

FOREWORD*

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The articles in this first issue of Volume 89 involve current issues under the Constitution of the Philippines, the highest law of the land. Two pieces deal with the proposed Bangsamoro Basic Law, which is being deliberated by the Congress of the Philippines. Former Supreme Court Justice Vicente V. Mendoza in his *The Bangsamoro Bill Needs the Approval of the Filipino People* takes the position that the proposed law, which seeks to implement the Comprehensive Agreement on the Bangsamoro between the Government of the Republic of the Philippines and the Moro Islamic Liberation Front, is constitutionally infirm. According to Justice Mendoza, the Bangsamoro Basic Law cannot be passed by an act of Congress alone but needs a constitutional amendment subject to the approval of the Filipino people as a whole, not solely by the will of the Bangsamoro people living in the autonomous territory. Dean Merlin Magallona takes a similar position in *Problem Areas in the Bangsamoro Basic Law*. He believes that the proposed law violates national sovereignty and the territorial integrity of the country, aside from reducing the National Government to co-equality with the autonomous Bangsamoro region. Thus, it is his view that the proposed law is a major reform which, if approved pursuant to the procedure on constitutional amendments, can be appended to the Constitution as an Ordinance. One will observe that these amendments have been anticipated by the two negotiating panels, considering that the Annex on Transitional Arrangements and Modalities states that the Transition Commission “shall work on proposals to amend the Philippine Constitution for the purpose of accommodating and entrenching in the Constitution the agreement of the Parties whenever necessary without derogating from any prior peace agreements.”

Prof. Dante Gatmaytan revisits the principle of separation of powers in his article entitled *Checking Judicial Review: The President’s Totalitarian Temptation*. It will be recalled that the legitimacy of judicial review of the acts of the other two branches of government represented by officials duly elected by the majority of the voting population (referring herein to the Congress or the President) has been previously questioned because of its counter-majoritarian effect. Quite recently, this concern has been raised anew in view of the decision of the Supreme Court in *Araullo v. Aquino*, 728

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SCRA 1 (2014), striking down President Aquino's Development Acceleration Program. In his article, Prof. Gatmaytan analyzes the responses of the Executive Branch to the Supreme Court's decision, in the context of the separation of powers under the Constitution.

Beyond the Constitutional Mandate: Legal Issues and Policy Considerations of Anti-Political Dynasty Legislation revolves around the constitutional mandate to Congress to pass a law that prohibits political dynasties. The authors (Mark Leo Bejemino and Ma. Carla Mapalo) analyze the various bills that seek to enact such a law, and find them deficient. The solution, in their view, is the reform of the democratic institutions that facilitated the emergence of political dynasties, rather than the implementation of ineffective legislation or regulation.

On the other hand, Jenny Jean Domino's *Unchilling Internet Speech: The Accidental Celebrity and the Involuntary Public Figure in Defamation Law* argues that the public figure doctrine must go beyond what has been traditionally applied to politicians and celebrities by including private individuals who are thrust into issues of public interest involuntarily. She offers a two-step test in determining whether one has acquired the status of an involuntary public figure. Her paper also explains the extent of limited privacy protection to which social media celebrities are entitled and which the Constitution protects, as well as discussing the implications of the Supreme Court ruling on libel in the Cybercrime Prevention Act of 2012 to social media celebrities.

Finally, the article of Frank Lloyd Tiongson entitled *Lifting the Judicial Curtain: A Case for Electronic Media Access to the Philippine Criminal Courtroom* supports a regime of openness to media coverage of criminal court proceedings, consistent with the constitutional guarantee of free speech and press. After establishing the basis of media's right of access to criminal trials, the author explains the tension between the courts and the media in the context of pertinent jurisprudence. He then lays down the basis for a legal regime of openness to media coverage, before surveying the changing attitude in other jurisdictions towards telecasting trials and other court proceedings.

All in all, the articles contained in this issue demonstrate the continuing relevance and importance of the *Philippine Law Journal* as a medium for articulating constitutional issues that are current and meaningful not only to individuals and entities domiciled in the country but also to society in general.