

FOREWORD*

*Senator Risa Hontiveros***

The respect, protection, and fulfillment of our human rights are fundamental guarantees that must be championed universally. Most often, the question of human rights is a discussion left for the legal community to explore, as the perception of human rights is understandably presumed to be a legal one. Yet our collective experience as a society has demonstrated that there is an increasing inter-relatedness of legal issues with other disciplines, not least in the field of public health and medicine, as truly human concerns.

I commend the PHILIPPINE LAW JOURNAL for its dedication to prominently open the legal discourse on questions and issues that resonate from unprecedented advancements in scientific and technological knowledge. The fourth issue is themed *The Law in Medicine and Public Health* and features prolific authors who fluently articulated the state of the law and put forth proposals for reform in key controversial public health and medical issues.

Prof. Florin Hilbay, who championed the oral arguments on the lifting of the Supreme Court's temporary restraining order on the implementation of the Reproductive Health [RH] Law, critically analyzed the controversy on implementing the law in his article *Reproductive Health and the Conservative Strategy of Access Denial: Comments on ALFI v. Garin*. Prof. Hilbay warns that the illiberal conservative opposition who lost in *Imbong v. Ochoa* may actually succeed in impairing public health through a *de facto* ban on contraceptives through unnecessary legalization and judicialization of the Food and Drug Administration's certification process.

Commission on Human Rights Chair Jose Luis Martin Gascon articulated the meaning of the right to health in the context of the Philippine War on Drugs, which has been denounced by human rights groups. Chair Gascon, in a speech delivered during the Commission's 30th Anniversary, calls for the rule of law and the utmost regard for human rights. This covers in principle the right to health.

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United Nations Special Rapporteur Agnes Callamard echoed the call for drug policy reform consistent with human rights standards. She reminds the Philippine government of its commitment to effectively address and counter the world drug problem by taking into account social development, public health, justice, and human rights. Dr. Callamard also emphasized the importance of fact-finding, of knowledge, and of evidence that is impartial and true in seeking the best possible drug policy reform.

Atty. Arvin Razon proposed the proper approach in health information privacy through his article *The Gradual Erosion of Privacy in Healthcare and the Search for a Cure: Legal Framework for Health Information Privacy*. Atty. Razon argues that the contextualization and applicability among healthcare institutions and health professionals in protecting health information privacy is the next logical step after the creation of an adequate legal framework.

Mr. Allan Chester Nadate, Dr. Lee Edson Yarcia, Ms. April Joy Guiang, and Atty. Ma. Lia Karen Magtibay extrapolated on *The Public Welfare Dimension of the Competition Clauses: An Exposition and Application of the Proper Constitutional Treatment for Industries with Adverse Public Health Impacts*. In their article, the authors argue for the rejection of a proposed amendment to the Sin Tax Law that would violate the very purpose of its enactment – the promotion of the right to health.

Finally, it is high time for the Philippines to enact an evidence-based Mental Health Law that reflects a comprehensive and nuanced policy for people with mental health concerns. Atty. Ruby Roselle Tugade, in her note *Understanding Insanity: Making Sense Out of Mental Illness in Philippine Law and Jurisprudence*, reviewed the statutory and jurisprudential treatment of mental health in the Philippines, and advocates for legal reform for the benefit of people with mental health concerns.

The fourth issue also features the Perfecto V. Fernandez Best Paper in Labor Law for 2016 penned by Atty. Lawrence Gerard Ortiz. In his paper entitled *Enrichment Pending Appeal: Re-examining Article 229 [223] of the Labor Code*, Atty. Ortiz argues that the no-refund doctrine as applied to employees with high disposable incomes is tantamount to unjust enrichment and detriments small-to-medium enterprises. The author concludes that the constitutional mandate of promoting social justice is better fulfilled by fine-tuning the no-refund doctrine in the interest of balancing the rights of labor and capital.

May the JOURNAL continue on its noble work of promoting honor and excellence in the country by serving as a platform for legal scholarship.

It is our fervent hope that the discourse on urgent and critical legal issues of our time transcend the pages of this JOURNAL.

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