to the technological advancements happening in the world, there are also cons that come with it. Point being, the internet

has become an outlet for many, even used by politicians and influential people to their advantage to further their personal agenda; that being the ultimate reason as to why Opposition Senator Risa Hontiveros filed the Senate Bill No. 1593, known as the Decriminalization of Libel Act.

“Our libel laws have been weaponized to stifle very basic fundamental rights. These laws have been used to constantly attack many of our freedoms, but particularly the freedom of the press. We need to decriminalize libel if we are to truly defend press freedom,”² says Sen. Hontiveros in a statement. The decision to file the case was made

on the same day,

Tuesday December 13, 2022, as Frank Cimat, a journalist, and a contributor to the independent news outlet Rappler. He is the third Rappler reporter to have been convicted of cyber libel alongside Rappler CEO and Executive Editor Maria Ressa, and ex-Rappler researcher Reynaldo Santos Jr.³

In filing the Senate Bill mentioned above, it will repeal several articles of the Revised Penal Code (RPC) referring to libel, as well as the Cybercrime Prevention Act of 2012.⁴ The country's laws and courts have repeatedly been weaponized by those of influence to arrest and detain critics of politics and the government, resulting in the

red tagging of activists,

lawyers, and judges to oppose the views of those in power. Notably, the opposition of the National Task Force to End Local Communist Armed Conflict administration, and the anti-terrorism law.⁵ Sen. Hontiveros also mentioned how libel laws are used against journalists “who are just doing their jobs.”⁶

Journalists are to bring important information to the public that requires its immediate

► 5

attention. With the recent libel cases that involved journalists as mentioned, they deny the citizens access to what is rightfully theirs to know. No freedom is absolute. Freedom of speech does not mean freedom of consequences. Media practitioners are accountable for any information released to the public. Journalist Ethics and Core Values of fairness and objectivity through strict and proper fact checking exist to counter those that aim to share disinforma-

tion and misinformation.

Thus, Media Organizations should do well to keep the practitioners that work under them in line as well as people in politics to learn to handle feedback and criticisms and not use the law as something to fall back on with the slightest offense. Sen. Hontiveros also pointed out that these cyber libel cases that has been ceaselessly filed by private individuals that clog court dockets and continuously contribute to the overburdening of

the executive and judicial branches, resulting in the drain and scarcity of their resources.⁷

Opposition Senator Risa Hontiveros concluded, "If we allow our laws to punish rather than protect the press, we chip away at our Constitutional rights. This will cost us our democracy."⁸

1 Pinoy Attorney – Attorneys of the Philippines (2017) "Using Privileged Communication as a Defense to Libel."

2 Bolledo, J. – Rappler (2022) "Senator Hontiveros files bill seeking to decriminalize Libel."

3 Committee to Protect Journalists – CPJ (2022) "Rappler contributor Frank Cimatú convicted of cyber libel in the Philippines."

4-6 Philippine Daily Inquirer Editorial (2022) "Decriminalizing libel" & Press Release – Senate of the Philippines (2022) "Defend Press Freedom: Hontiveros files bill to decriminalize Libel."

7 Philippine Daily Inquirer Editorial (2022) "Decriminalizing libel", Press Release – Senate of the Philippines (2022) "Defend Press Freedom: Hontiveros files bill to decriminalize Libel.", & Mangaluz J. – Inquirer.net (2022) "Sen. Risa Hontiveros files bill decriminalizing Libel."

8 Philippine Daily Inquirer Editorial (2022) "Decriminalizing Libel." & Press Release – Senate of the Philippines (2022) "Defend Press Freedom: Hontiveros files bill to decriminalize Libel."

LABOR LAW

Empowering the Future: Igniting Philippine Workforce Competitiveness through the Digital Dynamo Initiative

by Alberto R. Ada Jr.

In this rapidly and inevitably evolving world being thrust into the digital age, the advent of technology and the growing influence of the digital economy have reshaped the global workforce landscape. Nations worldwide have been striving to bolster their digital workforce competitiveness.

When the pandemic hit, the Philippines, along with other countries, were tested not just on the health mitigation response but as well as on our digital preparedness in addressing the imminent and enforced change of landscape on the sustainability of the workforce to aid in the overall survival of our economy and country. Many com-

panies resulted in skeletal workforce set-ups and alternative modes of performing the task at hand. Most were constrained to continue their operations remotely. We were thrust into taking courses of action to maintain and balance the welfare of the society and the interest and necessitated demands of sovereignty. Perhaps this game-changing phenomenon, which placed the world at a standstill, was the driving force behind The Philippines to finally recognize the need to cultivate and elevate its digital workforce to remain relevant and competitive in the digital age.

The way I see it, one of our country's

recognized strategies in tackling this imperative was through the introduction and passage of the R.A. 11927 into Law on July 30, 2022, otherwise known as an "Act to Enhance the Philippine Digital Workforce Competitiveness" or more succinctly known as Philippine Digital Workforce Competitiveness Act. The act, as indicated in its declaration of policy, seeks to address key aspects critical to bolstering the country's digital workforce competitiveness. It takes cognizance that digitalization and technological advancements have a transformative impact across various sectors. And as such, the Law's primary intent is to elevate the skills and competitive edge of the

Philippine workforce. Particularly in human capabilities and digital expertise to align our digital proficiencies with global benchmarks. The Law ensures that our Philippine Workforce is as capable and equally competitive as the international industry. This framework encourages individuals to acquire new skills and update their knowledge throughout their careers, raising their relevance in an evolving job market.

Among the salient provisions of the act was the creation of an Inter-Agency Council composed of representatives from relevant government agencies. The council assist,

manage and oversee the development and execution of strategies outlined in the act, to monitor progress, and make necessary adjustments based on the evolving needs of the digital workforce landscape. One of its goals is to establish a centralized online platform that encompasses training and competency building. Through its strategies and programs, which include public-private partnerships, it aims to provide a platform for skills development, thereby creating opportunities for our workers to improve to become more highly competent individuals.

Also worth noting is the importance given to Electronic readiness (E-readiness) and the crucial role that the LGUs play under this act in fostering the growth of the information and communications technology sector in their areas through its Public Employment Services Office (PESO). It helps to bridge the gap of our common workers' struggle in job searching and career matching through the conduct of virtual job fairs and providing local access to in-demand work readily made available via local access, strengthened with the promise of universal access to quality, high-speed internet by placing priority on the development of ICT infrastructures.

The passage of this Law couldn't have come at a more opportune time as it coincides with the progressive growth of the gig economy or labor markets characterized

by independent contracting, i.e., online freelance work all enabled by digital technology. The youth of today and even those budding neophytes and digital nomads ventured and realized the joys and benefits of working from home and the perks of having a work-life balance where one could travel practically anywhere without having to sacrifice their jobs or the allure of a hefty compensation.

The Philippines is the fifth largest online labor supplier in the world. With this Law enabling governments to enter public-private partnerships with industry experts, I.T. -BPO associations, and other stakeholders, it bodes well in an already increasing trend that more and more of our today's society has its eyes geared towards this preference for home-based work set-up industry (Lugtu, 2022).

Indeed, emphasizing and focusing on the need for the Philippines to be a digitally competitive nation is crucial. As a matter of perspective, we, as a nation packed with BPO industries, contribute nearly \$30 billion to the economy each year (Talmage-Rostron, 2023), placing us as one of the two top countries in the field of Business Process Outsourcing alongside India. However, in a contrasting picture, our country remains to have the lowest ranking among Southeast Asian countries in the global digital competitiveness index of the IMDB. And we are in 13th place out of 14 economies in the

Asia-Pacific region in its 2023 World Competitiveness Yearbook (Tabile, 2023).

Even the Commission on Human Rights has recognized the importance of us Filipinos to keep up-to-date with the necessary skills and expertise to thrive in the modern digital workforce. And it praised this Law for creating a legal framework that was aptly passed as an advent to propel our country's transition to being digitally competitive. It likewise recognized how the creation of the inter-agency to ensure the implementation of the programs of the aforesaid Law will help secure a smooth transition into the new normal in the lens of digital innovation and entrepreneurship.

It is, in fact, the belief by the CHR that the "efficient implementation RA 11927 can help enhance and expand the economic, cultural, and social rights of everyone through digital modes that offer exponential possibilities" (De Guia, 2022, para 6). This is supported by the former DICT undersecretary Monchito Ibrahim as published in the Manila Bulletin, the potential of Philippine Digital Workforce Competitiveness if adequately executed, "will put into motion a whole-of-government initiative to ensure the competitiveness of the Philippine workforce by providing all Filipino workers access to life-long learning platforms that will provide them with digital skills that are at par with global standards and get them ready for the work of the

future" (Ibrahim, 2022, para 1).

In conclusion, the "Act to Enhance the Philippine Digital Workforce Competitiveness" reflects the country's commitment to adapting to the demands of the digital age. By prioritizing education, skills, technical learning, industry collaboration, innovation, diversity in its multi-approach and strengthening of stakeholders, and fostering relevant partnerships, the act provides a comprehensive framework to nurture a highly competitive digital workforce. As technology continues to reshape the way we work and live, the Philippines' proactive approach to enhancing its digital workforce ensures its continued relevance and success in the global economy. And through this legislative act, we expect our socio-economic status's steady and uphill recovery to be alleviated by competent and numerous opportunities for entrepreneurship and digital careers.





ENVIRONMENTAL LAW

“Pagtanom han PAGLAUM”: AN SPSPS LEX ADVOCATUS’ TREE PLANTING INITIATIVE

by Katrina April S. Santos & Arvin Elatico
JD-4 Lex Advocatus

I. BACKGROUND AND RATIONALE

The overarching principle of SPSPS JD-4 Lex Advocatus is to promote legal justice beyond the walls of the classroom. The Lex Advocatus organized and conducted activities since 2021 to extend legal aid to the society. On October 2021, the Lex Advocatus held a Seminar and Legal Consultation for DAR beneficiaries and tenants in collaboration with the Department of Agrarian Reform Provincial Office at Abuyog, Leyte with the guidance of the esteemed Agrarian Reform Law and Social Legislation professor and CLEP 1 Advisor, Atty. Henry Inopiquez. On August 2022, the class led by a seasoned lawyer Atty. Leo S. Giron, Alternative Dispute Resolution professor, in partnership with the Local Government Unit of Brgy. Abucay, Tacloban City held an Orientation of Katarungang Pambarangay Law to the members of Lupon ng Tagapamayapa of the aforementioned barangay. The JD-4 SPSPS students, likewise, actively participated in Legal Missions and outreach programs, indeed truly upholding its name as law advocates.

The Natural and Environmental Resources Law (NATREL) opened an avenue for Lex Advocatus to extend its vernal principle in its advocacy for the preservation and protection of the environment. The lectures of the class’s NATREL Professor Atty. Henry Inopiquez inspired the JD-4 students to act in concert towards mitigation of the apparent environmental degradation. The Lex Advocatus, through a consensus of the class, voted for a tree planting activity.

Pagtanom han PAGLAUM is a project of SPSPS JD-4 enthused by Article II Sec. 16 of the 1987 Constitution, to wit:

“Art. II, Sec. 16. The State shall protect and advance

the right of the people to a balanced and healthy ecology in accord with the rhythm and harmony of nature.”

Further, the Lex Advocatus, with absolute certainty, hold that the generation of today shoulders the responsibility of preserving the environment for a better tomorrow. As the Court ruled in the case of *Oposa vs Factoran*:

“...it is a continuing policy of the state:

a) to create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other;

b) to fulfill the social, economic and other requirements of present and future generations of Filipinos; and

c) to insure the attainment of an environment quality that is conducive of life of dignity and well-being.

[...] it speaks of the responsibilities of each generation as trustee and guardians of the environment for succeeding generation.”

Hence, protecting and preserving the environment is an inter generational duty. An obligation that no person is exempt. And the Lex Advocatus, acknowledges this responsibility with a promise of playing a determinative role as stewards of the environment, strengthened by legal conviction.

It is without doubt that the world is combating environmental challenges. Illnesses caused by

contaminated air, increasing mean temperature evidenced by continuous rise of heat index in various areas in the country, and catastrophic typhoons is the present reality and apparent proof of the environment's degradation.

Climate change, while primarily affecting humans, also poses immense risk to the ecosystem. Studies show that reduction of forest area depletes ecosystem services from imbalanced biodiversity, impure water and higher carbon rates. Climate change likewise is one of the reasons behind the rapid decline of endemic species of flora and fauna and others are suffering from risk from extinction.³

The Department of Environmental and Natural Resources mentioned in an article that tree planting is one of the answers to mitigating environmental degradation. Trees augment quality of life and are essential in averting the perilous effect of climate change. By planting and growing trees, forests are restored and preserved thereby improving air quality, enhancing water purity, lowering heat index and providing protection against natural calamities.⁴

Succinctly, a tree planting activity, though a simple and small act, has a huge impact on minimizing the adverse consequences of climate as well as humanity's actions against the environment. As stewards of nature, and to uphold the inter-generational duty of preserving and protecting the environment, the Lex Advocatus proposed a tree planting activity at Lake Danao Natural Park.

The tree planting initiative was approved and supported by the Saint Paul School of Professional Studies Faculty of Law in partnership with the Department of Environment and Natural Resources (DENR), Provincial Environmental and Natural Resources Office (PENRO), City Environmental and Natural Resources Office (CENRO) Ormoc and Lake Danao Natural Park organization.

Republic Act No. 11038 (An Act Declaring Protected Areas and Providing their Management, Amending R.A. 7586, otherwise known as the National Integrated Protected Areas Systems Act (NIPAS) of 1992) is one of the panoply of laws that aims to protect the country's rich biodiversity. The NIPAS Act is the answer of the government to combat the profound impact of human activities towards the environment. Sec. 2 of R.A. 11038 recognizes the importance of protecting and maintaining the natural, biological and physical diversity of the environment, especially in areas with biologically unique features to sustain human life and development of plant and animal life.

The NIPAS encompass ecologically rich and unique areas and biologically important public lands that are habitats of rare and threatened species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wet-

land or marine, which shall be designated as protected areas. The law recognizes the conservation areas and management regimes implemented by Local Government Units, local communities and indigenous peoples (IPs).⁵

Lake Danao and its vicinity with an area of 2, 193 hectares was declared by former President Fidel V. Ramos through Proclamation No. 1155, s.1998 as a protected area pursuant to Republic Act No. 7586 (NIPAS ACT OF 1992), naming it as Lake Danao Natural Park.⁶

LDNP is a biodiversity hotspot. It is home to several endemic species in the Philippines and a transitory site for migratory birds. Regrettably, some of the species found on LDNP is threatened to become extinct in the future if its surrounding area is not maintained and preserved.⁷

On this ground, Lex Advocatus chosen Lake Danao Natural Park as the location for the tree planting initiative. The JD-4 sees the significance of preserving the biodiversity of the area for the future generation.

II. MISSION AND VISION of Pagtanum han PAGLAUM

Environmental maintenance and preservation are obligations not only of the state, but a duty bestowed upon all generations. Each Filipino citizen shoulders the responsibility of protected the environment of the country, for a productive harmony between humanity and nature, and to ensure a healthier and better earth for the next generation.

To uphold this duty, Lex Advocatus laid down the Mission and Vision of Pagtanum hand PAGLAUM Tree Planting Initiative:

Mission. To plant a tree to mitigate climate change, promote community engagement and advocate for sustainable practices.

Vision. To foster a greener, healthier environment for all.

III. PROJECT OBJECTIVES

The NIPAS Act strengthens the implementation of conservation, protection and management of protected areas. This legal foundation served as an impetus for Local Government Units, the local communities and private organizations to act in preserving the areas covered by NIPAS Act.

Albeit, the NIPAS Act persuades the national government and LGUs to act, the responsibility of protecting the environment is a yoke that the government could not act on alone. The implementation of laws, rules, regulations on environmental

preservation requires the attention and action of the citizens. The spirit and ideals of the environmental laws shall flourish only when the authorities concerned, and the citizens, work hand-in-hand on its implementation, and consequent integration to the society.

The SPSPS JD-4 commits to be the prime mover in encouraging law students and communities to work in maintaining and ensuring a healthy ecology.

To achieve the goals of this project, JD-4 Lex Advocatus laid down the following objectives of Pagtanum han PAGLAUM Tree Planting Initiative which includes:

- 1) To plant tree seedlings at Lake Danao Natural Park, a proclaimed NIPAS area;
- 2) To maintain and preserve the rich biodiversity and balanced ecosystem of Lake Danao Natural Park;
- 3) To promote the paramount significance of environmental preservation by applying the inter-generational principle;
- 4) To encourage community engagement in protecting the environment; and
- 5) To advocate sustainable practices for a balanced harmony between humanity and nature.

Adopting Art. II, Sec. 16 of the 1987 Constitution, the intergenerational principle, and the provisions of R.A. 11038, the Lex Advocatus tree planting project at LDNP encourages a good partnership between the SPSPS Faculty of Law, PENRO Leyte and CENRO Ormoc for the success of this long-term project.

IV. STAKEHOLDERS INVOLVED

Government agencies and local government units are involved in the preservation and protection of the NIPAS covered area. The tree planting initiative of Lex Advocatus shall not prosper without the hand of these stakeholders. Moreover, the success of this initiative rests on the perpetual partnership between SPSPS JD students and these agencies.

The government agencies involved in the tree planting initiative includes:

- 1) Department of Environmental and Natural Resources- Sec. 4, of E.O 192, the Department and Natural Resources is mandated to be the primary agency responsible for the formulation and implementation of policies, guidelines and rules related to environmental management, as well as the management and conservation of the country's natural resources. The DENR also shall implement rules and regulations governing the exploration, development, extraction, disposition and use of for-

ests, minerals, wildlife and other natural resources;

- 2) PENRO – The DENR office headed by the Provincial Environment and Natural Resources Officer appointed by the DENR Secretary, shall act as the field commander in their respective area of jurisdiction. The office shall be responsible for the implementation of DENR policies, programs and projects of in the province;

- 3) CENRO – The DENR office headed by the City Environment and Natural Resources Officer, who shall act as a field commander in their respective area of jurisdiction. The office carries the responsibility of implementing DENR policies, programs and projects in the city;

- 4) Protected Area Management Office – the PAMO is established under R.A. 11038 to be headed by the Protected Area Superintendent (PASU) who shall supervise the management, protection and administration of the protected area.

V. ACTIVITY NARRATIVE REPORT

The tree planting initiative commenced on April 7, 2024, at 6:00 in the morning at Lake Danao Natural Park (LDNP), the location of the activity as approved by the SPSPS Faculty of Law, PENRO and CENRO Ormoc.

Prior to the schedule of the tree planting activity, the designated advance party visited the LDNP to conduct an ocular inspection to survey and prepare the location of the program, and examine the overall condition of the area. The party, likewise, appeared for a courtesy call with Mr. Baldomero Nuñez, CENR Officer of Ormoc, taking the opportunity to convey the class' intention for an amiable partnership with the office in hopes of

conducting more activities in the future for the preservation of the environment.

On April 7, 2024, at 3:00 AM, the class gathered at Palo, Leyte to travel to Lake Danao, Ormoc Leyte. The class headed by Vice Dean Atty. Felma Freda Lopez and NATREL Professor Atty. Henry Inopiquez arrived at 6:00 AM at the LDNP designated planting area and welcomed by Forester Julie A. Cruzada along with CENRO Ormoc Foresters.

Ms. Jennifer S. Carcagente, Forest Extension Officer CENRO Ormoc gave instructions on how to accurately plant the Bayog seedlings (*Pterospermum acerifolium*), an endemic tree at Leyte. Immediately after the instructions were delivered, each one began planting with the assistance of Mr. Christopher Domael, Forester II/CENRO Ormoc NGP Coordinator.

Forty (40) JD-4 students participated in the tree planting activity together with Atty. Henry Inopiquez and Atty. Felma Freda Lopez. The Pagta-

num han PAGLAUM project successfully planted One Hundred (100) Bayog seedlings.

The tree planting activity was followed by a program at the LDNP pavilion. The program began around 8:00 in the morning attended by all JD-4 students who participated in the tree planting activity, and with the presence of Atty. Henry Inopiquez, Atty. Felma Freda Lopez, Mr. Jose Darwin O. Encarnacion (FT-I/Assistant PASU CENRO Ormoc), Mr. Felix G. Dedace (Forest Extension Officer PENRO Leyte), Ms. Jennifer S. Carcagente (Forest Extension Officer CENRO Ormoc), Mr. Christopher Domael (Forester II/CENRO NGP Coordinator), and Ms. Julie Cruzada (DMO-II/Provincial NGP Coordinator PENRO Leyte).

In the program, Lex Advocatus honored the support of PENRO Leyte, CENRO Ormoc and SPSPS Faculty of Law for the success of the activity. Atty. Inopiquez pointed out that Philippines has been at the forefront in creating relevant environmental laws. He also emphasized that as stewards of nature, we are to face head on the unprecedented challenge being posed by climate change. The simple act of tree planting is a critical step towards a greener future, a giant leap in the protection and preservation of the environment.

He ended by saying that today “we planted a tree, we gave hope to the future generations.” This was accentuated by Lika Mejido, the class representative, when she said that, “[...] just like a small and single tree, individual efforts, if done together, will create a ripple in a pond, a whisper in the forest that will be heard all over the nation and the world.”

Lika propounded a challenge to the class to continue to be advocates of the environment, and our small sacrifices today such as waking up early in the morning after a bout with the Finals exam is a powerful indication of our disposition to care for the environment.

Vice Dean Atty. Felma Freda Lopez shared that it was extra special day because it was the first time in SPSPS that an Environmental Law subject went out of the four walls of the classroom and taught its students the practical way of preserving the environment. She said that “just like in law school, starting on the first year, we are planting you and preparing your future, we will be proud if in the future you will grow to be imposing and influential trees that carries the values of the institution.” She ended by saying that **“we might not pass this way again, but if you have the opportunity, try to check if indeed the saplings that you saw will grow into trees.”** The whole activity ended at 10:00 in the morning.

VI. CONCLUSION

The Lex Advocatus Pagtanum han PAGLAUM tree planting activity conducted at Lake Danao Natu-

ral Park, Ormoc City was intended for practicing the spirit of environmental laws and principles to create, develop, maintain, improve and preserve the conditions of the environment to attain environmental quality conducive to a life of dignity and well being.

Forty JD-4 students of SPSPS with NATREL Professor Atty. Henry Inopiquez and Atty. Felma Freda Lopez, Vice Dean of SPSPS Faculty of Law was present at the activity. Lex Advocatus successfully planted one hundred (100) Bayog seedlings in the designated planting area. The activity was supported by PENRO Leyte, CENRO Ormoc and LDNP.



VII. RECOMMENDATIONS

The Pagtanum han PAGLAUM tree planting initiative is only the beginning of future environmental projects by SPSPS JD students. Learning the environmental laws and jurisprudence should not remain within the doors of the classroom. Actively practicing the ideals of environmental laws is the true learning.

Thus, Lex Advocatus strongly recommend the following matters for the benefit of SPSPS JD students, communities and the next generation;

1) A continued partnership with SPSPS Faculty of Law and DENR and PENRO for future environmental protection and preservation activities to maintain and improve the conditions of nature;

- 2) Strengthen the connection of SPSPS Faculty of Law with LDNP for more projects in the future;
- 3) Connect with other NIPAS covered area in Leyte to extend the advocacy of inter-generational preservation of the environment;
- 4) Encourage law students' personal involvement on pro environment activities; and
- 5) Promote and increase the awareness of communities on the significance of protecting the environment from the adverse effect of humanity's actions through practicing the ideals of environmental laws.

1 G.R. No. 101083, July 30, 1993, Juan Antonio, Anna Rosario and Jose Alfonso Oposa represented by their parents Antonio and Rizalina Oposa vs The Honorable Fulgencio S. Factoran Jr. in his capacity as Secretary of the Department of Environment and Natural Resources

2 Lasco, et al, Climate Change and Forest Ecosystems in the Philippines: Vulnerability, Adaptation and Mitigation; Journal of Environmental Science and Management; June 2008, p. 1-2.

3 Ibid, cited Summary for Policy Makers. Intergovernmental Panel on Climate Change; IPCC Working Group I 2007, p. 1.

4 Tree Planting Improves Quality of Life, DENR Official Page, URL: <https://denr.gov.ph/news-events/tree-planting-improves-quality-of-life/>.

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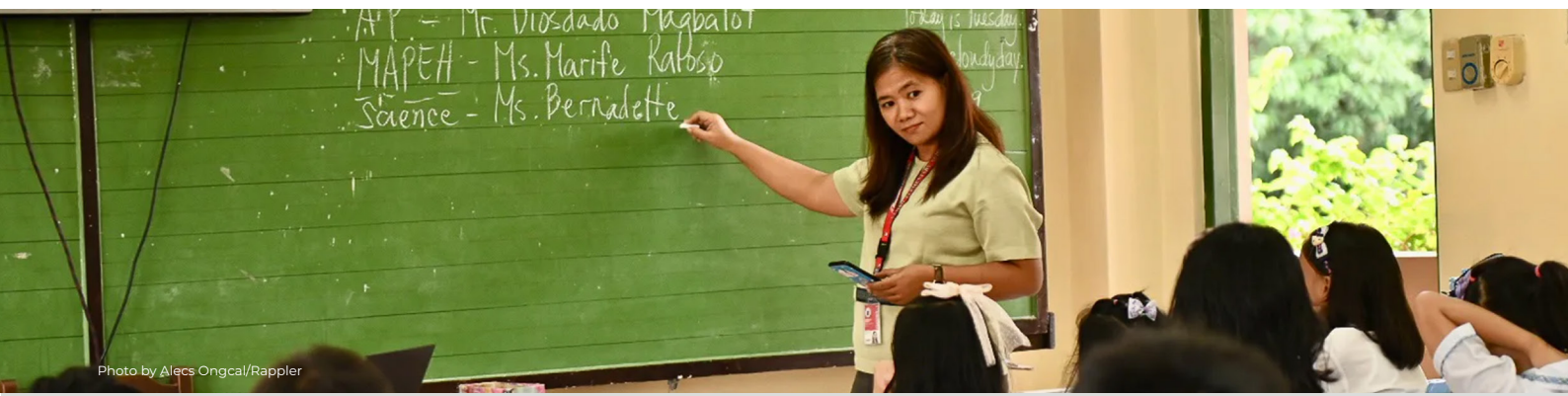


Photo by Alex Ongcal/Rappler

POLITICAL LAW

The Imperative of a Second Congressional Commission on Education in the Philippines

by Joedel Penaranda

ABSTRACT

The Philippine Education System, amidst global challenges and the aftermath of the COVID-19 pandemic, stands at a point necessitating transformative reforms. This article explores the establishment and mandate of the Second Congressional Commission on Education (EDCOM II) as a response to these challenges. Drawing parallels with its predecessor, EDCOM I, the paper highlights the distinct objectives, leadership structures, and anticipated impacts of the two commissions. EDCOM II's comprehensive approach, encompassing collaboration with emerging industries and potential legislative changes, underscores its commitment to creating a resilient, future-ready educational framework. The article concludes by emphasizing EDCOM II's potential in redefining Philippine education, aiming for a system that fosters thinkers, innovators, and future leaders.

The Philippine Education System is deeply connected to global realities. It faces numerous challenges, both internally and externally. It's essential to prioritize changes based on the system's capacity and resilience. A fresh approach, rooted in genuine human values and backed by determined political resolve, must be established in line with the principles of transformation. Now is the moment for collective action, from national to personal levels, to strike a meaningful balance between progress and fairness, global perspectives and local relevance, technological advancement and cultural conservation, and personal growth and unity. (De Guzman, 2003)

INTRODUCTION

Education serves as a foundational pillar in shaping a nation's socioeconomic and cultural dynamics. The Philippines, with its diverse educational history, is currently in an evaluative phase. The challenges of the 21st century, coupled with the disruptions caused by the COVID-19 pandemic, necessitate a comprehensive review of its educational systems and practices.

The World Bank's 2022 report on the State of Global Learning Poverty presents data indicating that the Philippines has a learning poverty rate of 90.9% (World Bank Group, 2022). Within the context of the ASEAN region, this rate is only surpassed by Lao PDR's 97.7%, with Brunei opting not to participate in the assessment. This data suggests that a significant proportion of Filipino children, by the age of ten, face challenges in reading proficiency and comprehension.

Further, the 2019 Programme for International Student Assessment (PISA) results provide additional insights into the state of Philippine education. The assessment revealed that 80% of Filipino students did not meet the established global minimum educational proficiency standards. Among the 79 participating countries, the Philippines' performance in areas such as reading, mathematics, and science was positioned towards the lower end of the spectrum.

In light of these findings, EDCOM II has been established as a national initiative, reflecting the Philippines' approach to addressing identified educational challenges and aligning its systems with global standards (Bacelonia, 2022).

This legislative commission aims to provide a structured framework for assessing and enhancing the country's educational landscape in response to both current challenges and future needs.

EDCOM II: CONTEXTUALIZING ITS GENESIS

EDCOM II, established under Republic Act No. 11899 in July 2022, exemplifies the nation's sustained commitment to refining its educational framework. This act is not necessarily novel but a continuation of a series of measures aimed at aligning the country's educational practices with global standards. The First Congressional Commission on Education, or EDCOM I, set the precedent for such initiatives. Instituted by a Joint Resolution of the Eighth Philippine Congress on June 17, 1990, EDCOM I's findings underscored the imperative to render the Philippine Education Sector more responsive, efficient, equitable, competent, and effective.



Artwork by Alyssa Arizabal

The legislative foundation of EDCOM II, endorsed by prominent figures such as Sen. Sherwin Gatchalian, underscores the urgency for robust educational reforms. This urgency is accentuated by contemporary global challenges, most notably the pandemic. The mandate of EDCOM II, as delineated by Republic Act 11899, is to conduct a "comprehensive national assessment and evaluation of the performance of the Philippine education sector." The goal is to recommend transformative, concrete, and targeted reforms, aiming to position the Philippines as a global contender in both education and labor markets from 2023 to 2025.

Central to EDCOM II's mission is an in-depth evaluation of the Philippine education sector, a timely initiative given the dynamic shifts in the global educational landscape. The commission seeks to harmonize the nation's educational strategies with international benchmarks, fostering an environment where learners are primed for success in a globally

interconnected milieu. Beyond addressing immediate concerns, EDCOM II is forward-looking, emphasizing the creation of an educational infrastructure that is adaptive and anticipatory, ensuring the nation's educational sector remains on a sustainable and progressive trajectory (Magsambol, 2023).

THE FIRST EDCOM

Understanding the potential impact of EDCOM II requires a look back at its predecessor. The Joint Congressional Commission to Study and Review Philippine Education, commonly referred to as EDCOM, was instituted in 1991. The inaugural EDCOM was given a 12-month mandate to conduct a comprehensive review of the nation's educational system, which marked a significant turning point in the nation's educational journey.

The 1991 EDCOM report unveiled critical challenges, including elevated dropout rates in rural locales, potentially due to the lack of foundational education. Additionally, there was a conspicuous scarcity of Special Education (SPED) programs, attributed to the dearth of specialized educational institutions. The report also identified a discernible decline in educational quality, which was linked to both constrained governmental investment and administrative inefficiencies. The Philippine Congress further pinpointed gaps such as limited educational access for significant population segments and a lack of resources in primary education. There was also a highlighted need for curriculum refinement and a more synergized alignment between academic institutions and the industry, which was leading to job mismatches for graduates.

In response to these findings, EDCOM advanced several strategic recommendations. These included the inception of the Commission on Higher Education (CHED) to provide oversight for tertiary institutions, curricular enhancements emphasizing core academic subjects, and the introduction of standardized tests like the National Elementary Achievement Test (NEAT) and the National Secondary Achievement Test (NSAT). A focus was also placed on teacher development, with proposals such as the establishment of the National Teachers Board under the Professional Regulatory Commission (PRC) for regular competency evaluations. Moreover, the EDCOM report provided foundational insights that would later influence the K12 program, suggesting an extension in the academic duration at either the elementary or secondary stages.

The first EDCOM's legacy provides valuable insights for EDCOM II, emphasizing stakeholder engagement, evidence-based decision-making, and adaptability. EDCOM II aims to apply these lessons to navigate present complexities and improve the Philippines' educational future.

THE MANDATE OF EDCOM II

EDCOM II's mandate is both expansive and specific. It seeks to address the multifaceted challenges facing the Philippine education sector, ranging from curriculum relevance to issues of access, inclusivity, and quality. The commission's role is not just evaluative but also prescriptive, aiming to provide actionable solutions to identified challenges (Philippine Institute for Development Studies (PIDS), 2023).

The research and advisory mechanisms underpinning EDCOM II's operations add depth to its mandate. With the Philippine Institute for Development Studies (PIDS) as its research arm, the commission ensures that its decisions and recommendations are grounded in empirical evidence. This evidence-based approach is complemented by the insights and expertise provided by the Education, Legislation, and Policy Advisory Council.

However, the journey ahead for EDCOM II is not without challenges. One of the pressing concerns is the country's education funding. Currently, at 3% to 4% of the Gross Domestic Product, it falls short of the global recommendation of 6%. Addressing this gap is crucial, not just for improving educational quality but also for ensuring sustainable and inclusive growth.

EDCOM II's mission, therefore, is twofold. On one hand, it seeks to enhance the qualitative aspects of education, ensuring that learners receive a holistic and relevant education. On the other, it aims to address the structural and financial challenges that impede the realization of this goal.

PRIORITY AREAS

To ensure a holistic and targeted approach, EDCOM II has identified 28 priority areas spanning various facets of education, from early childhood to higher education and beyond. These priority areas serve as focal points for policy formulation, resource allocation, and strategic interventions.

In the realm of Early Childhood Care and Development (ECCD), there's a pressing need to address challenges in the governance, implementation, and resourcing of health & nutrition programs. The shortage of child development centers, the need for high-quality child development workers, and the provisioning of resources for Early Childhood Education (ECE) are also of concern. Additionally, barriers related to parental perceptions and engagement in ECCD must be analyzed, and efficient financing mechanisms and governance structures need to be established.

For Basic Education, the focus is on enhancing textbook development, production, and distribution. The assessment system should adequately

track learners' progress and inform necessary reforms. There's also a call to address the medium of instruction, validate the K to 12 curriculum, and ensure a conducive learning environment. The Alternative Learning System (ALS) requires improvements in access, delivery, and curriculum content.

In Higher Education, the development of the Commission on Higher Education (CHED)'s regulatory framework is paramount. This includes ensuring coordination between the industry and academia, addressing the quality of graduate education, and ensuring infrastructure for digital transformation. The internationalization of higher education, with a focus on addressing constraints and global rankings, is also highlighted.

Teacher Education and Development underscores the need for alignment among CHED, PRC, and DepEd. There are gaps in training and the quality of Teacher Education Institutions that need addressing. The welfare of teachers and their continuous professional development is also a priority.

The Technical Vocational Education & Training (TVET) and Lifelong Learning sector emphasizes understanding the current and future workforce needs. The industry's involvement in upskilling, labor market outcomes, and the encouragement of enterprise-based training are crucial. Quality in TVET provision and a framework for recognizing non-formal and informal learning are also highlighted.

In terms of Governance and Finance, a coherent roadmap for the education sector is essential, with a focus on establishing coordination among agencies. The relationship between public and private education needs clarity, and there's a call for an integrated performance management system where funding aligns with student outcomes. The centralized governance structure and the enhancement of stakeholder participation are also areas of focus. Lastly, a Cross-Cutting theme is the connectedness of learner pathways throughout the educational system.

EDCOM I vs. EDCOM II

As can be gleaned, the Congressional Commission on Education (EDCOM) has been instituted twice, first in 1990 and more recently in 2022. Both incarnations of EDCOM share a foundational objective: the enhancement of the nation's education system. However, they differ markedly in their historical contexts, leadership structures, mandates, functions, and anticipated legacies. EDCOM I, initiated on June 17, 1990, through a joint resolution of the Eighth Philippine Congress, primarily aimed at the trifocalization of the educational system. This restructuring led to the establishment of the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) to oversee higher education and post-sec-

ondary skills training, respectively.

In contrast, EDCOM II, established on July 23, 2022, under Republic Act No. 11899, is co-chaired by legislators such as Senators Sherwin Gatchalian and Chiz Escudero, alongside Representatives Roman Romulo and Mark Go, with additional representation from the private sector. The committee consists of ten individuals, split evenly with five members from the Senate and five from the House of Representatives.

This recent commission aims for a holistic assessment of the Philippine education sector's performance, with aspirations of global competitiveness in education and labor markets between 2023 and 2025. Its mandate is expansive, encompassing the review of both formal and alternative learning systems, policy harmonization across DepEd, CHED, and TESDA, and collaboration with emergent industries.

While EDCOM I's legacy is firmly established in the trifocalization of the education system, EDCOM II's impact, though still unfolding, is keenly focused on addressing the contemporary educational challenges, many of which have been magnified by the COVID-19 pandemic.



Phot by Jire Carreon/Rappler

EDCOM II Through a Legal Lens

The legal framework of EDCOM II provides it with both authority and autonomy. Established under Republic Act No. 11899, the commission is empowered to conduct comprehensive reviews, hold

hearings, and even recommend legislative changes.

This legal autonomy ensures that EDCOM II can operate without undue interference, focusing solely on its mission of educational reform.

The legal perspective also emphasizes the balance between reform and adherence to existing laws and regulations. While EDCOM II has a broad mandate, it operates within the confines of the legal system, ensuring that its recommendations are both innovative and compliant with existing statutes.

One of EDCOM II's distinguishing features is its emphasis on stakeholder collaboration. The commission recognizes that reforms need to be inclusive for them to be effective. By fostering a collaborative environment, EDCOM II ensures that all voices, from educators and learners to policymakers and industry experts, are heard and considered in the reform process.

Simply put, the legal lens is not just about compliance but also about leveraging the law as a tool for positive change. It's about creating an educational system that is not only legally sound but also responsive to the needs and aspirations of the Filipino people.

FUTURE DIRECTIONS AND IMPLICATIONS

The establishment of EDCOM II comes at a crucial moment in the nation's educational journey. The challenges exacerbated by the COVID-19 pandemic have brought to the fore the vulnerabilities and gaps in the current system. EDCOM II's mission is to address these challenges head-on, laying the groundwork for a resilient and future-ready educational system.

Collaboration with emerging industries is one of the unique facets of EDCOM II's approach, as established an Advisory Council to offer expert guidance and recommendations to the Commission. This council consists of renowned specialists from various sectors, including the civil society. By forging partnerships with innovative sectors, the commission aims to ensure that the curriculum remains relevant, equipping learners with the skills needed for the Fourth Industrial Revolution and beyond.

Furthermore, EDCOM II's close coordination with lawmakers will play a crucial role in shaping the nation's educational policies. Proposals, such as the potential amendment of the K-12 law, will undergo rigorous scrutiny, ensuring that they are both relevant and effective. As opined by De Guzman (2003), this collaborative approach, which bridges the gap between policy and practice, is instrumental in ensuring that reforms are not just theoretical but also practical and implementable.

CONCLUSION

EDCOM II represents the Philippines' proactive response to the evolving educational challenges of the 21st century. As the commission embarks on its mission, it carries the weight of the nation's hopes and aspirations. The journey ahead is complex, but with a clear vision, unwavering commitment, and collaborative spirit, EDCOM II is poised to redefine the contours of Philippine education. The ultimate goal is to create an educational system that is not just about imparting knowledge but also about nurturing thinkers, innovators, and leaders who will shape the nation's future. Through EDCOM II, the Philippines is evidently taking a decisive step towards realizing this vision, ensuring that its educational legacy is one of excellence, inclusivity, and resilience.

"Now is the time to act. Now is the time we raise the standards (#ItaasAngAntas) of our education system. While we are sometimes struck in awe at the monumental task before us, we take to heart the hopes and dreams of Filipinos invested in education. We share their aspiration for a brighter, more meaningful, and more rewarding education system for each and every Filipino learner." (Yee, 2022)

1 Mr. Penaranda is currently a second year student of the Juris Doctor program at Faculty of Law of SPSPS.

2 De Guzman, A. (2003). The dynamics of educational reforms in the Philippine basic and higher education sectors. *Asia Pacific Education Review*, 4(1), 39-50

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5 Bacsonia, W. (2022). EDCOM II a significant boost in education sector: Gatchalian. *Philippine News Agency*

6 An Act Creating a Second Congressional Commission on Education to Review, Assess, and Evaluate the State of Philippine Education Recommend Innovative and Targeted Policy Reforms in Education, Appropriating Funds Therefor, and for Other Purposes

7 Magsambol, B. (2023). What you need to know about EDCOM II that aims to fix learning crisis

8 EDCOM I led to the "trifocalization" of the educational system, streamlining the mandates and optimizing resource allocation across different educational segments. This strategic division, which saw the creation of CHED and TESDA, ensured that each segment of education, from basic to higher and technical-vocational, received focused attention.

9 Philippine Institute for Development Studies (PIDS). (2023). EDCOM II to kick off this January.

10 https://www.theglobaleconomy.com/Philippines/Education_spending

11 <https://edcom2.gov.ph/about-us/priority-areas/>

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INTERNATIONAL LAW

The ICC's Doctrine of Superior Responsibility: A Threat to Sovereignty of States

by Wendy Enerlan

INTRODUCTION

The International Criminal Court (ICC) is a permanent international court established with the intention of bringing justice for the most heinous crimes against humanity, including genocide, war crimes, and crimes against humanity (McTaggart et al., 2022). The ICC is making an effort to establish a justice system capable of holding individuals accountable for the commission of these heinous crimes (Prakash, 2002), one of which is the doctrine of superior responsibility. This doctrine holds those in positions of authority responsible for crimes done by subordinates under their effective control, even if they did not personally conduct the crimes themselves. It is founded on the idea that those in positions of authority have a responsibility to prevent or punish crimes committed by those under their supervision. While the doctrine was created to deter future humanitarian violations, some states argued that the application of the ICC's doctrine poses a challenge or danger to the sovereignty of states (Bantekas, 2000).

COUNTERCLAIMS

According to Kelsen (1998) the states' sovereignty becomes problematic when international law is brought into the picture as a legal system imposing obligations. Some critics state that the ICC's action under the doctrine of superior responsibility may weaken the authority of national legal systems. States often have their own procedures for investigating and punishing crimes committed within their boundaries. However, the ICC's participation can undermine state sovereignty by bypassing national justice system and asserting jurisdiction over individuals charged with international crimes.

Another contention is that with the application of the doctrine, it interferes with sovereign states' internal affairs. The ICC violates the state's sovereignty and autonomy in addressing with internal issues by holding individuals accountable

for crimes committed inside a state's jurisdiction. State sovereignty requires that states have ultimate and independent authority to govern themselves and those within their territory (Hathaway, 2008).

Also, some states have stated that the doctrine may be subject to political abuse, that it is possible that head of State or high ranking officials may potentially be prosecuted for the actions of their subordinates with whom they have no interaction with (Bantekas, 2000).

ARGUMENTS

With respect to the claim that the ICC's doctrine circumvent the national justice system of the state, it must be taken into consideration that the International Criminal Court operates based on the principle of complementarity (McTaggart et al., 2022). The ICC respects the primary jurisdiction of the state's national legal system. According to our class discussion in Public International Law and under the Article 17 of the Rome statue, the ICC only intervenes when the State is "unwilling or unable genuinely to carry out investigation or prosecution". It does not pursue cases which are subjects of credible investigation or prosecution by the state through its legal system. With this, the ICC respects the State's sovereignty states by acknowledging the State's authority to address crimes committed within their territories. Also, the ICC is a court of last resort, it only ensures that justice is served when the national or state mechanism fails in holding high ranking officials accountable to crimes committed.

Another concern pertains to the criticism suggesting that the ICC's doctrine encroaches upon the internal affairs of sovereign states. It should be acknowledged that the ICC operates on the basis of state cooperation. As per the ICC's stance, becoming a party to the Rome Statute is a voluntary act, constituting a sovereign decision for each state to undertake. Moreover, state parties bear a fundamental obligation to provide complete cooperation to the Court regarding its inquiries and legal proceedings. Therefore, a state that willingly joined to the ICC cannot legitimately argue that the Court's actions amount to interference in its domestic affairs, as such cooperation is inherent in the decision to join.

Lastly, I agree that while it may have a possibility for certain superiors to be held responsible for the actions of subordinates with whom they have no direct interaction, but this doctrine could establish a culture of command diligence across all levels. It would emphasize the significance of diligence and proactive measures among individuals in positions of authority to prevent and address crimes committed by those under their command. By enforcing this doctrine and holding

leaders accountable for the actions of their subordinates, it both advances and strengthens the principles of the rule of law and state sovereignty.

CONCLUSION

In conclusion, the International Criminal Court's doctrine of superior responsibility do not pose a threat to the sovereignty of a State but rather it promotes cooperation between the State and International Court, accountability, command diligence or responsibility, and upholding the rule of law.

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INTERNATIONAL LAW

Article 51 of the UN Charter: Compliance Thereto Russia

by Angeli Lyka P. Folio

In order to escape liabilities and pursue its evil ends, aggressors will always justify the unjustifiable. No infringement of international law will ever be openly admitted by a State despite the fact that it has obviously committed wrongful acts. This is Russia's case, i.e., Russia's attack of Ukraine is a blatant violation of prohibition on "use of force." Its reliance on the principle of self-defense under Article 51 of the UN Charter falls short.

A decade ago, war between Russia and Ukraine started. Russia's annexation of Crimea in 2014 marked the beginning of Russia's military aggression of Ukraine. On February 24, 2022, Russia launched a full-scale invasion of Ukraine. In a television address, Putin said he aims to "demilitarize" and "de-Nazify" Ukraine, reiterating his unsubstantiated allegation that Ukrainian forces are carrying out a "genocide" in breakaway pro-Russian territories in the east.¹ He claims Kyiv has been carrying

out a "genocide" against the Russian-speaking population of the Donetsk and Luhansk regions, collectively known as the Donbas.² However, the international community considered these actions by Russia to be in breach of international law, i.e., Article 2(4) of the UN Charter on the "use of force." Article 2 (4) of the UN Charter prohibits the use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States.³ The prohibition on the use of force is not absolute. Self-defense and the Security Council's authorization are two accepted exceptions as explicitly set out in Article 51 of the UN Charter. Force may be used against another when a state is acting in self-defense. This was the legal justification invoked by Russia with regard its military aggression. It argues that it has responsibility to protect Russians in the Donbas region.

Article 51 provides that a state has the right to defend itself individually when attacked. It likewise allows a member state to act in the defense of another member state that has been subjected to an unlawful armed attack. Thus, an attacked member state can rely on individual self-defense; and collective self-defense provided that the latter asks for support. It should be pointed out that Donetsk and Luhansk are neither unrecognized internationally nor member state of the United Nations. They do not even qualify as states under international law, notwithstanding Russia's recognition of their independence.⁴ Thus, it cannot justify its actions as one in collective self-defense of Donetsk and Luhansk with regard its allegation that Ukraine was committing genocide because such right attaches only to States, not to non-State groups.

Also, there is no rule in customary international law which permits another state to exercise the right of collective self-defense based on its own assessment of the situation.⁵ Russia's above-mentioned justification is baseless because aside from the fact that Donetsk and Luhansk lack international recognition, it is also important that aid from other states must be explicitly requested by the attacked state.

Moreover, on its claim for individual self-defense, Russia claims that NATO's eastward expansion, and Ukraine's military build-up poses not only a "very real threat to Russia's interests but to the very existence of the Russian state and to its

sovereignty"⁶ However, it should be noted that the use force is permitted only in the event of actual armed attack. Anent thereto, the measures to be taken must be necessary and proportionate. Ukraine has not committed or threatened to commit an armed attack against Russia.

A state may respond in defense to an armed attack only if the attack is of significant gravity. Here, there was no imminent armed attack on Russia and

there is no reasonable necessity on the circumstances that would warrant the use of anticipatory self-defense.

Verily, like the prohibition on the use of force, the principle of “self defense” is likewise explicitly established in the UN charter. However, such cannot be used to shelter unlawful acts and justify flagrant violation of international law.

A state is obliged to act according to the international agreements it has ratified. Thus, if the Russian attacks do not fall under the principle of self-defense, it would qualify as an “internationally wrongful act” under the law on State Responsibility because of its blatant violation of the UN Charter and customary international law prohibition on the use of force.⁷



Russia's attack on Ukraine is really an obvious violation of international law. No credible proof was ever presented by Russia to justify its defenses as regards its compliance to Article 51 of the UN Charter.

Should Russia believe that its defenses hold weight, it should have brought the subject matter before the UN considering that it is one of the permanent members of the UN Security Council. However, Russia may have other interests and agendas regarding its attack against Ukraine that's why it went beyond the unimaginable.

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³ UN Security Council, Purposes and Principles of the UN (Chapter I UN Charter) available at <https://www.un.org/securitycouncil/> (last visited March 15, 2024)

Photo by: Anatolii Stepanov

⁴ John B. Bellinger III, PBS News Hour, How Russia's attack on Ukraine violates international law, March 4, 2022, available at <https://www.pbs.org/newshour/world/how-russias-attack-on-ukraine-violates-international-law> (last visited March 19, 2024)

⁵ MAX-PLANCK-INSTITUT, World Court Digest, available at https://www.mpil.de/de/pub/publikationen/archiv/world-court-digest.cfm?fuseaction_wcd=akt-dat&akt-dat=106020000100.cfm#:~:text=There%20is%20no%20rule%20in,own%20assessment%20of%20the%20situation (last visited March 19, 2024) – Part 1, April 29, 2022, available at <https://dailyjus.com/world/2022/04/implications-of-the-war-in-ukraine-under-international-law-the-use-of-force-under-international-law> (last visited March 19, 2024)

⁶ Jus Mundi, DAILY JUS, Implications Of The War In Ukraine Under International Law

⁷ Michael N. Schmitt, Russia's “Special Military Operation” and the (Claimed) Right of Self-Defense, February 28, 2022, available at <https://lieber.westpoint.edu/russia-special-military-operation-claimed-right-self-defense/> (last visited March 17, 2024)

INTERNATIONAL LAW

Arab-Israeli Normalization: Could it have triggered the Oct. 7, 2023, Hamas attack?

by Kevin James Oledan

It is the opinion of the writer that the Arab-Israeli Normalization may have triggered the Hamas attack on October 7, 2023. To understand the reason underlying this proposition, we must revisit the events that unfolded over a century ago, now known as the Palestine-Israel conflict originating from the rise of Zionism in Europe and the arrival of Jewish settlers to Ottoman-Palestine in the late 19th and early 20th centuries.¹

In 1917, the Balfour Declaration by Britain's then-foreign secretary, Arthur Balfour, was written as a letter addressed to Lionel Walter Rothschild, a figurehead of the British Jewish community. It promised the Zionist movement the establishment of a country, in a place where Palestinian Arab natives made up more than 90 percent of the population.² This promise was made without consulting the Arab settlers in Palestine at that time, and because of this, it is not hard to imagine how the conflict started. Included in the many conflicts is the Arab revolt in the early 1930s where many Arab nationalist militants from across the middle east banded together but suffered a bloody defeat against the British armed forces in Israel.

Decades later, the 1947 United Nations Partition Plan for Palestine triggered the 1948 Palestine war, which saw the expulsion and flight of most Palestinian Arabs, the establishment of Israel on most of the Mandate's territory.³ The conflict has

claimed many civilian casualties, mostly Palestinian, since its inception. Various attempts have been made to resolve the conflict as part of the Israeli–Palestinian peace process, alongside efforts to resolve the broader Arab–Israeli conflict.⁴

In 2007, Hamas, found itself in power and governance of the Gaza Strip. This was immediately followed by an Israeli blockade of the Gaza Strip with Egyptian support, and multiple wars with Israel. Hamas is known for its adamant non-recognition of Israel, although this is not explicitly provided in their Charter, its other provisions implicitly support the notion. In its revised 2017 Charter, Hamas strove for the “complete liberation of Palestine, from the river to the sea⁵” or from the River Jordan in the east to the Mediterranean in the west and also in its Charter it defined further the extent of territory of Palestine, “from Ras Al Naqurah in the north to Umm Al-Rashrash in the south”, i.e. the entirety of Israel, the Gaza Strip, and the West Bank.⁶ These claims further strengthen its views of non-recognition of Israel.

Hamas, claiming Palestine as an Arab state and asserting that the Gaza Strip, West Bank, and the entirety of Israel constitute Palestine, may have a desire for similar recognition from other Arab nations. Iran, for one, has been openly supporting Hamas. The Islamic Republic of Iran is a key patron of the Palestinian militant organization Hamas, which has controlled the Gaza Strip since 2006. Iran provides Hamas with funds, weapons, and training.⁷ If for instance, it could gain support from more Arab countries, its goals will have been more attainable.

This is where the Arab-Israeli Normalization comes into the picture. Over the years, numerous Arab League countries have signed peace and normalization treaties with Israel, beginning with the Egypt–Israel peace treaty (1979)⁸, the Israel–Jordan peace treaty (1994)⁹, the Abraham Accords normalizing relations between Israel–United Arab Emirates and Israel–Bahrain (2020)¹⁰, the Israel–Sudan normalization agreement (2020)¹¹ and the Israel–Morocco normalization agreement (2020)¹². Moreover, numerous Arab League members established semi-official relations with Israel.

While acknowledging the genuine suffering of the Palestinians in Gaza is reason enough to fight against Israel, Hamas cannot deny that the attack was greatly influenced by the acceleration of Arab-Israeli normalization. Hamas may have felt pressured that if a Saudi-Israeli normalization deal had been concluded, it would have been a turning point in the Arab-Israeli conflict, which may have eliminated the already weak chances of a two state solution.¹³ and they would lose all hope of obtaining the backing of the Saudi Arabian government.

Indiscriminate killing of innocent people, cannot be justified, not Hamas’ attack, nor Israel’s overwhelming retaliation, devastating, and flattening cities in the Gaza Strip, through carpet bombing which they would append with the dehumanizing term “mowing the grass¹⁴” from which Palestinian casualties have exceeded 30,000, with 70,000 injured.¹⁵

Hamas, committed the attack against Israel, but who are suffering in their stead? From the outset and even preceding the attack on the Gaza Strip, the Palestinian people endured profound suffering, and it unfortunately persists to this day.

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LEGAL COUNSELING

Potential Risks and Public Outrage: The Judicial Precedent Set by Gigi Reyes' Release

by Irene Maria L. Ibatan

I anticipate some crucial risks and public outrage against our justice system in connection with the release of Gigi Reyes who was charged with plunder during a major corruption scandal in the Philippines way back in 2013.

THE RELEASE OF GIGI REYES COULD POTENTIALLY SET EITHER A BENEFICIAL OR DANGEROUS JUDICIAL PRECEDENT.

Reyes's temporary liberty established a new legal principle wherein the Supreme Court and other lower courts are bound to apply in future cases with similar facts or legal issues. This means that the resolution made by the Supreme Court First Division may serve as a precedent, also known as "stare decisis", or a legal basis in subsequent cases involving similar circumstances. In *Fermin v. People*, the Supreme Court explained the doctrine as follows:

The doctrine of stare decisis enjoins adherence to judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of stare decisis is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.

The writ of habeas corpus applies to all cases of illegal confinement or detention in which individuals are deprived of liberty. It was devised as a speedy and effectual remedy to relieve persons from unlawful restraint; or, more specifically, to obtain immediate relief for those who may have been illegally confined or imprisoned without sufficient cause and thus deliver them from unlawful custody.

The existing law and jurisprudence in the Philippines described the writ of habeas corpus as

Photo by Rappler

a high prerogative writ that is only available in cases specified by law. Concomitantly, if a person's liberty is restrained by some legal process, the writ of habeas corpus is unavailing.

It should be noted that Gigi Reyes was detained based on a court order. She has been in prison since July 2014 when the Sandiganbayan ordered her arrest. The Supreme Court adopted the same ruling in a plethora of cases and held that the most basic criterion for the issuance of the writ, therefore, is that the individual seeking such relief be illegally deprived of his freedom of movement or placed under some form of illegal restraint. That is not the case with Gigi Reyes as she was not placed in some form of illegal detention.

The resolution of the Supreme Court may be considered a development in the legal system in that it now makes it possible to move for the temporary release of a detainee who has been placed behind bars for several years considering the slow progress of his/her case, without prejudice to the resolution of the pending case against him/her. This remedy will be proven beneficial if a person has been committed to jail due to fabricated charges and his/her case proceeds at a glacial pace. For instance, Leila de Lima had been detained since 2017 on drug-related charges before she was released on bail in November 2023. She had endured nearly seven years in prison because court proceedings against her had been marked by undue delays without fault on her part, and her last case is still ongoing as the prosecution has not yet completed the presentation of its evidence, not to mention the fact that some of the said witnesses have already recanted their testimonies. Just like Gigi Reyes, she had been deprived of her freedom which made her prolonged custody **"vexatious, capricious and oppressive"**.

Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. But there is still no guarantee that the Court will render a similar judgment in favor of other detainees since at the end of the day, the outcome would depend on how the justices would appreciate the factual and legal issues on a case-to-case basis.

However, said precedent could also be abused by some attorneys who would seek to have their clients released by simply invoking a violation of the constitutional right to a speedy trial. Offenders who have endured several years in prison may argue that they are also entitled to a writ of habeas corpus regardless of the gravity of the offense because even Gigi Reyes who was charged with a non-bailable offense was able to enjoy the privileged writ.

In general, the resolution could be a dangerous ju-

dicial precedent because it threatens to undermine the fundamental principles of justice and fairness in the legal system, and can be abused by those who are not legally entitled to it.

THE RESOLUTION COULD BE INTERPRETED AS AN INSTANCE OF UNFAIR AND BIASED TREATMENT UNDER THE LAW.

Apparently, the decision of the Court was frowned upon by the public who viewed it as partial and preferential treatment to powerful individuals, which could subvert public confidence in the judicial system. Some people were outraged by the news and pointed out how flawed the Philippine justice system is, favoring wealthy and influential people. If Reyes was similarly situated with the underprivileged who have less access to courts and no strong political links, she would have remained in jail until the final determination of her case.

The Philippines' criminal justice system is rife with impunity, allowing those who commit crimes against the public interest or even heinous crimes to get away with their accountability. Our law enforcement seems stringent to the poor but flexible to the powerful. If we could recall, an 80-year-old man was arrested for allegedly stealing 10 kilos of mangoes on land he used to own in Pangasinan, while VIPs, such as former first lady Imelda Marcos, manage to evade detention even when already convicted.

Generally, the length of a person's detention in the Philippines before they are exonerated depends on the nature of their case as well as the effectiveness of the legal system. But in reality, there have been cases of individuals who have been detained for several years without being convicted or acquitted, often due to factors such as the slow pace of court proceedings and lack of access to legal representation. But, were they able to argue that their right to a speedy trial has been violated? I guess not because that is just how the Philippine justice system works and they merely adhere to the judicial process.

If the writ of habeas corpus was granted to a person charged with plunder on account of her detention for several years, then other prisoners who have also been placed behind bars for several years may avail of that privileged writ, otherwise, this would just be another instance of how unfair and partial the justice system is.

In the words of Senate Minority Leader Aquilino Pimentel III, **"The latest decision of the Supreme Court in the case of Gigi Reyes should equally apply to all Filipinos who have been suffering from prolonged detention due to the country's slow justice system"**.

THE WRIT OF HABEAS CORPUS MAY BE PERCEIVED AS A SUBSTITUTE FOR BAIL IN CASE OF NON-BAILABLE OFFENSES.

Bail may be a matter of right or judicial discretion. Under Section 13, Article III of the 1987 Constitution, all persons are entitled to bail as a matter of right, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong. The wording of the law as to when bail should be granted is clear and unequivocal. However, the Supreme Court on several occasions sort of expanded the coverage of those who may be granted bail for humanitarian considerations. In *Enrile v. Sandiganbayan*, the Supreme Court explained that bail for the provisional liberty of the accused, regardless of the crime charged, should be allowed independently of the merits charged, provided his continued incarceration is injurious to his health and endanger his life.

In *People v. Sandiganbayan and Jinggoy Estrada*, Jinggoy filed with the Court an Urgent Motion praying for an early resolution of his Petition for Bail on Medical/Humanitarian Considerations but it was opposed by the petitioner on the ground that Jinggoy was a flight risk. The Supreme Court, nonetheless, ruled that the grant of bail was proper as he did not seem to be a flight risk as identified by the Sandiganbayan. The likelihood of his escape was considered nil, given his election on May 10, 2004, as Senator of the Republic of the Philippines.

We see that these are the same public officials who were involved in the Pork Barrel Scam that caused Gigi Reyes' incarceration, but all of them are now enjoying temporary liberty.

According to the former Supreme Court spokesman, Theodore Te, "As a legal remedy, this widens the space and opportunities for freedom for those who are being tried for offenses where bail is discretionary and whose rights to a speedy trial are violated." People in the legal field may now resort to the interim writ if the offense is non-bailable provided that they could prove a violation of the right to a speedy trial.

THE FILIPINO PEOPLE ARE DEPRIVED OF JUSTICE

The Pork Barrel Scam which involved billions of pesos sparked widespread protests and indignation when some notable congressmen and senators and their cronies were identified to have amassed unjustified riches and led extravagant lives amidst a poverty crisis. The public demanded that the people involved in this high-profile case be made accountable for that monumental theft of public funds. The people demanded justice but a decade later, some of the accountable public officials walk freely while others are seated in Congress as they were permitted to seek public office in prior elections. Would justice be genuinely served to the

Filipinos who have been deceived and defrauded by accountable public officials?

INTERNATIONAL COMMUNITIES MAY CRITICIZE OUR JUSTICE SYSTEM.

Some international organizations, such as Human Rights Watch and Amnesty International, have already criticized the Philippine justice system for being flawed and for failing to provide fair trials and due process rights to those accused of crimes.

If the accused in a high-profile case in the Philippines, such as Gigi Reyes, were released due to legal proceedings, some countries may view the release as a sign of progress toward an effective legal system, while others may view it as a sign of an unfair justice system. On the other hand, if the accused were released due to political interference or corruption, other countries may view this as a negative development that undermines the integrity of the justice system and erodes public trust.

In general, the international community expects countries to uphold the rule of law and ensure that the judicial process is fair and impartial. The Philippines should therefore work towards the improvement of its justice system.

1 G.R. No. 157643, March 28, 2008, 550 SCRA 132.

2 Id.

3 Go and the People v. Dimagiba, G.R. No. 151876, June 21, 2005.

4 Velasco v. Court of Appeals, 245 SCRA 677, 679.

5 De Villa v. The Director, New Bilibid Prisons, 485 Phil. 368, 381 (2004).

6 In re: The Writ of Habeas Corpus for Reynaldo De Villa v. The Director, G.R. No. 158802, November 17, 2004.

7 Reyes v. Director, G.R. No. 254838, Resolution promulgated on 17 January 2023.

8 Lazatin v. Desierto, G.R. No. 147097, June 5, 2009.

9 Bail me out: Remedies after arrest | DivinaLaw

10 G.R. No. 213847, Aug. 18, 2015.

11 G.R. No. 158754, 10 August 2007.

12 Everything you need to know about human rights in Philippines - Amnesty International Amnesty International.



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USAPANG LOKAL

How to fill permanent vacancies in the Sanggunian Panlalawigan, Panlungsod, Bayan and Barangay?

by Atty. Fernando Alonzo

Permanent Vacancies in the Sanggunian is governed by Section 45 of R.A. No. 7160 otherwise known as the Local Government Code of 1991 which provides, thus:

“Sec. 45. Permanent Vacancies in the Sanggunian. – (a) Permanent vacancies in the sanggunian where automatic successions provided above do not apply shall be filled by appointment in the following manner:

1. The **President**, through the Executive Secretary, in cases of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities;

2. The **Governor**, in the case of sangguniang

panlungsod of component cities and sangguniang bayan;

3. The **City or Municipal Mayor**, in the case of sangguniang barangay, upon recommendation of the sangguniang barangay concerned.

(b) Except for the sangguniang barangay, only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy in the sanggunian shall be appointed in the manner hereinabove provided. The appointee shall come from the same political party as that of the sanggunian member who caused the vacancy and shall serve the unexpired term of the vacant office. In the

appointment herein mentioned, a nomination and a certificate of membership of the appointee from the highest official of the political party concerned are conditions **sine qua non**, and any appointment without such nomination and certification shall be null and void **ab initio** and shall be a ground for administrative action against the official responsible therefor.

(c) In case the permanent vacancy is caused by a sanggunian member who does not belong to any political party, the local chief executive shall, upon recommendation of the sanggunian concerned, appoint a qualified person to fill the vacancy.

(d) In case of vacancy in the representa-

tion of the youth and the barangay in the sanggunian, said vacancy shall be filled automatically by the official next in rank of the organization concerned.”

What are the steps and who are the responsible persons in filling-up of permanent vacancies in the Sanggunian?

DISCUSSION:

At the outset, it is noteworthy to discuss first the instances wherein permanent vacancy occurs. “A permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns, or is otherwise permanently



Photo by City of Naga

incapacitated to discharge the functions of his office.”[Sec. 44, R.A. 7160].

In cases of permanent vacancies as mentioned above, the responsible officials in filling-up the said vacancies are the appointing authority and the recommending official or body. The **appointing authority** and the **recommending official or body** are summarized as follows:

In cases of vacancies in the Sanggunian of Provinces, Highly Urbanized Cities (HUCs) and Independent Component Cities (ICCs), the appointing authority is the President, through

the Executive Secretary, and the recommending official is the highest ranking official of the political party concerned, if the sanggunian member who caused the vacancy belongs to a political party, otherwise, the sanggunian of the concerned Province, HUC or ICC shall be the recommending body;

In cases of vacancies in the Sanggunian of component cities and municipalities, the Governor is the appointing authority and the recommending official is the highest ranking official of the political party concerned, if the sanggunian member who caused the vacancy belongs to a political

party, otherwise, the sanggunian of the concerned component city and municipality shall be the recommending body;

In cases of vacancies in the sanggunian barangay, the appointing authority is the Mayor and the recommending body of the sangguniang barangay concerned. The rule on political party affiliation does not apply, obviously because under existing laws, barangay elections are non-partisan.

Therefore, to operationalize the foregoing provisions of the law, the concerned recommending official or body shall initiate the

process by recommending a qualified person to fill the vacancy and submitting the same to the concerned appointing authority for appointment. The nominee must possess the qualifications enumerated in Section 39 of R.A. No. 7160 and none of the disqualifications stated in Section 40 of the same law.

The whole process is fulfilled when the appointing authority issues the appointment papers and the appointee's taking of oath and his or her assumption of office.

The Protection orders of Violence against Women and their Children: is it Violative of Men's Due Process?

by Atty. Barbette Joanne Magalona Badocdoc-Reposar

The Philippines, being a signatory of the United Nations, has actively taken part to the UN Declaration on the Elimination of Violence Against Women (1993). Among this is the signing into law Republic Act No. 9262, otherwise known as the Anti-violence against Women and Children Act of 2004.

The passing of said law was memorable because R.A. 9262 was signed into law on March 8, 2004, during the celebration of "International Women's Day" – a very symbolic statement that the government is taking action against abuses on women and children. It is also worthy to note that on January 15 of the same year, the Supreme Court has resolved that most controversial VAW case, the Marivic Genosa case.

Every time I would be a resource speaker of Gender and Development Forums and Seminars, the first question raised by men participants would be, "How about us men? Are we not protected?" or "Panu naman kaming mga lalaki? Wala bang VAMC or Violence against Men and Children?"

Hence, I think is it but appropriate and timely to discuss two (2) jurisprudences in relation to

VAWC and the questions on the validity of protections order and how the law is violative of equal protection and men's right to due process, among which is worthy to be discussed herein:

a) XXX, PETITIONER, VS. AAA, BBB, AND MINOR CCC, RESPONDENTS. (G.R. No. 187175, July 6, 2022);

In this case penned by Justice Leonen, the court has resolved a Petition for Review on Certiorari filed by XXX assailing the constitutionality of Republic Act No. 9262, or the Anti-Violence Against Women and their Children Act of 2004, in relation to the Regional Trial Court's grant of a Permanent Protection Order³ in favor of AAA; BBB; and minor CCC.

In this case, the constitutionality of R.A. 9262 was raised again. The Petitioner moreover questions the issuance of the TPO and the non-referral of VAWC case to a mediator as violative of the due process clause of the constitution.

Hence, Supreme Court referred in the case of *Garcia v. Drilon*. The court explained that in view of the principle of separation of powers and for lack of

any constitutional violation, this Court would refrain from tackling the true motivation of Congress in limiting the protection afforded under Republic Act No. 9262 to women and children only and has explained jurisprudential gauges where the constitutionality of R.A. 9262 was upheld, to wit:

“I. R.A. 9262 rests on substantial distinctions. The unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread gender bias and prejudice against women all make for real differences justifying the classification under the law. As Justice McIntyre succinctly states, “the accommodation of differences ...is the essence of true equality.”

II. The classification is germane to the purpose of the law. The distinction between men and women is germane to the purpose of R.A. 9262, which is to address violence committed against women and children, spelled out in its Declaration of Policy.

III. The classification is not limited to existing conditions only, and apply equally to all members

Moreover, the application of R.A. 9262 is not limited to the existing conditions when it was promulgated, but to future conditions as well, for as long as the safety and security of women and their children are threatened by violence and abuse.

As to the issue that the issuance of TPO is violative of men's right to due process:

In this case, the Petitioner alleges and says that: ***On the basis of unsubstantiated allegations, and practically no opportunity to respond, the husband is stripped of family, property, guns, money, children, job, future employment and reputation, all in a matter of seconds, without an inkling of what happened.***

The court explained that a *protection order* is an order issued to prevent further acts of violence against women and their children, their family or household members, and to grant other necessary reliefs. Its purpose is to safeguard the offended parties from further harm, minimize any disruption in their daily life and facilitate the opportunity and ability to regain control of their life.

The rules require that petitions for protection order be in writing, signed and verified by the petitioner thereby undertaking full responsibility, criminal or civil, for every allegation therein. Since “time is of the essence in cases of VAWC if further violence is to be prevented.

The court in its decision said:

“The grant of a TPO ex parte cannot, therefore, be challenged as violative of the right to due process. Just like a writ of preliminary attachment which is issued without notice and hearing because the time in which the hearing will take could be enough to enable the defendant to abscond or dispose of his property, in the same way, the victim of VAWC may already have suffered harrowing experiences in the hands of her tormentor, and possibly even death, if notice and hearing were required before such acts could be prevented. It is a constitutional commonplace that the ordinary requirements of procedural due process must yield to the necessities of protecting vital public interests, among which is protection of women and children from violence and threats to their personal safety and security.

The court even laid down the procedural requirements that when the TPO is issued ex parte, the court shall likewise order that notice be immediately given to the respondent directing him to file an opposition within five (5) days from service. The date of the preliminary conference and hearing on the merits shall likewise

be indicated on the notice. The opposition to the petition which the respondent himself shall verify, must be accompanied by the affidavits of witnesses and shall show cause why a temporary or permanent protection order should not be issued.

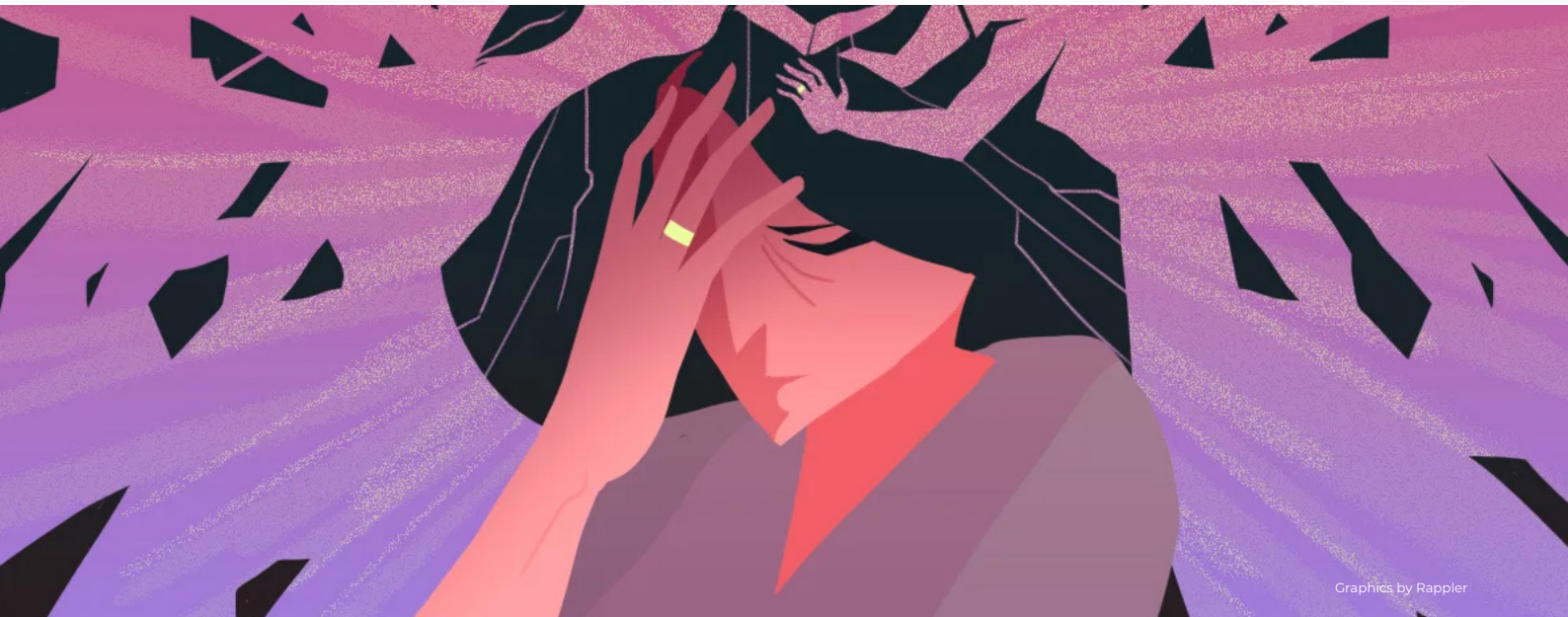
Thus, it is clear from the foregoing rules that the respondent of a petition for protection order should be apprised of the charges imputed to him and afforded an opportunity to present his side. In several jurisprudence, it has been upheld that the essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. “To be heard” does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.

As to the issue that the non-referral of the VAWC Cases is violative of men's right to due process:

The Petitioner in this case further argues that “by criminalizing run-of-the-mill arguments, instead of encouraging mediation and counseling, the law has done violence to the avowed policy of the State to “protect and strengthen the family as a basic autonomous social institution.”

The court then cited Section 23 (c) of A.M. No. 04-10-11-SC,151 which provides that the court shall not refer the case or any issue thereof to a mediator. The reason behind this provision is well-explained by the Commentary on Section 311 of the Model Code on Domestic and Family Violence as follows:

This section prohibits a court from ordering or referring parties to mediation in a proceeding for an order for protection. Mediation is a process by which parties in equivalent bargaining positions



voluntarily reach consensual agreement about the issue at hand. Violence, however, is not a subject for compromise. A process which involves parties mediating the issue of violence implies that the victim is somehow at fault. In addition, mediation of issues in a proceeding for an order of protection is problematic because the petitioner is frequently unable to participate equally with the person against whom the protection order has been sought.

The court in its conclusion emphasized that it is unnecessary to belabor petitioner's erroneous conclusion that Republic Act No. 9262 is an improper exercise of police power because it violates the constitutional guarantees of equal protection and due process.

To emphasize, before a duly assailed law or any of its provisions are to be declared void, "the grounds for nullity must be beyond reasonable doubt." - to which the petitioner miserably failed to raise convincing points of arguments that would merit a declaration of unconstitutionality.

Simply putted, the statement that R.A. 9262 is always pro-woman is not correct at all. In fact, in a case, the court has even allowed a father to apply for protection orders and custody against a

mother who is alleged to have committed violence against their children.

b) RANDY MICHAEL KNUTSON, ACTING ON BEHALF OF MINOR RHUBY SIBAL KNUTSON, PETITIONER, VS. HON. ELISA R. SARMIENTO-FLORES, IN HER CAPACITY AS ACTING PRESIDING JUDGE OF BRANCH 69, REGIONAL TRIAL COURT, TAGUIG CITY, AND ROSALINA SIBAL KNUTSON, RESPONDENTS. (G.R. No. 239215, July 12, 2022)

In this case, the court has allowed the issuance of Protection and Custody order in favor the father against a mother who has allegedly been committing violence against their own child.

The Respondent raised that the R.A. 9262's Protection Order should not be issued against her because the law should be protecting her, a woman. The court in its decision says otherwise. The court has explained the following points:

Section 9 (b) explicitly allows "parents or guardians of the offended party" to file for a protection orders. The statute categorically used the word "parents" which pertains to the father and the mother of the woman or the child victim. When the law speaks in clear language, no explanation is required. Similar-

ly, the statute did not qualify on who between the parents of the victim may apply for protection orders. Thus, when the law does not distinguish, the courts must not distinguish. The protection order cannot be issued in favor of the husband against the wife but justified with respect to the minor daughter.

The court has also cited section 3(a) of the law which used a gender-neutral word "person" as the offender of which embraces any person of either sex. The offender may also include other persons who conspired to commit the violence.

Lastly and differently stated, the court has emphasized that the fact that a social legislation affords special protection to a particular sector does not automatically suggest that its members are excluded from violating such law.

With these recent jurisprudences, it only goes to show that this law is not anti-men nor that is pro-women. Just like any other law, R.A. 9262 is there to punish the offenders who have committed the punishable acts laid down under the law.

Oh well, the law could be harsh, but it is the law.



Focus a Key to Success

by JM Capalar

As future Paulinian Abogados we live in a busy loop. We juggle between family, business, work, health, financial issues, relationships, and of course "Law School". While writing this article, I am already contemplating, "naks ang daming time", where in fact prelims are just a week away.

We strive to keep everything balanced by doing a lot, but the fact remains that we rarely get things done. It's like treading water where you try to tick off a list of tasks from your to-do list (that is if you have one). If you will analyze the situation, the actual issue here is not time but rather our "FOCUS" and "ENERGY." Guilty as charged! I, myself have a short attention span.

You eat, sleep, wake up and repeat almost 90% of similar tasks every day. But the harsh reality is that it doesn't lead you anywhere productive. Especially, when it comes to our readings in preparation for our weekend classes in law school. Our favorite lines, "kulang ang time", "our workload is heavy", etc.... the list of our excuses will go on and on. With all these commotions, one remains distracted, kicks the can down the road, and starts procrastinating.

If you lack focus or don't have sufficient energy, then no amount of time would be sufficient for you. Without proper focus and energy, you will never learn to spend time effectively.

What is Focus?

Lifhack.org defined focus as the ability to direct our attention towards one task in an all-in-dulgent manner, concentrating on the aspects related to or the results. Merriam-Webster defines focus as, "a point of concentration". Focus is a key pillar in life, as it is the driving force that defines a person's capacity.

To focus, some people require complete silence and a clutter-free workspace or study area. Some need music or loud TV, while others need personal mementos in their desks to get the right mindset. I personally love instrumental music as my background and a scented candle to help me focus.

There is no one-size-fits-all approach to creating a productive work and/or study environment. You must figure out what works best for you and create that space, even if you must spend a little extra and some effort (para sa ekonomiya at para sa pangarap!!!).

However, these definitions are just an aspect of it, but it isn't the whole picture of what focus is.

So, what is focus?

Leon Ho, Founder of Lifehack, linked focus to productivity and intelligence. According to Ho, “Productivity isn’t something that happens by chance, focus is the heart of productivity”. Getting everything, you need and want to do takes forethought and planning, and a steady source of drive and focus.

Productivity refers to achieving the best outcome in the shortest time possible. You can expand your energy more efficiently when you have a strong focus. It’s more than just doing more in less time. It’s all about doing more, smarter, and better, regardless of time. Superior attention helps you get a decent outcome no matter how much or little time you have. That is why high achievers can harvest benefits even when time is limited.

When your focus is split between multiple things, it doesn’t concentrate on anything. You may believe that you are concentrating on numerous things simultaneously, but this is not the case.

According to Ho, “focus connotes intelligence”. Intelligence is the ability to interpret and apply information to manipulate your surroundings. Intellectual people, on average, have a better ability to concentrate. (parang gusto kong ma validate sa mga Dean’s Listers...)

Your capacity to concentrate is one of the most indicators of intelligence. Whereas the ability to direct your attention and exert mental strength is called FOCUS. It includes what you think about or avoid thinking about, what you notice or overlook, what you believe about things, how long it takes for you to remember something, how quickly you can ingest and assimilate information, etc.

Why Can’t I Focus?

Are you always asking yourself, “Why can’t I focus?” If this is the case, you are not alone classmate. Our ability to focus has clearly been hampered by the digital age. According to Apple Analytics, we unlock our smartphones about 80 times per day, which undoubtedly underestimates the full scope of our digital diversions.

Admit it or not, we have that difficulty resisting the urge to check our phones even when we should be focusing on something else, in our case, our readings in preparation for the weekend classes. These interruptions aren’t trivial; they impair our ability to get important things done and reach our potential. Hence, focusing become such a challenge.

Why is it so difficult to concentrate? What causes a lack of focus?

Lifehack.org enumerated 7 things that affect your ability to focus.

External Distractions

These are things in our environment that divert our attention away from what we’re doing. They can be noise, sights, or events that occur because of our interactions with others or our use of technology. Unexpected phone calls or text messages, social media alerts, nearby conversations, and interactions with others are just a few instances.

Internal Distractions

These are distractions that originate within us. They are linked to our thoughts, emotions, and impulses. It includes unpleasant feelings such as worry or annoyance, as well as a sudden urge to check our phones or take a break from what we are doing.

Lack of Motivation

When people are unmotivated, they switch between tasks more frequently. However, when people are driven, they are more likely to stay focused on what they are doing.

Motivation functions as fuel, keeping us motivated and involved in what we’re doing. When we lack motivation, it is difficult to fully engage in a task. This lack of engagement makes it difficult to maintain focus and pay attention for an extended period.

We are more easily sidetracked when we are not motivated. External factors, as well as our own thoughts, can quickly divert our focus away from the activity at hand.

Unhealthy Diet

Your dietary choices have a significant impact on your capacity to focus. Thus, your food choices can have a direct impact on how well your brain performs.

Excess of sugary foods, refined carbohydrates, and highly processed food can impair your ability to focus. A spike in blood sugar levels caused by sugar consumption is usually followed by a strong energy drop, which disrupts your attention. Similarly, meals high in harmful saturated fats can cause inflammation, which can affect brain functions.

To increase attention and concentration, it is essential to maintain a balanced diet that promotes gut health and brain function.

Lack of Sleep

Sleep deprivation can have a substantial impact

on your ability to pay attention. Insufficient rest slows down your reaction, leading to inattentiveness and decreasing your responsiveness to external stimuli. This diminished alertness creates difficulties in absorbing new information and responding effectively.

Prioritizing a good night's sleep is an important step in improving your focus and mental clarity.

Stress and Burnout

People who experience burnout have a higher time staying focused. Burnout can change the way your brain works, making it harder for you to bounce back from tough situations. It makes you more sensitive to the external environment and makes it harder for you to deal with common disruptions like interruptions, notifications, and distractions.

Mental Health Conditions

Certain mental conditions such as ADHD (Attention-Deficit/Hyperactivity Disorder), Anxiety, and Depression can significantly hamper your ability to focus. If you suspect that you might have one of these conditions, consult a professional who can provide a proper diagnosis and treatment options.

How to Increase Your Attention Span

There are several ways to improve your short attention span. It's a matter of developing habits and learning self-discipline and focus. Enumerated below are 15 ways how to increase your attention span:

- Curb your screen time,
- Remove distractions
- Take notes
- Drink more water
- Get some exercise
- Try meditating
- Take a break
- Chew gum
- Stop multitasking
- Get enough sleep
- Turn the music up
- Practice attentive listening
- Experiment with timeboxing
- Try intermittent fasting

- Play some brain games

Final Words

Learning how to improve your focus is how you break free from the never-ending cycle of feeling busy and overwhelmed all the time. You are not alone if you are having trouble focusing. The reasons for the lack of focus are numerous, but determining the root cause is the first step toward finding a solution.

Following the 15 tips will help you improve your focus and attention span. Tackle your focus issues one day at a time for the short term. Patience and practice are all it takes to build a longer, more durable attention span.

HAPPY READING!



Photo by Pexels

LEADERSHIP JOURNEY

by Lourieniel Dacillo

I embarked on my journey in Law School as an observer, a silent person with a grand vision. Thoughts, ideas, and “what ifs” never crossed beyond the confines of my mind. My personality didn’t seem to align with the leaders we had at school—friendly, approachable individuals with sunny dispositions.

As I transitioned to the second semester of my first year in law school, I contemplated the kind of lawyer I aspired to be—a lawyer people could turn to. To achieve this, I knew I needed to change. I began by joining Bar Operations during the best bar ever as a follower, working with the graduating batch then in their third year. In my second year, I volunteered as VP for Internal Affairs to bridge gaps. I aimed to support my classmates, then known as batch Barnotch. I never aspired to lead; I was content being a follower, a silent leader in the shadows.

However, fate thrust me into the role of President of the Paulinian Lex Circle. I was apprehensive, aware that my personality didn’t seem to fit the position, and lacking a comprehensive view of what the FO Law community needed, I was confined within my shell. I feared I wouldn’t live up to the excellence of my predecessors.

Yet, an inner voice—the little girl who had always been a fighter—pushed me to step up. So, I embraced the challenge. After a month or two, two friends convinced me to join the Association of Law Students of the Philippines. Despite my hesitations, I welcomed the opportunity to test my limits and discover my capabilities. This journey became a journey of self-discovery.

I began standing alongside leaders from other law schools and connecting with heads of





various organizations. In moments of fear, criticism, and adversity, I reminded myself that I embodied the essence could connect with peers, and professors, hoping to ignite a passion for service, a driving force that can help you go through law school without quitting.

In a world where we are all focused on personal growth, we must also look back on our previous struggles to bring solutions for today. Thus, we launched the Law Student Boot Camp. Understanding the struggles of first-year students, trying to adapt, and finding their group, we aimed to ease their transition. Despite the extra hours, I was happy with their participation. As months passed, faculty support for my ideas grew. Though burdensome for some, I emphasized focusing on benefits rather than how tired we were. Even without direct thanks, the impact on appreciative supporters mattered most. Because there is greater glory waiting for us at the end.

Once a silent presence, often seen alone in hallways, I was known by name, perhaps for an unfriendly demeanor. Yet, I possessed an uncanny ability to read subtle cues and body language, addressing unheard issues, I might not talk much by my love language was through action which is why we continued experimenting with what works and what doesn't.

We introduced changes to the Lecture Series, transitioning from typical law-centered lectures to including Mental Health Lectures and varied Law Days games, showcasing diverse student talents. It brought me immense joy to witness students shine in different avenues. Despite exhaustion and sleepless nights, my focus remained on

supporting others because I didn't want them to feel the struggles I experienced.

Through leadership, we implemented programs addressing the unspoken needs of people, nature, and animals, fostering a safe, inclusive environment valuing everyone. Despite my shortcomings, being stern or emotional, I strived to be better.

Concluding my leadership, I hope students draw inspiration and cultivate active senses, listening not just with ears but hearts, and leading with compassion and understanding. Be someone who talks when necessary, listens, and answers to understand.

Surround yourself with the right people because you will shine where you are valued, you can lead when you are supported. Leap and don't be afraid of what is on the other side. Law School is more enjoyable when you get to contribute to the growth of your fellow students. If you feel lost, know that in moments when you think you have nothing more to give, that is when you'll realize that there is still more of you to go around. Finally, always ask for guidance from the almighty. He will always guide you to adventures you thought you were not brave enough to venture.

I'm grateful for believers, my supportive team, and students valuing silent yet action-packed leadership, I, as President of the Paulinian Lex Circle 2023, ALSP Visayas, Island Director, interim Secretary, and Assistant Academic Head of Bar Operations 2020-2024, challenge you to be the next leader who uplifts others.

Overcoming Stereotypes: Breaking Barriers as a Law Student Mother of SPSPS

by (MR. B) #LAWkey



Photo by Pexels

Breaking Barriers #thisismOMent

In today's society, stereotypes continue to persist and hinder individuals from reaching their full potential. One group often facing such stereotypes are mothers who choose to pursue higher education while simultaneously balancing the responsibilities of motherhood. This article aims to shed light on the experiences of a law student mother who overcomes stereotypes and breaks barriers in pursuit of her dreams in SPSPS. By examining the challenges she faces, the importance of defying stereotypes, and the strategies employed during this journey, it becomes

evident that women can excel as law students and mothers despite societal preconceptions.

Being a law student mother, overcoming stereotypes is an intrinsic challenge. Society often expects mothers to prioritize their families over personal and professional pursuits, perpetuating the belief that women cannot juggle multiple roles successfully. However, law student mothers defy this stereotype by choosing to pursue her passion for law while continuing to provide a nurturing environment for her children. By challenging these societal expectations, she not only proves her ability to find equilibrium between her roles but also paves

the way for future generations of women to break free from limiting stereotypes.

In defying stereotypes, the importance of dismantling such societal beliefs is put into spotlight. Stereotypes limit women's choices, discourage ambition, and perpetuate inequality. By breaking barriers as a law student mother, this individual proves that stereotypes do not define one's potential. Furthermore, her achievements provide inspiration for other women facing similar challenges, showing that they too can pursue their passions and careers alongside motherhood. This highlights the significance

of challenging stereotypes and the positive impact it has on individuals and society as a whole.

To actively combat and overcome stereotypes, the law student mother employs various strategies throughout her journey. First and foremost, she prioritizes her time and tasks effectively, ensuring that she devotes enough energy and focus to both her studies and her family. Moreover, she builds a strong support system around her, including family, friends, and fellow law students, who understand and empathize with her challenges. Through their support, she finds solace, encouragement, and practical assistance in tackling both her academic and parental

responsibilities.

Additionally, the law student mother practices self-care, recognizing the importance of taking care of her overall well-being. By finding moments for self-reflection and rejuvenation, she strengthens her resilience and remains motivated despite the obstacles she encounters. Finally, she utilizes her experiences as a law student mother to advocate for change, actively challenging societal perceptions and promoting gender equality in the legal field. Through her activism, she fosters a more inclusive and supportive environment for future generations, ultimately breaking down stereotypes for coming law student mothers.

Succinctly, this law stu-

dent mother's journey of breaking barriers and overcoming stereotypes serves as a powerful example of female empowerment and societal progress. By confronting the challenges head-on, prioritizing and managing her time effectively, building a strong support system, practicing self-care, and advocating for change, she defies societal preconceptions and challenges the notion that women cannot succeed as law student mothers. Her achievements not only inspire other women to pursue their dreams but also reshape societal expectations, leading to a more inclusive and equitable future for all.

