

FOREWORD*

*Justice Francis H. Jardeleza***

The third issue of Volume 89 aims to remedy several gaps in Philippine law, jurisprudence, and legal theory.

Winner of the Roberto Sabido Memorial Prize for Best Supervised Legal Research Paper, *Philippine Compliance with International Standards for the Protection of Internally Displaced Persons* discusses how thousands of families were displaced due to Typhoon Yolanda and the Zamboanga armed conflict in 2013. Lara Victoria O. Estevez makes the claim that since the Philippines has no comprehensive legal framework to protect internally displaced persons, the Philippine government merely adopts *ad hoc*, instead of long-term, solutions to the problem. Her paper also examines governmental compliance with the Guiding Principles on Internal Displacement as well as assesses the pending bill in Congress on the rights of internally displaced persons.

(Dis)Proving Foreign Law: Understanding Processual Presumption in the Philippines and Arguing for a Confrontational Approach in Dealing with Conflict Cases attempts to clarify the topic of processual presumption, and was awarded the Bienvenido C. Ambion Prize for Best Paper in Private International Law. Patrick R. Manalo observes that the application of the said doctrine is preceded by a two-step process of characterization and ascertainment and application of the proper law. He then analyzes how the doctrine functions as a tool in determining foreign law upon the proponent's failure to overcome the "remarkably technical" burden of proof imposed by Philippine law on evidence. He also looks into the "apparent" exceptions to the doctrine and suggests a confrontational approach to avoid the "problem" of processual presumption.

Drawing the Line on the Religious Line-Item Veto: How Imbong v. Ochoa Failed to Accommodate the Rights of Third Parties when Healthcare Providers Conscientiously Object critiques the right to object accorded to healthcare

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providers by the Responsible Parenthood and Reproductive Health Act of 2012 (RH Law). Awarded the Vicente V. Mendoza Prize for Best Review of Supreme Court Decisions, this paper argues that the Court in *Imbong* deprived third parties of their fundamental right to religious liberty. By categorizing the duty to refer in the RH Law as a burden on the free exercise of religion, the decision tipped the scales in favor of healthcare providers, thereby allowing conscience to prevail over duty, except only in cases involving life-threatening emergencies. According to Rachel B. Miranda, ruling that only a compelling state interest defeats an individual's right to religious liberty is dangerous when other people's rights are also at stake. Conscientious objection and other forms of religious accommodation should only be granted insofar as they cause no harm to others.

Creature of Statute: Corporate Moral Responsibility and the Liability of Corporations under Philippine Law examines the extent to which a "functional conception" of moral responsibility can be attributed to corporations organized under Philippine law. Maria Celina H. Poblador explores the degree to which criminal liability may be imposed on corporations based on corporate moral responsibility. Under existing laws in the Philippines, the possibility of attributing moral responsibility to corporations, as well as of imposing corporate criminal liability, is "fairly limited." She argues for the expansion of this responsibility, a change reflective of the position of the Securities and Exchange Commission in the proposed amendments to the Corporation Code.

Originally delivered as a professorial chair lecture, *Understanding Facial Challenges* analyzes how facial challenges correlate three fields of the law, namely human rights, governmental structure, and remedies. Professor Solomon F. Lumba holds that the Court has yet to develop a consistent theory on facial challenges. He then proposes a conceptual framework on the subject based on Philippine and American jurisprudence.

The Regulatory Impact of the Philippine Competition Act and Derivative Objections to a New Enforcement Regime discusses the salient points, as well as the substantive and remedial issues, of the landmark law Republic Act No. 10667 or The Philippine Competition Act (PCA) of 2015. Diane Jane Dolot, Ma. Elaine Marcilla, Joan Therese Medalla, and Amylene Medina explain that in consolidating the best practices from the US and the EU and ASEAN member-states, the PCA might inadvertently trigger what Teubner termed "legal irritation" or the production of unwanted consequences as a result of domesticating a foreign law or adopting a foreign decision in the interpretation of a local statute.

Dungo v. People *and the Classification of Crimes Mala Prohibita* reviews the categorization of hazing as a crime *malum prohibitum* in *Dungo* and makes the claim that such a categorization is legally and logically sound only if the traditional scope of crimes *mala prohibita* is expanded. In discussing how Republic Act No. 8049 or The Anti-Hazing Law of 1995 penalizes acts constitutive of crimes *mala in se*, Gian Carlo B. Velasco argues that justifying, exempting, and mitigating circumstances, whenever applicable, should also apply.

These articles and notes affirm the continuing importance of the PHILIPPINE LAW JOURNAL in upholding time-honored and establishing new discourses. May they be read with the same amount of care which the authors devoted to their composition.

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