

**THE LAND FEELS:  
CONFLICTS BETWEEN THE CONSTITUTIONAL RIGHT  
TO A BALANCED AND HEALTHFUL ECOLOGY AND  
STATE POLICIES ON WASTE MANAGEMENT\***

*Alman Dave O. Quiboquibo\*\**

**PROLOGUE: A PRELIMINARY INVESTIGATION  
ON THE STATE OF NATURE AND THE ENVIRONMENT**

The discourse of human progress is incomplete without an analysis of the regressive impact of the pursuit of modernity on the human environment. The intimate association of economic and industrial development with population growth, pollution, and poverty is all too real to deny.<sup>1</sup> Both population growth and pollution are properly within the concerns of an investigation of environmental issues, and an assessment of the current state of nature necessarily includes an exploration into this vinculum. While the problem of pollution is in no way contemporary, its recognition as a negative factor in the evaluation of the ends of development is only of dramatic recency.<sup>2</sup>

---

\* This paper was submitted to the Philippine Law Journal 1999 – 2000 Editorial Examinations.

\*\* Second Year, LL.B., University of the Philippines College of Law. *Chairperson*, PHILIPPINE LAW JOURNAL 1999 – 2000.

<sup>1</sup> It has been said that all the world's ills involve these three P's. See E. KORMONDY, CONCEPTS OF ECOLOGY 165 (1969).

<sup>2</sup> *Id.*

In the same way, while attention to the effects of population growth and the necessity for its regulation was made as far back as 200 years ago, the consequences of unregulated growth have been felt only within the past few decades.<sup>3</sup> The connection between population growth and the degradation of the human environment is significant in that pollution is essentially man-made.<sup>4</sup> As such, the amount of pollution being generated has a direct correlation with the magnitude of the population of a given community.

Proceeding from this conclusion, consider, for example, this grim scenario: human population increases at an alarmingly rapid<sup>5</sup> pace while progress sweeps all of humanity at an equally unbelievable velocity. The technological and economic advancement of human society results in an increase in both production and consumption, which in turn, predicates the swelling generation of vast amounts of solid waste.<sup>6</sup> No long stretch of the imagination is necessary to predict a dark, dank, and displeasing future.<sup>7</sup>

---

<sup>3</sup> *Id.*

<sup>4</sup> The following is a definition of pollution adopted by the Environmental Pollution Panel of the U.S. President's Advisory Committee in its report, "Restoring the Quality of our Environment" as quoted in *Id.*, at 179: "Environmental pollution is the *unfavorable alteration* of our surroundings, wholly or largely as a *by-product of man's actions*, through direct or indirect effects of changes in energy patterns, radiation levels, chemical and physical constitution and abundances of organisms. These changes may affect man directly, or through his supplies of water and of agricultural and other biological products, his physical objects or possessions, or his opportunities for recreation and appreciation of nature." (emphases supplied)

<sup>5</sup> Kormondy asserts that "there is little question but that the world population is heading toward far greater numbers – and far greater problems in consequence." *Id.*, at 166.

<sup>6</sup> Pollutants are the residues of things which man "makes, uses, and throws away. They are concomitants of a technological society with a high standard of living. They increase both because of population increase and because of an increasing expectation for higher living standards; more is made, used, and thrown away." *Id.*, at 179-180.

<sup>7</sup> Studies conducted in 1990 indicate that global human population grows by an average of 92 million people annually. It is projected that by the end of this century, there will be far more than 6 billion human beings who will continue to magnify the growth spurt. The numbers continue to inflate and there is no indication that population growth will be slowed. See C.P. KOTTAK, *ANTHROPOLOGY: THE EXPLOSION OF HUMAN DIVERSITY* 427-429 (1991).

The matter is made more profound by that fact that "as the earth becomes more crowded... one person's trash basket is another's living space."<sup>8</sup> While rapid scientific development has resulted in technologies that attempt at creating more efficient means of disposing and processing garbage, discoveries in waste management have failed to keep apace with the volume of trash being spawned by highly urban societies.<sup>9</sup>

In the Philippines, the situation is no different. Pollution, population growth, and poverty in these islands have certainly reached profound proportions. Specifically, the situation in Metro Manila is a tribute to the unmitigated effects on the environment of rapid and unrestrained urbanization.<sup>10</sup> Solid waste management in the sprawling metropolis leaves much to be desired, primarily because 13 million urban dwellers are utilizing infrastructures that are adequate only for less than a sixth of its inhabitants.<sup>11</sup>

The environmental dilemma finds dramatization in the plight of the residents of Barangay Pintong Bocaue in San Mateo, Rizal, where an expansive sanitary landfill sits. Daily, the landfill receives its fair share of Metro Manila's 5,500 tons of garbage.<sup>12</sup> There have been vocal and at times violent opposition from the communities that suffer the consequences of living near the landfill.<sup>13</sup> Although the depiction of the problem has largely been focused on the ill effects

---

<sup>8</sup> 1966 Report by the Committee on Pollution of the National Academy of Science as quoted in KORMONDY, *supra* note 1, at 180.

<sup>9</sup> Another negative factor in this environmental battle is the evil of poverty, which was "contemporaneous with the development of socio-economic hierarchies." *Id.*, at 165.

<sup>10</sup> The World Bank, in 1989 study, noted that these environmental problems "have, in at least several cases, reached proportions such that remedies will be extremely costly." WORLD BANK COUNTRY STUDY, PHILIPPINES: ENVIRONMENT AND NATURAL RESOURCE MANAGEMENT STUDY 3 (1989).

<sup>11</sup> *Id.*

<sup>12</sup> JAPAN INTERNATIONAL COOPERATIVE AGENCY, THE STUDY ON SOLID WASTE MANAGEMENT FOR METRO MANILA IN THE REPUBLIC OF THE PHILIPPINES, 8 (1997). According to the study, Metro Manila's trash is distributed to different landfills and open dumpsites. 38% are buried in Carmona, Cavite, 2% in Catmon, Malabon, 25% are dumped in Payatas, and 35% in San Mateo. *Id.*, at 12. However, only the Quezon City government utilizes the Payatas dumpsite. More recent figures peg the volume of the trash at much higher numbers.

<sup>13</sup> The residents of San Mateo expressed their disapproval to the operation of the dumpsite by forming a human barricade at the Masinag Junction to block the entry of dump trucks. See "Rizal folk set human barricade," PHIL. DAILY INQUIRER 1 (July 18, 1999).

of the landfill on the environment, the lives, and the health of the San Mateo folk, equally perturbed by this situation of not having anywhere to dump its trash is the bloated population of Metro Manila.

There are allegations to the effect that not only has the landfill failed to comply with zoning regulations, it has also disregarded the environmental guidelines established by the Department of Environment and Natural Resources concerning landfill operations. It is also suggested that the maintenance of landfills in general, infringes upon a very basic albeit novel constitutional right.<sup>14</sup>

There is a plethora of policy and legal questions sought to be addressed by this paper. But this investigation will focus on two specific inquiries: First, Do landfill operations, particularly that in San Mateo, violate the right of the people to a healthful environment? And second, Can the State invoke police power in order to regulate the exercise of this right, given its duty and the need to collect and dispose of garbage? In order to appreciate the peculiarities of the rights and responsibilities in conflict here, the author shall proceed, first, with an account of the historical and theoretical development of the right to an environment.<sup>15</sup>

This part shall consider the international, as well as the Philippine, experiences. The paper shall also look into the State's power to exploit its natural resources, and thereby the prerogative to sanction or legitimize certain acts that constitute pollution. Finally, the paper shall analyze the inherent conflict between these two opposing poles, and will attempt a happy compromise, within the ideals of sustainable development.

### ROOTS OF A NOVEL RIGHT

The right to a healthful environment, together with the rights to peace and development, belongs to a class called "third generation rights" which are "essentially collective in dimension (i.e., e[x]pressed to be group or collective rights), and depend heavily on substantial cooperation by social forces for their

---

<sup>14</sup> *Id.*

<sup>15</sup> Although there exist fine distinctions between the "right to an environment" and the "right to a healthful and balanced environment", this paper does not make such distinctions, and shall use both terms to express the same ideal.

achievement.”<sup>16</sup> What this simply means is that in contrast to first and second generation rights, which have for their subject the individual person,<sup>17</sup> the new wave of rights concern communities and their relationships as well as responsibilities towards each other.<sup>18</sup>

Although the body of international environmental law, admittedly a nebulous assembly of declarations and conventions aimed at protecting and preserving all things associated with the equally vague terms “nature” and “environment”<sup>19</sup>, is considered by many as simply a codification of an inherent right which has preexisted all legal instruments,<sup>20</sup> the international consciousness towards legal environmentalism was only first mentioned in the 1972 Stockholm

---

<sup>16</sup> P. TAYLOR, AN ECOLOGICAL APPROACH TO INTERNATIONAL LAW: RESPONDING TO CHALLENGES OF CLIMATE CHANGE 201 (1998). This concept is attributed to Karl Vasak, who defined third generation human rights in these terms: “[They] are new in the aspirations they express, are new from the point of view of human rights in that they seek to infuse the human dimension into areas where it has all too often been missing, having been left to the State, or States... [T]hey are new in that they may both be *invoked against* the State and *demand*ed of it; but above all (and herein lies their essential characteristic) *they can be realized only through the concerted efforts of all the actors on the social scene*: the individual, the State, public and private bodies and the international community.” Third generation rights are said to include also the right to political, economic, and cultural self-determination, the right to participate in and benefit from the common heritage of mankind; and the right to humanitarian relief.

<sup>17</sup> Civil and Political Rights are considered as first generation rights, while Economic, Social and Cultural Rights belong to the category of second generation rights. These rights are embodied in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights and the International Covenant of Economic, Social and Cultural Rights. Third Generation rights, on the other hand, are referred to as “new solidarity rights.” See *Id.*, at 201-202.

<sup>18</sup> *Id.*, at 201.

<sup>19</sup> There is some dispute and much debate about what the environment encompasses. See *Id.*, at 80-81, 196. Environment would include territory in its traditional sense of land mass, internal waters, air space and territorial sea. But Dupuy opines that “‘Environment’ is a much wider concept than the highly material concept of ‘territory’ and means that States must in [the] future widen the scope of their administrative controls.” *Id.* An administrative order defines the environment as referring “to the physical factors of the total surroundings of human beings, including the land, water, atmosphere, climate, sound, odors, tastes, the biological factors of animals and plants and the social factors of aesthetics. In a broad sense, it shall include the total environmental of human beings such as economic, social, cultural, political and historical factors.” DENR Admin. Order No. 96-96 (1996), sec. 5 (w).

<sup>20</sup> TAYLOR, *supra* note 16, at 202.

United Nations Declaration on the Human Environment. Principle 1 of the Declaration states:

Man has the fundamental right to freedom, equality and adequate conditions of life in an environment that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment of present and future generations.

However, the right has been the subject of dispute among legal experts, as to its content, effect, and enforcement. While some are of the considered opinion that this right is an independent right imposing obligations upon individuals, States, and the world at large, others view this as merely part of universally recognized rules about which States are not allowed to contract of. Still others consider the right as a law still in the making.<sup>21</sup>

It appears that at present, there is actually no UN instrument which unequivocally states the existence of a human right to a sound environment.<sup>22</sup> International human rights instruments have basically ignored the value of this fundamental right.<sup>23</sup> "If such a right exists," suggests Taylor, "then it may do so either because it can be derived from existing human rights treaties or because it exists under customary international law as a specific legal norm."<sup>24</sup>

---

<sup>21</sup> A. S. TOLENTINO JR., *Foreword* in *WATCHING THE TREES GROW: NEW PERSPECTIVES ON STANDING TO SUE FOR ENVIRONMENTAL RIGHTS* i (1995).

<sup>22</sup> TAYLOR, *supra* note 16, at 197. The author says that "[d]espite the fact that no existing United Nations instrument expressly declares the existence of a human right to a sound environment, some commentators argue that the right can be derived from a variety of human rights currently recognized by United Nations documents."

<sup>23</sup> Owen Lynch laments that "...international human rights instruments have typically accorded minimal attention to the environment. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Universal Declaration of Human Rights, three primary international human rights instruments, barely mention the relationship between protection of the environment and human rights." Owen J. Lynch and Greg Maggio, "Human Rights, Environment, and Economic Development: Existing and Emerging Standards in International Law and Global Society," <http://www.igc.apc.org/ciel/> (Visited 22 February 2000).

<sup>24</sup> TAYLOR, *supra* note 16, at 197.

It is argued that the inherent right to life necessarily requires the protection of the Earth's environment.<sup>25</sup> Stated in broader terms, protection of the environment has been considered as an essential prerequisite to the assurance of all human rights, because failure to provide for environmental protection can amount to a violation of basic human rights.<sup>26</sup>

The 1992 UN Conference on Environment and Development (UNCED), also known as the "Earth Summit" gave rise to what is now known as the Rio Declaration, which is still a step short of establishing the right to a healthful environment. In lieu of adopting an "Earth Charter," the Conference adopted the Rio Declaration as a "soft" law<sup>27</sup> containing *non-binding* principles, which states in Principle 1 that

Human beings are at the center of concerns for sustainable development. *They are entitled to a healthy and productive life in harmony with nature.* (Emphasis supplied)

It is believed that while Rio was an opportunity lost, it might nonetheless be the harbinger of something more concrete in the future.<sup>28</sup> In fine, it cannot be doubted that "[t]here is a definite movement toward express international recognition of a human right to a sound environment."<sup>29</sup>

#### THE CONSTITUTIONAL GUARANTEE TO A HEALTHFUL ENVIRONMENT: THE PHILIPPINE EXPERIENCE

In the Philippines, however, environmentalists need not engage in legal gymnastics in order to extract the inalienable right to a healthful environment. Section 16, article II of the 1987 Constitution explicitly provides that:

---

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, at 200.

<sup>27</sup> A "soft law" is understood to be a mere declaration, which has no binding character.

<sup>28</sup> TAYLOR, *supra* note 16, at 325.

<sup>29</sup> *Id.*, at 209.

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

While it may appear that the constitutional provision is novel in its attempt to embody the growing concern for the protection of the environment into the charter, it does not stand alone amidst the international trepidation for the establishment of such a right. The Bulgarian Constitution contains an almost identical provision, when it provided that "Citizens shall have the right a healthy and favorable environment corresponding to established standards and norms."<sup>30</sup> The Dutch Constitution was well ahead of the Philippine Charter in declaring the fundamental right to a healthful environment.<sup>31</sup> Other countries which explicate this right are Brazil<sup>32</sup>, Germany, Austria, and Switzerland.<sup>33</sup>

But the pronouncement in the 1987 Constitution is in no way unprecedented. As early as 1977, the Environmental Code of the Philippines has declared the existence of the right to a healthful environment in these words:

...the Government recognizes the right of the people to a healthful environment. It shall be the duty and responsibility of each individual to contribute to the preservation and enhancement of the Philippine environment.<sup>34</sup>

So why then was it necessary to include the right in the fundamental law? The import of a constitutional right to a healthful environment is to "frame the description of the pollution event in terms of a public assault upon an individual's substantive right to life and health."<sup>35</sup> A constitutional provision is therefore more significant than a legislative act because a constitutional norm has major

---

<sup>30</sup> BULG. CONST., art LV (July 12, 1991).

<sup>31</sup> The Dutch Constitution incorporated this right in 1983. Article 21 of the Dutch Constitution reads as follows: "It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment." See Jonathan Verschuuren, "The constitutional right to environmental protection," <http://till.kub.nl/data/topic/envartcult.html> (Visited 15 August 1999).

<sup>32</sup> Brazil's Constitution declares in Art 225, Chap VI that "Everyone has the right to an ecologically balanced environment."

<sup>33</sup> Verschuuren, *supra* note 31.

<sup>34</sup> Pres. Decree No. 1152 (1977), sec. 3.

<sup>35</sup> Richard Brooks, *A Constitutional Right to a Healthful Environment*, 16 VERMONT L. REV. 1063, 1109 (1992).



implications on legislative, administrative and judicial policies.<sup>36</sup> A constitutional pronouncement to this effect is also important in determining a concrete right and duty correlative between the State and the individual. The right, therefore, offers citizens "a certain level of protection against environmentally dangerous actions of the government."<sup>37</sup>

Furthermore, since a democratic constitution reflects the "highest aspirations of the people,"<sup>38</sup> and is also the basic and paramount law to which all other laws must conform, then the ecological mandate of the nation will be a major factor in the formulation of government policy. The reason why the community of nations has fallen short of declaring the right is primarily because such would create responsibility, and thereby liability among States in their relation with others.<sup>39</sup> While the rest of the world abdicates such an obligation, the 1987 Constitution embraces the right and its correlative duty.

Furthermore, sec. 16 of art. II is not just an empty provision akin to a promise. It does not, contrary to what Justice Isagani Cruz believes, belong to portions which sound "like a political speech rather than a formal document stating only basic precepts."<sup>40</sup> While generally, provisions in the Declaration of Principles and State Policies are considered hortatory and thereby not self-executing, the Supreme Court has promulgated a landmark doctrine in the case of *Oposa v. Factoran*<sup>41</sup> when it said that although the right to a healthful and balanced ecology is not found in the Bill of Rights, it is nonetheless no

---

<sup>36</sup> Verschuuren, *supra* note 31.

<sup>37</sup> *Id.* Verschuuren argues that "[i]t is even possible that the 'right to a healthy environment' is considered to be such an important fundamental right for individuals, that it has to be laid down in the constitutional contract."

<sup>38</sup> Preamble, CONST.

<sup>39</sup> The international obligation to protect the environment therefore, is directed between and among states, in contrast to a Constitutional right which is a relationship between an individual and the state.

<sup>40</sup> I. CRUZ, PHILIPPINE POLITICAL LAW 11 (1995). Justice Isagani Cruz criticizes this provision, together with those on sports, love, drugs, and advertising as having no place in a constitution.

<sup>41</sup> G.R. No. 101083, July 30, 1993, 224 SCRA 792.

less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation... the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind.<sup>42</sup>

The Court did not stop at that, but continued to define the right to a balanced and healthful ecology as carrying the correlative duty on the part of the government to refrain from impairing the environment.<sup>43</sup> Through then Associate Justice (now Chief Justice) Hilario Davide Jr., the Court concluded that the right to a balanced and healthful ecology is as clear as the government's duty to protect and advance the said right, because a denial or violation of this right by another who has the correlative duty or obligation to respect or protect the same would give rise to a cause of action.<sup>44</sup> On the issue of whether the petitioners had a cause of action to compel the Department of Environment and Natural Resources to cancel all existing timber license agreements, the Court ruled in the affirmative, citing established jurisprudence defining a cause of action as

An act or omission of one party in violation of the legal right or rights of the other; and its essential elements are obligation of the defendant, and act or omission of the defendant in violation of said legal right.<sup>45</sup>

Clearly, it was the Court's declaration that the petitioners had standing to sue (which was never contested by respondents) based on the twin concepts of intergenerational responsibility and environmental justice, which the Court described as "a special and novel element".<sup>46</sup> Justice Davide continued:

---

<sup>42</sup> *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993, 224 SCRA 792, 804-805.

<sup>43</sup> *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993, 224 SCRA 792, 805.

<sup>44</sup> *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993, 224 SCRA 792, 805.

<sup>45</sup> *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993, 224 SCRA 792, 805, citing *Ma-ao Sugar Central Co. v. Barrios*, 79 Phil. 666 (1947), *Community Investment and Finance Corp. v. Garcia*, 88 Phil. 215 (1951), *Remitere v. vda. de Yulo*, 16 SCRA 251 (1966), *Caseñas v. Rosales*, 19 SCRA 462 (1967), *Virata v. Sandiganbayan*, 202 SCRA 680 (1991), *Madrona v. Rosal*, 204 SCRA 1 (1991). See also Dante B. Gatmaytan, *Half a Landmark Case: Reflections on Oposa v. Factoran*, 6 PHIL. NAT. RES. L.J. 34 (1993) and RULES OF CIVIL PROCEDURE (1997), rule 2, sec. 2.

<sup>46</sup> *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993, 224 SCRA 792, 802.

We find no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit. Their personality to sue in behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned. Such a right, as hereinafter expounded, considers the "rhythm and harmony of nature." ... Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come.<sup>47</sup>

Although environmentalists celebrated the Court's ruling and considered it a big leap in the increasing awareness towards caring for the environment, as Prof. Dante Gatmaytan observes, *Oposa* is but a potentially powerful case, and its inadequacy lies in the fact that the (half a) landmark decision has yet to see concrete results in the field.<sup>48</sup> Indeed, *Oposa* was concerned primarily with a procedural issue – that of standing – in which the Court merely remanded the case to the trial court for determination on the merits. There was, in effect a pronouncement of the existence of a legal and demandable right, but hardly an enforcement of it. The decision having been promulgated in 1993, there is apparently no clear indication that the judicial recognition of this urgent right has resulted in any concrete improvement in the condition of the country's environment, nor has it been an instrument for the protection of the right of the individual.<sup>49</sup>

Justice Feliciano's separate opinion is predicated on the ambiguity of the right, and the failure of the petitioners to state a valid cause of action. He said that plaintiffs failed to identify a "specific fundamental legal right" having been violated, because nothing, in his words, could be more "comprehensive in scope and generalized in character"<sup>50</sup> than the right to a balanced and healthful ecology.

---

<sup>47</sup> *Oposa v. Factoran*. G.R. No. 101083, July 30, 1993, 224 SCRA 792, 802.

<sup>48</sup> Gatmaytan, *supra* note 45, at 43.

<sup>49</sup> It is worth noting, however, that after the promulgation of *Oposa v. Factoran*, no timber license agreements have been issued by the Department of Environment and Natural Resources. Nonetheless, the prayer of the petitioners in the case for the cancellation of *all* TLAs largely remains ignored. In fact, the DENR has since been issuing similar contracts called Industrial Forest Management Agreements which has the same force and effect as TLAs.

<sup>50</sup> *Oposa v. Factoran*. G.R. No. 101083, July 30, 1993, 224 SCRA 792, 815.

Nonetheless, he concurred in the result because of the paramount need to protect the environment.

#### CONFLICT OF RIGHTS: THE STATE'S POWER TO POLLUTE AND THE INDIVIDUAL'S CONSTITUTIONAL RIGHT TO A HEALTHFUL ENVIRONMENT

It is conceded that "one of the powers of modern government is the power to pollute."<sup>51</sup> This finds expression in the sovereign right of the state to exploit its own resources. "The exploration, development, and utilization of natural resources shall be under the full control and the supervision of the State."<sup>52</sup> It may also be said that this is within the broader concept of police power which is inherent in all sovereign governments. However, the "power to pollute" is tempered by the right of the people to a healthful and balanced ecology, which in turn is also subject to the police power of the State. Generally speaking, police power<sup>53</sup> is the promotion of the public welfare by restraining and regulating the use of liberty and property. It has been described as the least limitable, most pervasive, and most demanding of the three powers of the State.<sup>54</sup> It is derived from the doctrine of *parens patriae*, or the understanding that the State is the guardian of the rights of all the people, and thus has the sovereign power to govern and therefore subject individual rights to reasonable regulation.<sup>55</sup>

While a democracy like the Philippines places great premium on the rights of individuals as guaranteed by law and the Constitution, nonetheless, hardly any of these rights is absolute. Thus, even the most basic right to life, liberty, and property can be deprived, provided that there is due process of law.<sup>56</sup> In the same manner, the right to a healthful and balanced ecology, while

---

<sup>51</sup> Brooks, *supra* note 35, at 1102.

<sup>52</sup> CONST. art. XII, sec. 2.

<sup>53</sup> Police power is derived from the latin maxims *salus populi est suprema lex* (or that the welfare of all the people is the supreme law) and *sic utere tuo ut alienum non laedas* (subordination of individual benefit to the interests of the greater number). I. CRUZ, CONSTITUTIONAL LAW, 39 (1995).

<sup>54</sup> *Id.*, at 38.

<sup>55</sup> *Id.* See also N. MIETUS AND B. WEST, PERSONAL LAW 9 (1975).

<sup>56</sup> CONST. art III, sec. 1.

paramount and of utmost importance – if not the fount from which all other rights flow<sup>57</sup> – is likewise subject to control and limitations.

From a legal point of view, this right therefore is not sacrosanct. This means that not only because an act of government would impair one's right to a healthful environment, then such act should be restrained and rendered nugatory. The legal system in the Philippines does not work in so narrow a manner. In many cases, the High Tribunal balanced, and thereby tempered, the individual's right with the welfare of the State and the rest of society. Certain infractions, therefore, must give way for the greater good of the community.

Turning to the case of the San Mateo landfill, the considerations would be first: the *necessity* to dispose of Metro Manila's garbage; and second: the *right* of the people, particularly those living adjacent to the landfill, to a healthful environment. Given these conflicting interests, the government ought to arrive at a better way of dealing with the problem, before it blows into a crisis of immense proportions. If such would happen, the resulting garbage crisis would affect and denigrate everyone's right to a balanced and healthful environment.

In Metro Manila, the Metro Manila Development Authority (MMDA), created by Republic Act 7924,<sup>58</sup> is tasked with:

Solid waste disposal and management which include formulation and implementation of policies, standards, programs and projects for proper and sanitary waste disposal. *It shall likewise include the establishment and operation of sanitary landfill and related facilities* and the implementation of other alternative programs intended to reduce, reuse and recycle solid waste.

Health and sanitation, urban protection and pollution control which include the formulation and implementation of policies, rules and regulations, standards, programs and projects for the *promotion and safeguarding of the health* and sanitation of the region and for the *enhancement of ecological balance* and the prevention, control and abatement of environmental pollution.<sup>59</sup>

---

<sup>57</sup> See *supra* pp. 155-157.

<sup>58</sup> An Act Creating The Metropolitan Manila Development Authority, Defining Its Powers And Functions, Providing Funds Therefor [sic] And For Other Purposes.

<sup>59</sup> Rep. Act No. 7924 (1995), sec. 3. (emphasis supplied)

Pursuant to this duty, the MMDA has designated areas outside of Metro Manila as sanitary landfills. Daily, these landfills bear the brunt of the metropolis' wasteful populace, a reflection of the highly urban "throw-away society".<sup>60</sup> Since the San Mateo landfill was opened nine years ago, the residents of San Mateo have had to contend with the accompanying problems created by the landfill: a battalion of garbage trucks creating traffic jams en route to the sight, a filthy highway, a nauseatingly fetid blanket of air that reaches a considerable radius of residential areas (depending on the direction the wind blows), and numerous other health risks.<sup>61</sup>

Another significant player in this theater is the Department of Environment and Natural Resource's Environmental Management Bureau (EMB), which has the responsibility of finding solutions to the garbage problem. In cooperation with the Presidential Task Force on Waste Management<sup>62</sup>, the EMB developed a handbook on "Solid Waste Management for Local Government."<sup>63</sup> The handbook lists certain measures by which solid waste may be properly disposed, and compliance with its regulations is a prerequisite *sine qua non*. Among its major provisions is the laying down of basic rules. The criteria for selecting landfill sites fall into four major categories:

1. Protection of health and safety
2. Prevention of pollution and environmental damage

---

<sup>60</sup> TAYLOR, *supra* note 16, at 201.

<sup>61</sup> *Supra* note 13, at 1.

<sup>62</sup> Created by former President Fidel V. Ramos on October 19, 1993 through Admin. Order No. 90. The Task Force is an inter-agency and more permanent body composed of experts tasked with the formulation of necessary standards/guidelines/criteria for waste management. It is tasked to, among others,

- Formulate specific strategies and plans for the efficient, effective and economic implementation of the Solid Waste Management Framework;
- Formulate standards, systems and procedures for the management and operation of transfer stations and sanitary landfills;
- Provide technical assistance in the construction and site development of transfer stations and sanitary landfills; (sec. 2).

<sup>63</sup> This being essentially a guidebook, its contents do not legally bind the local government unit concerned. On the other hand, the administrative orders promulgated by the DENR provides muscle to the guidebook's suggestions. See *op cit* notes 62 and 63.

3. Economics of operation
4. Public and political acceptability<sup>64</sup>

If the fourth criterion were to be construed strictly, then would the smallest opposition result in a failure of the siting process? Such would certainly be an absurd proposition, because if it were so, then perhaps no suitable landfill site would ever be selected, since all possible landfill sites would be opposed to. The DENR has likewise promulgated several administrative orders governing solid waste management<sup>65</sup> and sanitary landfill operations<sup>66</sup>. These administrative regulations are primarily directed to the local government unit concerned, and contain very similar exhortations on public acceptability and ecological viability.

It has also been reported that the landfill failed to secure an environmental compliance certificate,<sup>67</sup> buttressing the prevalent belief that it is environmentally unsound. Surprisingly, however, solid waste disposal systems do

---

<sup>64</sup> These are some of the major considerations:

- The landfill should not infringe upon any part of a 10-year groundwater recharge area for existing or pending water supply development.
- No private or public drinking, irrigation or livestock water supply wells should be within 500 meters downgrade of the landfill boundaries unless alternative water supply sources are readily and economically available and the owners gave written consent to the potential risk of abandoning their wells.
- No residential development exists within 250 meters from the boundaries of the landfill.
- The operation of landfilling should not be visible from within a one kilometer radius. If neighboring residents live within this radius, landscaping, a buffer of trees and protective beams should be incorporated into the landfill design.
- *Make sure that legal aspects have been satisfied.* Does the landfill conform with local zoning rules[?] (emphasis supplied)

(Environment and Natural Resources, Lex Libris CD-ROM, 1999).

<sup>65</sup> DENR Admin. Order No. 49-98 (1998). "Technical Guidelines for Municipal Solid Waste Disposal."

<sup>66</sup> DENR Admin. Order No. 50-98 (1998). "Adopting the Landfill Site Identification and Screening Criteria for Municipal Solid Waste Disposal Facilities."

<sup>67</sup> An Environmental Compliance Certificate is required for projects classified as environmentally critical or are located in environmentally critical areas. Pres. Decree No. 1586 (1978), sec. 4. An ECC issued pursuant to an Environmental Impact Assessment/Environmental Impact Statement System. See Pres. Decree No. 1121 (1977), sec 3 (e) and Pres. Decree No. 1151 (1977), sec. 4.

not need to acquire any such environmental clearance, since it is not required by the Presidential Decrees governing the issuance of ECCs,<sup>68</sup> although several memorandums of agreement between the DENR and local government units mention the necessity of acquiring one in order for a landfill to operate.<sup>69</sup> An ECC is required only for environmentally critical projects or undertakings which are within environmentally critical areas. The President, through the issuance of presidential proclamations, is vested with the power to declare a project or an area as environmentally critical.<sup>70</sup>

Given this set of facts, would the invocation of the right to a healthful environment be of significant value to the struggle of the San Mateo folk? If it were indeed invoked, would such a case prosper, as in *Oposa*, or would it prove nothing more but an empty proclamation as far as landfills are concerned? In a similar case involving

[t]he clash between the responsibility of the City Government of Caloocan to dispose of the 350 tons of garbage it collects daily and the growing concern and sensitivity to a pollution-free environment of the residents of Barangay Camarin, Tala Estate, Caloocan City where these tons of garbage are dumped everyday[.]<sup>71</sup>

the Court simply admitted that there was a conflict between the need and the right, but never made a declaration as to which was more paramount. Like *Oposa*, the case of *LLDA*, penned by Madame Justice Florida Ruth Romero, did not exactly put to test the extent of such a right, its bone of contention being the jurisdiction of the Laguna Lake Development Authority which ordered the

---

<sup>68</sup> DENR Admin. Order No. 37 s. 1996, art II, sec. 1.0 (a). The President was vested with the power to identify which projects are covered by the EIS system. Pres. Decree No. 586 (1978), sec. 4.

<sup>69</sup> See Memorandum of Agreement between the DENR and the Municipality of Labason, *op cit.* note 81, where it states in sec. 2, (10) and (11) thereof that it shall be the role of the local government unit to "[p]repare the Environment Impact Statement for the proposed landfill for review and evaluation of the DENR" and "[e]nsure compliance with the terms and conditions of the Environment Compliance Certificate in the constructions, operations and maintenance of the landfill."

<sup>70</sup> Pres. Decree No. 1586 (1978), sec. 4. Following the latin maxim *exclusio unius est exclusio alterius*, the fact that solid waste management is not listed as a project requiring an ECC, then it is not deemed to be a requirement for landfill operations.

<sup>71</sup> *Laguna Lake Development Authority vs. Court of Appeals*, G.R. No. 110120, March 16, 1994, 231 SCRA 292, 295-296.



closure of the dumpsite for environmental and health reasons. Thus far, there has been no previous judicial determination in local as well as foreign case law with respect to the consequences of a constitutional right to a healthful environment on the landfill dilemma.

#### IMPORTED WASTE: REAPING WHAT OTHERS HAVE SOWN

The growing opposition of the San Mateo residents, if not the entire Rizal population, to the continuation of the landfill is readily understandable. However, the vocal and riotous attitude are not purely the results of concern for the environment. Far from that. The mere idea of Metro Manila's waste being dumped and forced on the municipality of San Mateo has resulted in an isolationist and parochial attitude, akin to what in the United States is known as the NIMBY ("Not In My Backyard") syndrome,<sup>72</sup> described as communal selfishness and irresponsibility. Indeed, with the countless repercussions resulting from being in close proximity with a landfill,<sup>73</sup> it is no big surprise why the residents of San Mateo have expressed their opposition not only by covering their noses, but by blocking the paths of the garbage trucks.<sup>74</sup>

Another factor which gave rise to this situation is the imbalance of power due to the basic unfairness that rural communities have to bear the yoke of absorbing the refuse generated by the urban centers, thereby oppressing and placing unnecessary burdens on politically and economically less powerful groups.<sup>75</sup>

But the problem is circuitous, because while closing the landfill in San Mateo would solve the almost decade-long of suffering endured by its residents, a new one will simply take its place, and new suffering will thus be created. And almost certainly, communities surrounding the new site will readily take up arms to protest against the project. What the people fail to realize is that cooperation

---

<sup>72</sup> Robert R.M. Verchick, *The Commerce Clause, Environmental Justice, and the Interstate Garbage Wars*, 70 S. CAL. L. REV. 1246 (1997).

<sup>73</sup> Apart from environmental concerns, there also are aesthetic considerations. Landfills have been known to degrade the appearance of the community surrounding it, and adversely affects the value of property.

<sup>74</sup> See note 14.

<sup>75</sup> Verchick, *supra* note 72, at 1292-1293.

between communities is indispensable in adequately responding to the problem of garbage. As Michael D. Axline, a noted environmental law professor, warned:

Unless citizens can participate in the implementation as well as development of environmental laws, the gap between legislative aspirations and the reality of environmental degradation will continue to grow. In the long run, it is a consequence we cannot afford.<sup>76</sup>

In a memorandum sent to the President last May 24, 1996, then DENR Secretary Victor O. Ramos reported that the "active dumping site is almost 90% full."<sup>77</sup> Although the landfill's total land area was subsequently increased, it is not too difficult a proposition to say that the landfill has exceeded its maximum capacity. It was reported that the life of the landfill has long been exhausted, but Malacañang sought a 6-month extension until a replacement was found. Six months and close to three years have passed and the landfill continues operations. It would appear that the San Mateo landfill will still be Metro Manila's trash bin until the end of the next year.

Historically, the sanitary landfill grew out of the problems created by the open dumpsite which characterized an extremely crude and impractical method of dealing with solid waste.<sup>78</sup> The essential difference between a landfill and an open dumpsite is that the former takes into account various ecological considerations whereas the latter suffers from the arbitrary and careless imprudence of a wasteful society, resulting in risks to health and uncontrollable pollution.<sup>79</sup>

---

<sup>76</sup> As cited in WATCHING THE TREES GROW: NEW PERSPECTIVES ON STANDING TO SUE FOR ENVIRONMENTAL RIGHTS 2 (1995).

<sup>77</sup> DENR Memorandum for the President, May 24, 1996 (Environment and Natural Resources, Lex Libris CD-ROM, 1999).

<sup>78</sup> "Open dumping is the manner of disposing waste whereby the waste being piled at a designated place without due consideration of environmental and health impacts associated with it. Open dumping poses a great risk especially to site scavengers wherein they have direct contact with the waste thus exposing them to direct contamination." Presidential Task force on Waste Management, *Sanitary Landfill Design and Construction*, (Environment and Natural Resources, Lex Libris CD-ROM, 1999). Tondo in Manila has gained notoriety for its dumpsite which has earned the moniker "Smoky Mountain." It, together with the one in Catmon, Malabon, has since been closed, and is being developed as an urban poor center. The remaining open dumpsite in Payatas, Quezon City will follow in the footsteps of Smoky Mountain later this year.

<sup>79</sup> The sanitary landfill has the following features which an open dump does not have:

a. Justified/rationalized site selection.

In the Philippines, these considerations are concretized by the fact that a landfill must comply with certain restrictions promulgated by the DENR and the EMB in order for it to operate. Furthermore, the policy of the DENR is to abolish altogether all open dumpsites, and in their place, establish landfills.<sup>80</sup> This inclination is made evident by several memorandums entered into by the DENR with various local government units throughout the Philippines.<sup>81</sup> The DENR's preference, pursuant to the national policy on solid waste management, is obviously in favor of landfills (and even more landfills) over open dumpsites.<sup>82</sup>

A sanitary landfill would thus appear to be an ideal form of waste disposal, since as defined by the DENR, it takes into account numerous environmental considerations in its construction.<sup>83</sup> This, however, does not provide ample security, for there are no absolute guarantees. For while it is conceded that a sanitary landfill is a much better alternative to an open dumpsite,

- 
- b. Leachate monitoring, collection and treatment systems.
  - c. Gas monitoring and control systems.
  - d. Pest control systems.
  - e. Odor control systems.
  - f. Litter and dust control systems.
  - g. Drainage and soil erosion control systems.
  - h. Absolutely no burning of refuse.
  - i. Absolutely no on-site scavenging.

See Presidential Task force on Waste Management, *Sanitary Landfill Design and Construction* (Environment and Natural Resources, Lex Libris CD-ROM, 1999).

<sup>80</sup> The DENR is presently involved in a project to phase-out all existing open dumpsites, initially by converting these to controlled dumpsites, and eventually to sanitary landfills. See DENR Admin. Order No. 49-98 (1998).

<sup>81</sup> See e.g., Memorandum of Agreement entered into and between the Department of Environment and Natural Resources and Labason Municipal Government, Zamboanga del Norte (July 2, 1996).

<sup>82</sup> "Solid Waste disposal shall be by sanitary landfill, incineration, composting, and other methods as may be approved by competent government authority." Pres. Decree No. 1152 (1977), sec. 45. There is an apparent hierarchy involved in this provision of the Philippine Environment Code, showing the leaning towards the establishment of landfills in favor of other forms of solid waste disposal systems. An open dumpsite is not even an option. The second choice of "incineration" is no longer available since its use has been outlawed by the Philippine Clean Air Act of 1999. See Rep. Act No. 8749 (1999), sec. 20 on the ban on incineration.

<sup>83</sup> "Sanitary Landfill — a waste disposal site designed, constructed, operated and maintained in a manner that exerts engineering control over significant potential environmental impacts arising from the development and operation of the facility." DENR Admin. Order No. 50-98 (1998), sec. 2 (o).

it is no more environmentally sound. In fact, its designation might be a misnomer, because while a sanitary landfill may appear sanative on the surface (as the daily load of trash is layered with soil), its demons lie within. There is absolutely no assurance, despite the DENR's asseverations, that a landfill will not pollute the environment, particularly the aquifer or the groundwater.

Although it is true that much attention is placed in choosing a suitable site where there is the least likelihood of polluting the water tables, this is close to an impossibility. An extremely pervasive material called "leachate" or "garbage juice"<sup>84</sup> is sure to permeate the landfill, breach its lining, and reach the ground water, making it unsafe for domestic use, *ad infinitum*.<sup>85</sup> This irreversible and irreparable eventuality can, at best simply be retarded even by the most modern waste management technology. Delayed environmental degradation is no better than the existing scheme of things. Furthermore, decades would have to pass before the area above the landfill can be put to good use, and there is no certainty that the former landfill will be free of any of the after effects attached with landfill operations. Above that, more particularly on the surface, gas emitted by the chemical reactions within the landfill has likewise been found to contain a variety of hazardous and explosive chemicals.<sup>86</sup>

While the right to a healthful environment is overbroad and often described as abstract, it can be validly invoked in the present controversy. Yes, there is no *specific* environmental right against landfills, as there was no particular right against the cutting of trees in *Oposa* (except that it was alleged by the petitioners that the unabated rape of our rainforests would result in catastrophic consequences for the present and future generations of Filipinos, and thus a

---

<sup>84</sup> This is produced when rain pours on the garbage and seeps through all the layers of trash, in the process collecting a multitude of chemicals and other noxious substances.

<sup>85</sup> Leachate may consist of various hazardous and deleterious chemicals, some of which are called conventional pollutants such as total dissolved solids (TDS), sodium, chloride, and hardness, which can adversely affect the ability to use the water for domestic water supply purposes. These effects include diminished palatability of the water and need for additional water treatment. G.F. Lee and A. Jones-Lee. "Environmental Impacts of Alternative Approaches for Municipal Solid Waste Management: An Overview." (Visited 23 August 1999) <http://www.gfredlee.com>.

<sup>86</sup> Some of these gases are known carcinogens (cancer-causing), such as vinyl chloride. G.F. Lee and A. Jones-Lee. "Development of a Potentially Protective Landfill: Issues Governing the True Cost of Landfilling." (Visited 23 August 1999) <http://www.gfredlee.com>.

violation of the right.)<sup>87</sup> But this did not deter the Court from arriving at the learned conclusion that the recognition of the right necessarily includes the preservation of our thinning forests.<sup>88</sup> Essentially, since landfills pose a dangerous threat to the balance of nature, then it is by no means tenuous to say that as a means of solid waste disposal, landfills result in a clear infraction of the legal and constitutional right to a balanced and healthful ecology.

But the conclusion that the right to a healthful environment outlaws landfill operations has cataclysmic consequences on the solid waste management policies of the national government as well as the lead environmental agency. It may very well result in extremely absurd situations: that the protection of an environmental right would give rise to violations of that same right, for certainly, the right to a healthful and balanced ecology involves the proper disposal of garbage. For if landfills are violative of this constitutional right, incinerators are already banned, and open dumpsites are not even considered in the equation, then how should the government deal with the apparent irreconcilable propositions?

It is in this respect that we find proper the application of the police power of the State, as delegated to the MMDA and to the pertinent government agencies. The wisdom of these agencies is by no means infallible. But they can, at the very least, be trusted to weigh the consequences and choose the lesser between two evils. And they have made apparent their very obvious choice. Arbitrariness cannot be imputed on them simply because they have chosen an area in San Mateo as a suitable landfill, or that they consider landfills as the best option in solid waste management. The novelty of the environmental right ought not to be appreciated in such absurd proportions so as to unduly stifle other equally legitimate and valid state policies, particularly on solid waste management.

The right to a healthful environment cannot be read in isolation; rather, it must be reconciled with the other provisions in the Constitution which are focused on development and growth. Simply put, it cannot be used as a weapon to arbitrarily resist the operation of a landfill which is in compliance with all the regulations, environmental or otherwise. This government having chosen this method of garbage disposal as being the best alternative, the right finds great importance in making certain that the regulations are followed to the letter.

---

<sup>87</sup> *Oposa v. Factoran*. G.R. No. 101083, July 30, 1993, 224 SCRA 792, 803.

<sup>88</sup> *See Oposa v. Factoran*. G.R. No. 101083, July 30, 1993, 224 SCRA 792.

While this policy may lend itself to some serious attacks from environmentalists who advocate alternative forms of solid waste management not involving disposal, such as recycling and reuse, the government's decision to adopt this specific form of garbage control cannot be so faulted. The criteria set by the DENR comply with the standard of the rest of the world.<sup>89</sup> Unless either the local government unit or the private sanitary landfill operator has so flagrantly disregarded the environmental regulations relating to landfill operations, its solid waste management policies may not be subjected to legal assault. In this respect, the import of the right lies in the fact that it assures the strict compliance of the local government unit and the operator with the environmental regulations relevant to solid waste management. A standard less than this must be rejected and opposed.

Although it would seem from the above discussion that this paper's inclination is for the maintenance of the *status quo* in respect of sanitary landfills, this conclusion was arrived at with some trepidation. For indeed, the government's hands are bound by circumstance: to choose from what is readily available. It is an unfortunate thing that the choices are so limited that the government would have to resort to the lesser of two evils. Such is always dreadful.

Is the right to a healthful environment, therefore, as Justice Feliciano in his separate opinion suggests, one which still lacks clear definition,<sup>90</sup> whose potential has yet to be realized<sup>91</sup> by the judiciary as well as the administrative agencies concerned? Such would be an unfortunate conclusion. The *Oposa* ruling would lose its importance and significance in the struggle for the development of an ecological framework in the pursuit of economic and industrial progress.

This novel right surely has far more meaning than plain constitutional rhetoric, as its critics would argue. The fact that it is embodied in the constitutional contract has not significantly influenced administrative, legislative,<sup>92</sup> and judicial action, in a manner that would be regarded as no less

---

<sup>89</sup> The United Nations Environment Program International Environmental Technology Centre prescribes the use of sanitary landfills as the most ideal method of solid waste disposal, provided that it employs strict technological and engineering standards. See [www.unep.org](http://www.unep.org).

<sup>90</sup> *Oposa v. Factoran*. G.R. No. 101083, July 30, 1993, 224 SCRA 792, 815.

<sup>91</sup> Gatmaytan, *supra* note 45, at 43.

<sup>92</sup> Although the Philippine Clean Air Act is a contribution to environmental legislation.

than earthshaking. Perhaps there really is a need to phrase in more concrete terms the scope of the right to a healthful environment, and how it affects the government's policies on solid waste management.<sup>93</sup>

### EPILOGUE

It has been said of modern men and women that they are engaged in an inimitable ritual of suicide. Their utter lack of care for others and for the future has lashed back with dire consequences.<sup>94</sup> Perhaps, there was in fact a need to explicate the existence of a legal right to a healthful environment, if only to remind the growing population of their great responsibility, which extends beyond their lifetime, beyond their generation. Indeed, the garbage problem has resulted in a resounding message to those devolved with the responsibility to act – not only the government, but each one who contributes to the unimaginable volume of trash generated each day.

Something indeed must be done, and the solution does not end by sweeping the front lawn, piling the refuse onto a dustpan, and heaping them all in a bin. The San Mateo scenario will be duplicated and repeated so long as landfills remain to be the government's chosen method of solid waste disposal, so long as selfish and parochial attitudes remain, so long as the secret oppression by highly-urbanized communities of other less-developed locales persists.

There must be a change, not only in policies, but also in attitude and paradigms. The resolution of this crisis starts not with a judicial decree recognizing the right to a healthful environment as being of paramount importance, or legislation involving more specific and rigid environmental regulations, but in the realization that we all have a stake in this, and that we all must do our part in

---

<sup>93</sup> In the Netherlands, for example, the environmental right has developed into both a substantive and procedural right for Dutch citizens. Access to information relating to the environment as well as participation in decision making processes were made available. Verschuuren, *supra* note 28.

<sup>94</sup> In more dramatic language, Kormondy says that when man "insults an ecosystem, he can expect to be slapped back. As he puts resources out of place, he can expect changes – undesirable concentrations of toxic substances, consequent reductions in the number and abundance of species, and a resultant and consequential community instability." KORMONDY, *supra* note 1, at 195.

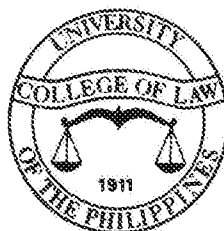
respecting our collective right to an environment and in making effective the national government's policies on solid waste management. The key therefore, is to find some semblance of harmony, rather than to emphasize the inherent and even irreconcilable conflict.

—oOo—



---

# PHILIPPINE LAW JOURNAL



NATIONALITY STATUS AND LEGAL RIGHTS  
OF REFUGEES FROM THE FORMER YUGOSLAVIA  
*Charles D. Cole*

SAFEGUARDING SOVEREIGNTY, RIGHTING 'HUMAN WRONGS':  
A JURISPRUDENTIAL JUSTIFICATION  
FOR THE PHILIPPINES' RATIFICATION  
OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT  
*Christine Veloso Lao*

THE RISE OF INTERVENTIONS  
TO PROTECT HUMAN RIGHTS  
IN THE WANING YEARS OF THE 20<sup>TH</sup> CENTURY  
*Jude Ocampo*  
*Ida Chao*  
*Melizel Asuncion*

ISSN 0031-7721

---

VOLUME 74

DECEMBER 1999

NO. 2

**COLLEGE OF LAW**  
**UNIVERSITY OF THE PHILIPPINES**  
**ADMINISTRATION**

**VISITOR**

PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

**BOARD OF REGENTS**

CHAIRMAN, COMMISSION ON HIGHER EDUCATION, *Chairman*

PRESIDENT OF THE UNIVERSITY, *Vice-Chairman*

REGENT TERESA AQUINO-ORETA

REGENT DANTE V. LIBAN

REGENT EDGARDO B. ESPIRITU

REGENT OSCAR M. ALFONSO

REGENT VICTOR A. REYES

REGENT JANNAH EUNICE SERANA(*Student*)

REGENT HENRY P. SAMONTE (*Faculty*)

REGENT RONALDO B. ZAMORA

REGENT RAUL P. DE GUZMAN

REGENT CELSO R. ROQUE

PROF. MARTIN V. GREGORIO, *Secretary*

**THE UNIVERSITY**

**Officers of Administration - U.P. System**

FRANCISCO NEMENZO, B.A., M.P.A., Ph.D., *President*

MA. SERENA I. DIOKNO, B.S.E., M.A., Ph. D., *Vice-President for Academic Affairs*

MARTIN V. GREGORIO, A. B., C.E.E.E., M.A., *Vice-President for Administration,*

*Secretary of the University*

RAFAEL A. RODRIGUEZ, B.S.B.A., M.B.A., *Vice-President for Development*

ERLINDA S. ECHANIS, B.S.B.A., M.B.A., D.B.A., *Vice-President for Planning and Finance*

JOSE N. ENDRIGA, A.B., M.A., M.P.A., *Vice-President for Public Affairs*

**Officers of Administration - U.P. Diliman**

EMERLINDA R. ROMAN, B.S.A., M.B.A., D.B.A., *Chancellor*

AMELIA P. GUEVARA, B.S., M.S., Ph.D., *Vice-Chancellor for Academic Affairs*

MA. CONCEPCION P. ALFILER, B.A., P.A., M.P.A., Ph.D., *Vice-Chancellor for Administration*

MA. THERESA M. JAZMINES, A.B., M.A., *Vice-Chancellor for Student Affairs*

GIL G. GOTIANGCO, JR., A.B., M.A., *Vice-Chancellor for Community Affairs*

DEMETRIA C. BONGGA, B.S., M.S., Ph. D., *Vice-Chancellor for Research & Development*

ELENA L. SAMONTE, A.B., M.A., Ph.D., *University Registrar*

**The LAW COMPLEX**

RAUL C. PANGALANGAN, A.B., LL.B., LL.M., S.J.D., *Dean & Supervisor*

MYRNA S. FELICIANO, B.S.L.S., M.L., LL.B., LL.M., *Associate Dean*

*Director, Institute of Judicial Administration*

CARMELO V. SISON, A.B., LL.B., LL.M., *Director, Institute of Government & Law Reform*

HECTOR D. SOLIMAN, A.B., LL.B., *Director, Institute of Human Rights*

MERLIN M. MAGALLONA, A.A., LL.B., *Director, Institute of International Legal Studies*

**The COLLEGE**

RAUL C. PANGALANGAN, A.B., LL.B., LL.M., S.J.D., *Dean*

MYRNA S. FELICIANO, B.S.L.S., M.L., LL.B., LL.M., *Associate Dean*

MARVIC M.V. F. LEONEN, A.B., LL.B., *Director, Office of Legal Aid*

PATRICIA ROSALIND P. SALVADOR DAWAY, A.B., LL.B., *Secretary*

ANTONIO M. SANTOS, A.B., LL.B., M.L., *Law Librarian*

ELISA S. OCHOA, B.S.C., *Administrative Officer*

ISSN 0031-7721

# PHILIPPINE LAW JOURNAL

Published by the College of Law, University of the Philippines  
Diliman, Quezon City, Philippines

---

VOLUME 74

DECEMBER 1999

No. 2

---

## EDITORIAL BOARD

ALMAN DAVE O. QUIBOQUIBO  
*Chairperson*

ANDRÉ GERARD G. BALLESTEROS  
*Vice Chairperson*

CHRISTIAN M. CASTILLO  
RAQUEL ROSECHELL T. PINEDA  
JEPHTE S. DALIVA  
ELVIN MICHAEL L. CRUZ  
RABBI E. DELOSO  
JOAN CATHERINE R. LIBAN  
MANUEL F. SANTOS JR.  
EMERLYNNE A. GIL  
*Members*

---

JULIANA R. RICALDE  
*Faculty Adviser*

MA. ROWENA DAROY-MORALES  
*Business Manager*

---

BELLA T. DESAMITO  
*Administrative Assistant*

---

The Editorial Board, under the aegis of the University of the Philippines College of Law, publishes contributions of interest and value to law students and the legal profession, but the views of the contributors to the PHILIPPINE LAW JOURNAL do not necessarily reflect those of the College of Law and the Editorial Board.

Communications of either an editorial or business nature should be addressed to the PHILIPPINE LAW JOURNAL, Malcolm Hall, University of the Philippines, Diliman, Quezon City, Philippines, or sent via e-mail to [plj@claw.upd.edu.ph](mailto:plj@claw.upd.edu.ph). It will be assumed that a renewal of subscription is desired unless a notice of discontinuance is received by the Editorial Board on or before the expiration date.