

## FOREWORD\*

*Senate President Aquilino “Koko” Pimentel III\*\**

Laws are a product of a society that crafted them. Thus, the study of law requires the legal scholar to be cognizant of the history, culture, and the underlying issues of a society that a law is meant to address, and not to view the law without context. It is only through this prism that one can gain full appreciation and understanding of the law.

The PHILIPPINE LAW JOURNAL, by contextualizing legal issues within the modern realities of Philippine society, helps foster critical legal thinking in discussions of existing and proposed laws. This grand tradition is upheld in the current issue of the JOURNAL, as the articles discuss novel concepts in various legal fields.

In *“Defining the Undefinable: Treating Atheism, Agnosticism, and Secular Humanism as a Religion for Conscientious Objection, Tax Exemption, and Party-list Registration Purposes,”* Carlos S. Hernandez, Jr. discusses the limitation of a highly theistic definition of religion, and the challenges of those subscribing to non-theistic belief in invoking the protections and privileges granted to traditionally “religious” groups. By focusing on the issues of conscientious objection, tax exemption, and party-list registration, Hernandez offers jurisprudential justification in determining whether non-theistic believers are entitled to such protections and privileges.

In *“David versus Goliath, Writer versus Publisher: Fair Use in Literary Works as Applied in Anvil Publishing v. Adam David,”* Maria Karla Rosita V. Bernardo delves into the role of intellectual property law in the development of art and culture by providing an insightful discussion on appropriation in literature when used for creative-critical appraisals. Specifically, Bernardo highlights the nuances of fair use with respect to literary works, as encapsulated in the case of *Anvil Publishing v. David*.

In *“Cited Today, Gone Tomorrow: The Problem of Disappearing Internet Sources Cited in Supreme Court Decisions,”* Hilton A. Lazo tackles the problem of disappearing internet citations in Supreme Court decisions. Since our legal system is dependent on jurisprudence, Lazo explains that these citations link the argument to the source. Missing sources compromise the relevance,

---

\*Cite as Aquilino Pimentel III, *Foreword*, 91 PHIL. L.J. v, (page cited) (2018).

\*\* President, Senate of the Philippines (2016-present), B.S. Mathematics, Ateneo de Manila University (1985); LL. B., University of the Philippines (1990); Bar Topnotcher (1990).

veracity, and quality of arguments. Lazo then offers several options for that the courts may consider to address the issue.

In *“Presuming Innocence in a Police State and Articulating the Constitutional Imperative for Critical Carceral Reforms,”* Allan Chester B. Nadate uses the dictum of presuming innocence until proven guilty, together with the inhumane treatment clause, as the primary constitutional mooring for advocating carceral or detention reforms. Nadate advocates re-establishing the primacy of human dignity among pre-trial detainees.

Finally, in *“Understanding Financial Derivatives Through the Civil Code,”* Russel Stanley Q. Geronimo endeavors to harmonize the complexity of modern-day financial derivatives with the outdated provisions of the New Civil Code. In submitting that the textbook definition of these financial instruments is incompatible with the present wording of the law, Geronimo proposes legal definitions for forwards, options, and swaps.

These articles elevate the discourse in their respective fields by challenging traditional legal thought in the erudite manner that the University of the Philippines College of Law is known for. I commend the PHILIPPINE LAW JOURNAL for pushing these ideas to the front and center of discourse, where they deserve to be.

As our country undergoes Change and prepares for the shift to Federalism, excellent legal scholarship becomes more important than ever. Through this JOURNAL, we are made aware of the pressing issues that require careful rethinking of how we craft and interpret our laws. This is the PHILIPPINE LAW JOURNAL’s continuing contribution to building a Philippine society that aims to improve quality of life for Filipinos through equitable development and the rule of law.

*Mabuhay ang PHILIPPINE LAW JOURNAL!*