THE INDETERMINATENESS OF THE INDETERMINATE SENTENCE LAW

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It is not infrequently stated that if decisions of the Supreme Court on a particular legal point are culled together, it would be a miracle if a clear, consistent doctrine can be extracted. While it is true that this loose statement should be taken with a grain of salt, it cannot also be denied that on many a legal question, the Supreme Court has rendered irreconcilable rulings. In the field of criminal law, nowhere else is this observation more demonstrable than in the matter of the application of the Interminate Sentence Law [1]

In this paper, the decisions of the Supreme Court applying and interpreting the Indeterminate Sentence Law are examined for two purposes: 1) to bring out the conflicting rulings on several aspects of the operation of the law; and 2) to pinpoint the rules which are not in consonance with the provisions of the law. This article is, therefore, for the most part exploratory. But on some points, the authors have elected to come out with categorical conclusions. They have also formed a few suggestions as possible solutions to the problems that are here discussed. All the pertinent decisions of the Supreme Court have been investigated, but the authors have confined themselves to those cases where the Court has made some express statements on the matter, and disregarded those instances where the penalty imposed by the lower court is affirmed *in toto*.

MISAPPLICATION OF THE LAW

The sea of inconsistencies into which the Supreme Court has imprudently drowned itself is not limited to such trivial errors as applying the Indeterminate Sentence Law to a case which has become final prior to its effectivity on December 5, 1933,[2] and inexcusably failing to apply the law to a case where it ought to be applied.[3] No, indeed.

THE GAYRAMA AND GONZALEZ CASES

In at least three cases[4] prior to the case of *People v. Gayrama*, [60 Phil. 796, (1934)], the Supreme Court, in determining the minimum penalty for complex crimes for purposes of the Indeterminate

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1 Act No. 4103, as amended (Dec. 5, 1933).
2 People v. Dimayuga, 58 Phil. 599, (1933).
3 People v. Segovia, G.R. No. L-5037, March 19, 1953.
4 People v. David, 60 Phil. 93, (1934); People v. Acosta, 60 Phil. 158, (1934); People v. Barbas, 60 Phil. 241, (1934).

Sentence Law, has sanctioned the following procedure: 1) find out the penalty for the more serious felony; 2) the penalty next lower in degree to this penalty, without first determining its maximum period, will be the minimum penalty; and 3) the maximum penalty will be that for the more serious offense in its maximum period. But in the *Gayrama* case, the Supreme Court proceeded upon a totally different system. First, it determined the maximum penalty by imposing the penalty for the more serious felony in its maximum period. In lowering the penalty for the purpose of computing the minimum penalty, the Supreme Court took as a basis the penalty for the more serious crime in its maximum period.[5] The natural result would be that the minimum penalty as thus computed is comparatively higher. The only perceivable difference between the *Gayrama* case and the three cases aforementioned is that in the former, there were three mitigating circumstances which called for a maximum penalty lower by one degree than that prescribed by law for the offense. But if this circumstance be accepted as the factor that spells the difference, then the Supreme Court's imprudence would be the more unforgivable for in subsequent cases which it decided on the basis of the *Gayrama* ruling, there was an absolute absence of mitigating circustances.[6] Aside from the *Cu Unjieng* and *Silvallana* cases, the *Gayrama* ruling was also followed in the cases of *People v. Del Carmen*, [61 Phil. 401, (1935)]; *People v. Arquiza*, [62 Phil. 611. (1935)]; *People v. Catacutan*, [64 Phil. 107, (1937)]; *People v. Peñas* [66 Phil. 682, (1938)]; *People v. Peñas*, [68 Phil. 533, (1939)]; *People v. Pamati-an*, [69 Phil. 463, (1940)]; and *People v. Reyes*, [73 Phil. 549, (1941)]. But subsequently, confronted with the same situation as in the *Gayrama* case, the Supreme Court decided differently. In the case of *People v. Gonzalez*, [73 Phil. 549, (1942)], the Supreme Court declared that "for purposes of the Indeterminate Sentence Law, the penalty next lower (in degree) should be determined without regard as to whether the basic penalty should be applied in its maximum or minimum period as circumstances modifying liability may require. When, however, — and this may be the only exception to the rule — the number of mitigating circumstances is such as to entitle the accused to the penalty next lower in degree, this penalty in the application of the Indeterminate Sentence Law should be taken as the starting point for the penalty next lower (in degree)"[7] The *Gonzalez* ruling was followed in at least three cases.[8] In 1955 and in the case of *People v. Lawas*, (G.R. No. L-7618-20, June 30, 1955), the Supreme Court, for no reason at all, reverted to the *Gayrama* ruling. But in the recent case of *Feria v. Court of Appeals*, (G. R. No. L-9007, May 29, 1957), the same Court went back to the *Gonzalez* case. Because of this intriguing oscillation, nobody knows what the present law is on this matter.

5 People v. Gayrama, 60 Phil. 796, 808—810, (1934).
6 People v. Cu Unjieng, 61 Phil. 236, (1935); People v. Silvallana, 61 Phil. 636, (1935).
7 People v. Gonzalez, 73 Phil. 549, 552, (1942).
8 Lontoc v. People, 74 Phil. 135, (1943); People v. Parulan, G.R. No. L-2025, Abril 28, 1951; People v. Dosal, G.R. Nos. L-4215-6, April 17, 1953.

GAYRAMA RULING PREFERRED

It would seem, however, that the *Gayrama* rule is the better doctrine. It is admitted that it is not the purpose of the Indeterminate Sentence Law to make inoperative any of the provisions of the Revised Penal Code.[9] Consequently, it may be propounded that in computing the penalty next lower in degree to the penalty prescribed by law for the more serious offense, the basis should be such penalty already set in its maximum period, since this is the very penalty prescribed by Art. 48 of the Revised Penal Code, and which the Indeterminate Sentence Law refers to as the "penalty prescribed by the code for the offense."[10] In the words of Justice Paras:

> "Contrary to what the majority stated in *People v. Gonzalez*, the circumstance of complexity is not a modifying (aggravating or mitigating) circumstance, in the sense that its presence elevates or lowers the penalty prescribed for an offense. It is a qualifying circumstance inherent and absorbed in two linked offenses by virtue of which the Code, instead of imposing two separate penalties for the two offenses, prescribes only one penalty. Article 48 was inserted in the Code for convenience, in order to avoid the necessity of specifying the given penalties for all imaginable complex offenses, and not to create merely an ordinary modifying circumstance."[11]

It may be argued that in such a case, the minimum penalty would be comparatively higher to the prejudice of the accused. But this is justified because the accused is guilty of an extraordinary offense: a complex crime.

MINORITY: A PRIVILEGED OR ORDINARY MITIGATING CIRCUMSTANCE?

The possible effect of Republic Act No. 47[12] on paragraph 2 of Art. 68 of the Revised Penal Code has also occasioned inconsistent rulings by the Supreme Court in the application of the Indeterminate Sentence Law. It should be recalled that Republic Act No. 47, by way of amendment to Art. 80 of the Revised Penal Code, provides for the suspension of the sentence in case a minor below 16 years of age is found guilty of a grave or less grave felony. On the other hand, Art. 68, par. 2 considers the ages of between 15 and 18 years as a privileged mitigating circumstance. In the light of these provisions, the question may well be asked: Does Republic Act No. 47, in reducing the age of minority in Art. 80 to less than 16 years, amend Art 68, par, 2, of the Revised Penal Code, such that the fact that the accused is between the ages of 16 and 18 at the time of the commission of the crime should no longer be considered as a privileged mitigating circumstance? Certainly, the answer to this question has a felt effect on the determination of the minimum and maximum penalties under the Indeterminate Sentence Law, especially in cases where the penalty prescribed by law for the offense committed by a

9 People v. Ducosin, 59 Phil. 109, 115, (1933).
10 See sec. 1 of Act No. 4103, as amended.
11 Lontoc v. People, supra note 8, at 524 (dissenting opinion).
12 This law was approved and became effective on Oct. 3, 1946.

minor is *reclusion perpetua* to death, where the difference would be very great. Sadly enough, the Supreme Court, in an attempt to resolve the issue has only entrapped itself in self-contradictions. While it is true that the Court has made definite rulings that Republic Act No. 47 has not amended Art. 68, par. 2 of the Revised Penal Code, so that the ages of between 16 and 18 remain a privileged mitigating circumstance,[13] in the determination of the proper penalty under the Indeterminate Sentence Law, it has given such ages the effect of a privileged mitigating circumstance in some cases and an ordinary mitigating circumstance in others.

In the case of *People v. Macabuhay*, [83 Phil. 464, (1949)], where the accused, a minor below 18 years of age, was found guilty of murder, the Supreme Court considered his minority merely as an ordinary mitigating circumstance, in spite of its declaration that it is a privileged mitigating circumstance. Thus, in computing the penalty next lower in edgree for the purpose of the Indeterminate Sentence Law, the Court started from *reclusion temporal* maximum to death, which is the penalty prescribed by law for murder.[14] Had the minority of the accused been given the effect of a privileged mitigating circumstance in accordance with Art. 68, par. 2, the basis of the application of the Indeterminate Sentence Law should have been *prision mayor* maximum to *reclusion temporal* medium, which is, of course, a much lower basis than *reclusion temporal* maximum to death. In *People v. Garcia*, [47 O.G. (8) 4188, (1950)], the minority of the accused — he was 17 years of age — was fully given the effect of a privileged mitigating circumstance. There the accused was convicted of a crime punishable by *prision correccional* maximum to *prision mayor medium.*[15] Because of the special circumstance of accused's minority, the Court moved the penalty lower by one degree, that is, to *arresto mayor* maximum to *prision coreccional* medium, which latter penalty was made the starting point in the computation of the minimum penalty under the Indeterminate Sentence Law. But in *People v. Roque*, (G.R. No. L-3513, September 29, 1951) while the Supreme Court said that the minority of the accused is a privileged mitigating circumstance, it gave such minority the effect of an ordinary mitigating circumstance only when it applied the Indeterminate Sentence Law, thus doing what it did in the *Macabuhay* case.

As may be seen, therefore, the Supreme Court is in a state of dismal confusion. And its confusion is, indeed, confusing. As to which of the above rulings will be followed in future cases, is anybody's guess.

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13 People v. Garcia, 47 O.G. (8) 4191, (1950); People v. Macabuhay, 83 Phil. 464, (1949); People v. Roque, G.R. No. L-3513, Sept. 29, 1951; People v. Coleman, G.R. Nos. L-6052-4, March 28, 1948.

14 Art. 248, Revised Penal Code.

15 Robbery with violence and intimidation of persons, which is punished under art. 294, no. 5, Revised Penal Code.

ART. 70[16] OF THE REVISED PENAL CODE APPLIED IN THE IMPOSITION OF PENALTY

But this is not all on this interesting subject of legal oscillation. The sea of inconsistencies is made more turbulent by Supreme Court pronouncements on other aspects of the operation of the Indeterminate Sentence Law. In 1934, a case was brought to the Supreme Court on appeal. It involved an accused who was convicted of nine separate crimes of falsification of public documents. The Supreme Court, observing the Indeterminate Sentence Law, imposed upon him the indeterminate penalty of six years to twenty-four years and three days of "*prision mayor.*"[17] Here is how the Supreme Court arrived at this result. The penalty for falsification of a public document is *prison mayor* in its full extent.[18] To get the minimum penalty, the penalty next lower in degree to *Prision mayor* should be determined. This is *prision correcional,* and the minimum penalty of six years imposed by the Supreme Court is within the range. As for the maximum penalty, since there were no modifying circumstances present, the Supreme Court imposed *prision mayor* in its medium period and in consonance with Art. 70 of the Revised Penal Code, multiplied this by three, getting twenty-four years and three days after this computation. With practically the same situation, the Supreme Court acted differently in the subsequent case of *People v. Cid.* [66 Phil. 354, (1938)]. There, the accused was convicted of four malversations and four falsifications. The Supreme Court sentenced him to an indeterminate penalty of six months and one day of *prision correcional* to six years and one day of *prision mayor* for each of the falsifications committed by him in the first three cases only. The Supreme Court refrained from imposing upon him the penalties incurred by him for the malversations in the first three "because the penalties prescribed for each of said crimes are less than those prescribed for falsification," and from imposing upon him the penalties incurred for the malversation and falsification in the fourth case "because it is so prescribed by Art. 70." Then, there is the case of *People v. Peñas,* [69 Phil. 533, (1939)], where the accused was convicted of eleven crimes of estafa through falsification of a public document. For the first case, the accused was sentenced to eight years, one day to ten years, eight months, one day of *prision mayor.* For the second case, he was sentenced to seven years, seven months, twenty-nine days. No penalty was imposed for the other remaining cases. The reasoning of the Supreme Court is as follows: Three times eight years, one day to ten years, eight months, one day is equal to twenty-four years, three days to thirty-two years, three days, and it has already been stated that a penalty more severe than this cannot be imposed upon him. Art. 70 of the Revised Penal

16 Art. 70, Revised Penal Code, provides: "When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit; ...the maximum duration of the convict's sentence shall not be more than threefold the length of time correspondin to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the same maximum period."

17 People v. Policher, 60 Phil. 770, (1934).

18 Art. 171, Revised Penal Code.

Code is applicable. The case of *People v. Alisub*, [69 Phil. 362, (1940)], involved a defendant who was convicted of three murders, three homicides, and one serious physical injuries. For the first murder, he was sentenced to *reclusion perpetua;* for the second murder, to 10 years of *prision mayor;* and for the other remaining crimes no penalty was imposed upon him. The Supreme Court stated: "Teniendo en cuenta, sin embargo, que, bajo las disposiciones del articulo 70 del Codigo Penal Revisado, x x x no se puede imponer a un acusado, en las circumstancias del apelante, una pena mayor de cuarenta años."[19] In subsequent cases of the same nature, that is, where the accused is convicted of more than one crime both covered by the Indeterminate Sentence Law,[20] the Supreme Court, however, applied the Indeterminate Sentence Law to each crime proved without regard to the provisions of Art. 70 of the Revised Penal Code. The Court laid down this last rule quite emphatically in the case of *People v. Escares*, (G.R. No. L-11559, Jan. 29, 1958) : Art. 70 of the Revised Penal Code can only be taken into account, not in the imposition of the penalty, but in connection with the service of the sentence.

LAW VIOLATED

In the case of *People v. Suarez*, (G.R. No. L-6431, March 29, 1954); the accused was convicted of robbery in an inhabited house. The crime is punishable by *prision mayor* in its minimum period because he did not carry arms and the value of the property taken does not exceed ₱250.[21] The Supreme Court imposed upon him the indeterminate sentence of 6 months and 1 day of *prision coreccional* to 6 years, 8 months and 1 day of *prision mayor*. The Court, for once, did not deviate from this previous ruling in deciding later cases involving similar facts.[22] In cases of this nature, the rule would seem to be, according to the Supreme Court, that the minimum of the indeterminate penalty is within the range of the penalty next lower in degre from *prision mayor* in its full extent, disregarding first the fact that it shall be imposed in the minimum period. Unfortunately, just when the Court has chosen to be consistent, the consistency is contrary to the express provisions of the Indeterminate Sentence Law. That law categorically provides that the minimum shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code for the offense.[23] The second to the last paragraph of Art. 299 provides that when the offenders do not carry arms and the value of the property taken does not exceed ₱250, they shall suffer the penalty prescribed in the two next

19 People v. Alisub, 69 Phil. 362, 366, (1940).

20 People v. Ordonio, 82 Phil. 324 (1948); People v. Cael, G. R. Nos. L-296 1-4, Jan. 31, 1951; People v. Aguilar, G.R. os. L-3248-9, May 16, People v. Nolasco, G.R. Nos. L-3112-3, May 14, 1951; People v. Daligdig, G.R. Nos. L-2482, July 31, 1951; People v. Aclerto,. G.R. Nos. L-2708 & L-3355-60, Jan. 30, 1953; People v. Cuaresma, G.R. Nos. L-5841-2, Jan. 29, 1954; People v. Opena, et al., May 17, 1954; People v. Alonzo, G.R. No. L-4405, July 31, 1954.

21 Art. 299, par. 4, Revised Penal Code.

22 People v. Nazareno, G.R. No. L-7628, Sept. 20, 1955; People v. De Lara, 53 O.G. (1) 141, (1956). See also People v. Mape, 77 Phil. 809, (1947), which was decided prior to the amendment of art. 299 by Rep. Act. No. 18, which became effective on Sept. 25, 1946.

23 See sec. 1 of Act No. 4103, as amended.

preceding paragraphs in its minimum period, that is, *prision mayor* in its minimum period. This is undoubtedly the penalty prescribed by the code for robbery cases of this kind. The same observation with respect to complex crimes also holds true in this matter. The penalty prescribed by law is *prision mayor* in its minimum period in these cases, and this should, therefore, be the starting point.[24] This conclusion may find support in the case of *People v. Pulido*, [47 O.G. (9) 4581, (1950)]. There, the accused was convicted of the crime of robbery with homicide committed by a band. According to Art. 295 of the Revised Penal Code, if robbery with homicide is committed by a band, the penalty prescribed for such crime (robbery with homicide) shall be imposed in its maximum period. Robbery with homecide is punished by *reclusion perpetua* to death;[25] hence, if it is committed by a band, the imposable penalty would be death, *apropos* to Art. 295. The accused in this case was a minor — less than 18 years old at the time of the commission of the crime; therefore, he is entitled to a privileged mitigating circumstance. In giving him the benefit of the circumstance of his minority, from where should the penalty next lower in degree be computed? If we were to follow the *Suarez* case, the starting point would be *reclusion perpetua* to death, as this is the penalty "prescribed by law," disregarding first the fact that it shall be imposed in its maximum period. But the Supreme Court in the instant case of *People v. Pulido*, chose to depart from this ruling. It computed the penalty next lower in degree from death, which penalty, the Court considered as the one "prescribed by law," taking into account Art. 295 in relation to Art. 294 of the Revised Penal Code.

Another case of surprising consistency but violative of the law is the case of *People v. Mallari, et, al.* [60 Phil. 400, (1934)]. The Supreme Court held in that case that "the rule established by said Act (the Indeterminate Sentence Law) is that the courts may fix the minimum of the penalty next lower to that prescribed for the offense to a period which, without being the same maximum penalty which should be imposed upon him, would give the Board of Indeterminate Sentence sufficient time to make use of the discretion granted by Sec. 5 of said Act"[26] The Supreme Court applied this ruling in several cases.[27] At the time these cases were decided, Sec. 1 of Act No. 4103 (the Indeterminate Sentence Law) provided that the minimum penalty "shall not be less than the minimum imprisonment period of the penalty next lower to that prescribed by said Code for the offense." Under such provision, some American courts have held that the courts cannot prescribe a term greater than the statutory minimum.[28] This seems to be the correct rule. The mini-

24 See People v. Buada, 60 Phil. 303, (1934); People v. Co Cho, 62 Phil. 828, (1936); People v. Venus, 63 Phil. 485, (1936); People v. Borenaga, 64 Phil. 168, (1937); People v. Haloot, 64 Phil. 739, (1937); People v. Bernardino, 65 Phil. 141, (1937); People v. Mempin, 71 Phil. 457, (1941); People v. Mape, 77 Phil. 809, (1947).

25 Art. 294, no. 1, Revised Penal Code.

26 People v. Mallari, et al., 60 Phil. 400, 407-408, (1934).

27 People v. Genoves, 61 Phil. 382, (1935); People v. Kiichi Oomine, 61 Phil. 609, (1935); People v. Penas, 68 Phil. 544, (1939).

28 24 C.J.S. 1993, 1221-1222.

mum penalty should be within the range of the statutory minimum — the penalty next lower in degree under the Indeterminate Sentence Law must be construed in the light of its purpose and effect.[29] The underlying design of the law is to subject the offender to reformative influence, to rescue for useful citizenship one who started on a criminal career, and thus to enable him to assume right relations with society.[30] This objective of uplifting and redeeming valuable human materials and preventing unnecessary and excessive deprivation of personal liberty and economic usefulness would be promoted if the minimum penalty would be as far removed from the maximum penalty as possible. While it is also the rule that the operation of the system of indeterminate sentence should not be restricted by a strict construction of the statute,[31] it is nevertheless accepted that the law, being penal in nature, must receive a strict construction in favor of the one on whom the penalty is exacted.[32] One of the reasons advanced by the Supreme Court in the *Mallari* case is that the Board of Indetermine Sentence should be given sufficient time to make use of the discretion granted it by Sec. 5 of the law[33] This is absolutely true. But we ask: Is not the entire range of the minimum penalty a sufficient time for the exercise of this discretion? We believe that the dissenting opinion expressed the correct rule in that case. Let Justice Butte speak:

> "After an extended consideration of the legislative history and the objects to be attained by the Indeterminate Sentence Law, this court by unanimous vote declared that the minimum imprisonment period to be determined under said Act should be placed anywhere within the range of the penalty next lower in degree to the maximum penalty assessed by the court in conformity with the provisions of the Revised Penal Code. Under this interpretation a reasonable interval between the minimum and the maximum penalties is always assured and the defendant can not be deprived of the benefits of the Indeterminate Sentence Law. The modification to the doctrine of the Ducosin case made in this case by the majority of the court leaves it to the uncontrolled discretion of the trial judge to put the minimum penalty in the same period and the same degree as the maximum penalty."[34]

The very example given by the Committee Report of the House of Representatives to demonstrate the operation of the Indeterminate Sentence Law shows that the minimum penalty should be within the range of the penalty next lower in degree to that prescribed by law.[35] That all this was the intention of Congress was made more manifest when Act No. 4225 was passed to amend Sec. 1 of Act No. 4103 so as to provide that the minimum penalty "shall be within the range of the penalty next lower to that prescribed by the code for the offense."[36] The discussion of this matter is ad-

29 Ibid., at 1219.
30 Ibid., at 1218; People v. Ducosin, supra note 9, at 117.
31 24 C.J.S. 1093, 1219.
32 Ibid.
33 People v. Mallari, et al., supra note 26, at 407.
34 Ibid., at 409.
35 People v. Ducosin, supra note 9, at 115.
36 Lontoc v. People, supra note 8, at 522 (dissenting opinion).

mittedly academic. It is here attempted in order to show how the Supreme Court has tried to strain its interpretation of the Indeterminate Sentence Law to the point of prompting Congress to abrogate said interpretation.

WHEN PENALTY PRESCRIBED BY LAW IS RECLUSION PERPETUA OR DEATH

The Supreme Court in several cases applied the Indeterminate Sentence Law to a case in which the crime is punishable by *reclusion perpetua* or death provided that the penalty actually imposed is less than any of the above-mentioned penalties.[37] But in the recent case of *People v. Colman*, (G.R. No. L-6652-4, March 26, 1958), the provisions of the Indeterminate Sentence Law were not applied because said law "has no application to persons convicted of *offenses* punished with death, like the crime of murder," not withstanding the fact that the penalty actually imposed was less than death or *reclusion perpetua*. Considering the avowed objectives of the Indeterminate Sentence Law, it is respectfully submitted that the *Colman* ruling is of doubtful correctness.

ABNORMAL DECISIONS

Perhaps, the most interesting rulings of the Supreme Court on the Indeterminate Sentence Law are the cases of *People v. Ampan*, [60 Phil. 348, (1934)], and *People v. Quitain*, (G.R. No. L-8227, May 25, 1956). In the first case, the Supreme Court imposed a minimum penalty lower by two degrees from the maximum penalty on the face of the "special" circumstance that the "accused committed the aggression because they believed themselves to be the owners of the land." The authors have sought in vain for a legal basis of the decision. In the latter, the accused was convicted of forcible abduction with two rapes.[38] The Supreme Court considered the offense committed as a complex crime. It imposed the penalty of 20 years for each rape or a total penalty of 40 years. The Indeterminate Sentence Law was not applied. Why? We can only speculate. Perhaps, because the aggregate penalty exceeds the maximum period of *reclusion temporal*, it being 40 years, the Court considered it as *reclusion perpetua*, which latter penalty renders inapplicable the Indeterminate Sentence Law.

CONCLUSION

The title of this article means just what it says. The Indeterminate Sentence Law is indeterminate. And it is indeterminate because the Supreme Court has chosen to make it so.

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37 People v. Fontalba, 61 Phil. 509, (1935); People v. Cusi, 65 Phil. 614, (1938); People v. Ordonio, 82 Phil. 324, (1948); People v. Degula, G. R. Ni. L-3731, April 20, 1951; People v. Aguilar, G.R. Nos. L-3248-9, May 15, 1951; People v. Daligdig, G. R. No. L-2432, July 31, 1951; People v. Roque, G.R. No. L-3513, Sept. 29, 1951; People v. Didulo, G.R. No. L-3082, Aug. 31, 1954; Pe ople v. Cuevas, G.R. Nos. L-5844-5, May 30, 1955; People v. Hairal, G.R. No. L-7010, May 31, 1955; People v. Refuerzo, 82 Phil. 570, (1949); People v. Ching Suy Hiong, G.R. Nos. L-6706-7, Sept. 23, 1955.

38 Forcible abduction and rape are both punished by reclusion temporal. See arts. 335 and 342, Revised Penal Code.

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