

FOREWORD*

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The discourse on citizenship is continuously evolving.

The contemporary world is confronted with a disturbing contradiction: the global citizen sees the benefit of lowered barriers, while the protectionist view sees the need to build tougher borders. Each side of the spectrum provides a justification of forging a better deal for each citizenry who treads on the boundaries, real or imaginary, between nation-states.

In the Philippines, citizenship is both a legal concept and a socio-political construct, as it is largely shaped by the heritage of its colonial past and the phenomenon of the Filipino diaspora.

This most recent issue of the 90th volume of the Philippine Law Journal goes beyond the borders of the traditional concept of citizenship as it subjects long-held and generally accepted legal precepts to microscopic scrutiny, consistent with the role of any self-respecting law journal.

The Philippine Constitution defines natural-born citizens as those “who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship.” The contours of this constitutional provision were explored after the citizenship of a foundling who later was to run for President was questioned before the Supreme Court. *Poe-Llamanazares v. COMELEC* is beyond doubt a landmark case on citizenship and the legal consequences of the renunciation and reacquisition thereof. A paper entitled “*High Noon in the Supreme Court: The Poe-Llamanazares Decision and Its Impact on Substantive and Procedural Jurisprudence*” written by Antonio G.M. La Viña, Nico Robert R. Martin, and Josef Leroi Garcia provides a thorough analysis of the significance of this case.

The concept of citizenship extends as well to juridical persons. The Philippine Constitution imposes nationality requirements on corporations as part of the country’s protectionist economic policy. Russel Stanley Q.

* *Cite as* Conchita Carpio Morales, *Foreword*, 90 PHIL. L.J. v. (page cited) (2017).

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Geronimo's paper, "*De Facto Control: Applying Game Theory in the Law on Corporate Nationality*," challenges the notion that ownership of majority voting rights translates to effective control of a corporation.

These first two papers dare to probe the wisdom behind restricting certain public office to natural-born citizens as well as certain vital industries to majority-owned Filipino corporations. Interpretation of constitutional provisions only tends to tackle the legal component of these issues. Naturally, cases only resolve the specific issues in an actual controversy and, in the process, hardly address the policy questions behind the pertinent constitutional provisions. These papers dissect both legal and policy aspects of the relevant legal provisions, filling in the gaps which jurisprudence either created or could not momentarily address.

An equally important sphere is the issue of citizenship of children born out of inter-country surrogacy. In her paper entitled "*Labor-only Contracting: Examining the Legal Complexities of Legal Surrogacy in the Philippine Context*," Isabel L. Guidote argues that an "infant born out of a surrogacy agreement may have more than one nationality or none at all." She closely examines the legal status of surrogacy contracts, the rights of parties thereto, and the parentage of surrogate children.

Finally, Paolo S. Tamase revisits the principle of double jeopardy that bars the prosecution from appealing to a higher court for a reversal on acquittal. In his paper entitled "*Guilty by Reasonable Doubt and Counterfactual Innocence: Asymmetric Appeals in Philippine Double Jeopardy Law*," he argues that amid imperfect information, there is a moral hazard on the part of judges to convict when there is reasonable doubt in order to externalize the cost of rendering an unjust judgment or to preserve difficult issues on appeal.

These last two papers follow the great tradition of challenging the existing state of affairs as Guidote reexamines the status of certain surrogacy arrangements for being contrary to law and public policy while Tamase challenges the doctrine of double jeopardy.

Indeed, while one's citizenship papers indicate where one rightfully belongs, these "papers on citizenship" properly identify themselves as belonging to the category of thought-provoking insights that could break new grounds on legal scholarship. Needless to state, these papers will invaluablely contribute to the discussion of the issues that bear upon the corpus of jurisprudence on the citizenship of natural persons and the nationality of juridical entities.

While doors are being shut elsewhere, the Philippine Law Journal gallantly allows entry of these articles that are worthy of print and truly deserve a space in the hallowed pages of this esteemed publication. Paraphrasing what French novelist Victor Hugo once said, nothing gets in the way of an idea whose time has come. A more welcoming world should embrace more diverse ideas.

Congratulations!

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