

FOREWORD

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It is rare to see institutions in the form of publications that have so shaped the course of a profession. In 2001, the Supreme Court celebrated its 100th year as the highest court in our land. In 2011, the University of the Philippines (UP) College of Law commemorated its own centenary as one of the country's foremost educational institution in the field of law.

This year, the country's oldest law review celebrates a century of Philippine legal scholarship. One hundred years ago, the PHILIPPINE LAW JOURNAL was established as a publication to stimulate debates among students and members of the legal profession. It was also devised as a credible medium to promote written scholarship among law students. As the first English-language law review in the Philippines, it was exceptional for providing a forum where thoroughly-researched student ideas were allowed to confront the most complex legal issues of the time and engage the opinions of even the most eminent jurists and professionals. As an independent student-run publication, the quality of articles has been maintained by editorial boards who have been entrusted with a proud century-old legacy of critical and provocative scholarship. On its many mastheads were prestigious now-alumni who have since made their mark on the legal profession.

Happily, in the past 100 years, we have seen the JOURNAL achieve its goals. Articles written by students and professionals have helped to partially shape the issues that confront the legal community. Ideas originally published in the JOURNAL have made their way to the deliberations of the 1986 Constitutional Commission, as well as various congressional debates and Supreme Court decisions. Not only has it provided a venue for engaging the current legal debates of the time, but it has also laid the groundwork for the legal debates of the future.

An example is the public discourse on indigenous peoples' rights, a discussion which was initiated by Professor Owen J. Lynch, Jr. as early as 1982.¹

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¹ Owen J. Lynch, Jr., *Native Title, Private Right and Tribal Land: An Introductory Survey*, 57 PHIL. L.J. 268, 306 (1982).

This initial survey on the topic of *native title* sparked a series of articles by Professor Lynch and other authors between 1982 and 1992, which eventually paved the way for the Indigenous Peoples' Rights Act of 1997 ("IPRA"). It should come as no surprise that when the question of the constitutionality of the IPRA was raised, some of the articles published by the JOURNAL between 1982 and 1992 were used as references for the opinions of Justices Santiago M. Kapunan and former Chief Justice Reynato S. Puno.² That the JOURNAL was one of the earliest local legal resources on the rights of indigenous peoples reflects the publication's tradition of being ahead of its time.

This *Centennial Issue* is divided into two parts. The first part contains two full-length articles on pressing legal issues of the day, while the second part is a reflection on the 100 years of the PHILIPPINE LAW JOURNAL.

In his lecture, *Historical Facts, Historical Lies, and Historical Rights in the West Philippine Sea*, Senior Associate Justice Antonio T. Carpio presents maps acquired from Chinese, Philippine, and foreign sources to debunk the Chinese claims of "historical facts" over the disputed islands in the West Philippine Sea.

In the article *Legitimizing Illegitimacy: Revisiting Illegitimacy in the Philippines and Arguing for Declassification of Illegitimate Children as a Statutory Class*, Sandra M.T. Magalang traces the historical roots of the current classifications on legitimate and illegitimate children, and argues for the declassification of illegitimate children as a statutory class on the ground that it is discriminatory.

Initiating the reflections on the 100 years of the PHILIPPINE LAW JOURNAL and Philippine legal scholarship, Oscar Franklin B. Tan's *Sisyphus' Lament, Part VII: The Death of the Philippine Law Journal* looks at the alarming statistic that the JOURNAL is being cited less and less in decisions of the Supreme Court, with the Court relying more heavily on foreign law reviews. After analyzing the causes for this trend, the article then presents recommendations for the future, to achieve the JOURNAL's goal of being the "handmaiden of jurisprudence."

In celebration of its 100th year, the PHILIPPINE LAW JOURNAL has prepared a compilation that looks back on the most influential, relevant, or well-written articles published by the JOURNAL. The compilation presents excerpts of the select articles, each following a review which engages the original article, and charts the history of the paper, as well as its impact on the legal profession. Emphasizing the JOURNAL's commitment to promoting legal scholarship among

² Cruz v. Secretary of Environment and Natural Resources, G.R. No. 135385, 347 SCRA 128, Dec. 6, 2000.

law students, one review was solicited from a student of the UP College of Law, while four of the five reviews were prepared by members of the faculty of the College.

Among the most influential articles is Justice Carpio's student note, *Intentional Torts in Philippine Law*, which appeared on the 47th volume of the PHILIPPINE LAW JOURNAL in 1972. The review for this article was prepared by Professor Rommel Casis, currently a professor of Torts and Damages in the College of Law. Also influential are two articles that have shaped the discourse on Indigenous Peoples Rights: *The Interface between National Law and Kalinga Law*, co-written as a student note by Atty. Roan Libarios and myself for Volume 58, and *Native Title, Private Right and Tribal Land: An Introductory Survey* by Prof. Owen J. Lynch Jr., published in Volume 57. The reviews for these two articles were prepared by Professor Dante Gatmaytan, who has both researched on and advocated for the rights of indigenous peoples, and Allan Chester Nadate, a sophomore of the College of Law, respectively. Allow me to share that I have had the gratifying experience of being surprised that the paper I co-wrote while then a student would be discussed, among other works, in an international conference to which I would be invited as a law professor several years later. Every now and then I would see the comparisons and conclusions made in our student article cited by other authors. Indeed, the small seeds of ideas we plant in our youth have a way of finding their way back into our lives as pleasant flora. Thus, my encouragement to our young people to persevere in contributing to the PHILIPPINE LAW JOURNAL.

The project likewise includes articles which, while written decades ago, continue to resonate today: *Women and Labor: Is the Economic Emancipation of the Filipino Working Woman at Hand?* written by Justice Florida Ruth P. Romero for Volume 50 in 1975, as well as the student note *Legal Education in the Philippines: Confronting the Issues of Relevance and Responsiveness* authored by Atty. Theodore O. Te for Volume 63. The reviews for these articles were prepared by Professor Evelyn Battad, an expert in gender and labor law, and Professor Gwen De Vera, a member of the faculty of the College of Law and an active legal practitioner, respectively.

As the PHILIPPINE LAW JOURNAL celebrates its 100th year, I am glad to see that it has kept true to its mandate, published in its first issue, as stated in the wise words of Supreme Court Chief Justice Cayetano Arellano:

Edited always in good faith, with noble ideas and rectitude of intention, with consciousness of the matter written, and with the respect and consideration due to the basic principles of society, to institutions, and to individuals, it will be, according to one writer's

happy expression, like a sword placed in the hands of heroes to bring glorious days upon the country.³

My warmest congratulations to the PHILIPPINE LAW JOURNAL on its 100th year!

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³ Cayetano Arellano, *Foreword*, 1 PHIL. L.J. 1 (1914).