

MU

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COLLEGE OF LAW
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FOREWORD

The first part of this Law Journal covers topics related to the COVID-19 pandemic. These articles aim to point out the effects of the pandemic to the lives of individuals, to the community, and to the nation. It also elucidates how this global health crisis greatly affected the different sectors of our society, such as health, economy, and education, to name some.

The pandemic has been unrelenting to us. In this time of crisis, access to information is crucial. Individuals need accurate information in order to apprise themselves of what is happening within and beyond the borders of the country.

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COVID-19 Mandatory Vaccination: Unconstitutional or Not?

Neslie Marie M. Acain and Steffi Dawn C. Ilagan

Who would have thought or predicted that a pandemic will eventually affect and change the way we live our daily lives? Almost all, if not all corners of the world have been hit with this Corona Virus Disease-19 (COVID -19).

Whether we like it or not, we now live in the world of “new normal”. This COVID-19 changed all of our lives: from the way we think, communicate, work, move, and even plan out our various activities and travel goals. There seems to be these hidden barriers that separate us from one another and keep us contained in our respective homes, wherein touching others and even our own faces has a great potential of becoming a taboo. Restrictions we never imagined and lockdowns we never wished for, affected our day-to-day living. Wearing of face masks and face shields became part of everyone’s “outfit of the day” (OOTD) goals. And as we continue living our daily lives, we are preoccupied with the safety protocols that we ought to observe every now and then. COVID-19 has indeed reshaped us, our society, our world.

While communities around the world respond to this pandemic and people are affected in different ways, the spread of COVID-19 has brought about social consequences and psychological sufferings to individuals. We are no longer shocked with daily news of COVID-19 cases spiking up not just in the Philippines but in the world tally as well. Numbers relating to COVID-19 cases play vigorously and they continue to scare every single one of us, with the fear that we might become the next victim of such virus.

However, despite the bleak outlook the pandemic has blanketed the world in, with the new strains and ongoing developments of COVID-19, many organizations and scientists have nevertheless, been working tirelessly to find the vaccine and hopefully restore normalcy, or at least, a new version of normal, to the world where people can once again do the most mundane tasks like gathering in crowds and traveling safely without having the looming threat of contracting the virus. And 2020, with months to spare before it ended its dreadful run, gave the world a speck of hope that maybe this nightmare of a pandemic will be soon coming to an end as pharmaceutical company, Pfizer along with Moderna, announced the high efficacy rate of a vaccine they had been working on.

Of course, normally, vaccines take almost a decade to really be fully developed - that is to say, all side effects are accounted for, countless of tests done to make it as reliable as can be -but because of the magnitude of the effect the pandemic has on the entire world, everyone has put a premium on expediting the process of developing vaccines. With the timeframe of development cut shorter than normal, also adding on the uniqueness of the virus and its contagiousness, the reception of this vaccine most definitely varies among everyone and has divided the world in terms of whether the aforementioned new COVID-19 vaccines are safe and effective and whether they should be vaccinated or not.

COVID-19: The Four (4) Ws

What is COVID-19?

Coronavirus disease (COVID-19) is an infectious disease caused by a newly discovered virus. According to the World Health Organization (WHO), the COVID-19 virus spreads primarily through droplets of saliva or discharge from the nose when an infected person coughs or sneezes. Most people infected with COVID-19 virus will experience mild to moderate respiratory illness and recover without requiring special treatment. Older people, and those with underlying medical problems like cardiovascular disease, diabetes, chronic respiratory disease, and cancer are more likely to develop serious illness. COVID-19 is a disease caused by SARS-CoV-2 that can trigger what doctors call a respiratory tract infection which can affect either one's upper respiratory tract (sinuses, nose, and throat) or lower respiratory tract (windpipe and lungs). It spreads the same way other coronaviruses do, mainly through person-to-person contact wherein infections can range from mild to deadly.

When and Where were the first cases of COVID-19 reported?

The first human cases of COVID-19 were first reported by officials in Wuhan City, China. In a report by the World Health Organization (WHO), retrospective investigations by Chinese authorities have identified human case with onset of symptoms in early December 2019. While some of the earliest known cases had a link to a wholesale food market in Wuhan, some did not. In this notable timeline, the virus has expanded and affected every corner of the world wherein millions of people have been sickened and died. Among the top countries greatly affected in the early days of virus outbreak were the United States, Italy, Spain, Germany, China, France, Iran, United Kingdom, Switzerland, and Turkey, to name some.

Why is COVID-19 considered a pandemic?

The World Health Organization (WHO) described COVID-19 (formerly called N-CoV) as a pandemic for the first time, as it has rapidly expanded across the world in the month it was first announced in China.

It has been made clear that global health crisis grow in different phases. A global health crisis is called an "outbreak" when there is a sudden rise in confirmed cases of a specific disease which is contained to a small geographic region only, as in the case in Wuhan. It is labeled as an "epidemic" when the disease spreads just beyond that community-like how it spreads from Wuhan only, to across China. Consequently, it

is then declared a “pandemic” when an epidemic already crosses international boundaries and affects a large number of people worldwide. These classical definitions simply suggest that how a global health crisis is labeled, all correlate to “geography”.

The World Health Organization (WHO) on March 11, 2020 formally announced COVID-19 as a pandemic. The COVID-19 has clearly become a pandemic in just a couple of months as it gradually transcended from border to border and eventually killed hundreds, to thousands and millions of people.

A Quick Review of the COVID-19 Timeline

After reported, confirmed cases outbreak of the coronavirus disease in Wuhan, China on December 2019, it was in the succeeding months when the World Health Organization (WHO) published a disease outbreak news on the new virus. Consequently, the Novel Coronavirus (N-Cov) was renamed to Coronavirus disease-19 (COVID-19), notably with the global death of 1,000 deaths, already surpassing that of the Severe Acute Respiratory Disease (SARS) in its early months of detection.

COVID-19 firstly detected in Wuhan, China quickly spread to the other nearby regions on the other parts of the world, particularly to the United States and Europe. Deaths of medical professionals affected by the virus started to increase in number as closures of international borders were put in force. Travel bans were quickly implemented while other parts of the world started confirming their first cases. The Philippines likewise reported its first death outside of Mainland China as quarantine and contact-tracing efforts were tightened by countries affected by the virus. As a response to the alarming global health crisis, the World Health Organization (WHO) then convened a global research and innovation forum, wherein a team of experts was assembled in order to accelerate actions against the spread of the coronavirus disease.

As each day passes by, more and more people are being victimized by the virus: from infants to adults, healthy individuals to unhealthy ones, and even medical to non-medical frontliners. No one appears to be an exception as the virus spreads rapidly across international borders, thereby causing more deaths. Eventually, the situation gave birth to the rise of now called a pandemic. In the early weeks of February 2020, the number of affected people in Iran, South Korea, Italy, to include the Middle East began rising wildly with notable deaths. As the month of March 2020 entered, COVID-19 cases hit the hundred thousand record globally, with Europe declared by the World Health Organization (WHO) as the epicenter of the pandemic and Italy, with highest death toll. The World Health Organization (WHO) at that juncture started to deliver coronavirus lab test kits around the world and warned for “significant shortage” of medical supplies. It is also worthy to note that as China started to lift lockdown on Hubei province where the virus

originated, the pandemic accelerated to other parts of the world and the affected countries just started with their respective lockdowns.

By April 2020, global cases of COVID-19 passed the one (1) million mark while death toll exceeded fifty (50) thousand. United States surpassed Italy on the confirmed cases of deaths in the entire world. The extent of deaths caused by the virus has become disturbing and seemed that in just one snap, all the people in the world could die.

In this trying time, the very controversial hydroxychloroquine was deemed ineffective as treatment for COVID-19 because there were no clear evidences that recovered patients are already immune from the virus.

In the months that followed, COVID-19 cases continued to spike and the United States passed the seven (7) million cases. On the other hand, countries like India and New Zealand started lifting lockdown restrictions, while reported cases of reinfection of the virus were reported particularly in Hong Kong. At the start of the last quarter of 2020, global deaths due to COVID-19 already passed the one (1) million mark. Political leaders around the world were no exception from the coronavirus, with then US President Trump as a COVID-19 positive. And as countries like Singapore and Indonesia started opening its borders, global COVID-19 cases eventually hit the fifty (50) million mark.

In response to this global health crisis, formulation of vaccines were authorized to world's leading pharmaceutical companies and distributors, in order to effectively combat the further spread of the coronavirus. Phase trials of vaccination were even completed before the end of year 2020.

The year 2021 came in and the first month welcomed a two (2) million mark for the global death toll while cases of the new strains of the virus tend to multiply.

As of the first quarter of year 2021, total number of COVID-19 cases worldwide hit the 125 million mark, with almost 80 million recoveries and deaths having a great potential of reaching the 3 million mark.

COVID-19 Timeline: A Look into the Philippines

The Philippines is no exception to the countries grappling with COVID-19 pandemic. In the past months, the Philippines maintained its spot in the list of communities around the world facing the rise of infections due to the virus. Between January to September 2020, more than three hundred thousand (300,000) Filipinos caught the coronavirus while the simplified rules allowed the Department of Health (DOH) to declare over two hundred fifty thousand (250,000) recovered patients. In the said period, the death toll stood at five thousand five hundred (5,500).

It is worthy to note that upon discovery of the first novel coronavirus outbreak reported in Wuhan, China, the Philippines welcomed its year 2020 by granting authorization to the Department of Health to order tighter checks on inbound travelers as the mysterious pneumonia spread in China. The country then stopped accepting flights from Wuhan, China where the origin of the new coronavirus was reported; while Chinese tourists in the Philippines were immediately transported back to their point of origin. In addition, the Department of Health (DOH), convened the first Inter-Agency Task Force (IATF) for the Management of Emerging Infectious Diseases to address said global health crisis which also hit the Philippines. As the confirmed cases around the world continued to rise, the Philippines initiated to acquire confirmatory test kits for utilization by the Research Institute for Tropical Medicine (RITM), a Philippine-based research facility tasked with planning and implementing research programs for infectious and/or tropical diseases.

The country logged its first case (by the end of January 2020) of COVID-19 when a Chinese woman who traveled from Wuhan, China happened to enter the Philippines and eventually emerged as the carrier of the virus. As an immediate response, lawmakers of the country called for a travel ban from China to block the furtherance of the entry of the virus, of which President Rodrigo Duterte approved the same. Travel bans were later on expanded to all countries with reported cases of local transmission. Issuances of visa were also suspended alike as worldwide COVID-19 cases soared higher.

The Philippines announced its first COVID-19 death outside China in the person of a Chinese tourist who died in Manila. On mid-February 2020, the Department of Health (DOH) announced Philippines' first confirmed case of recovery from the coronavirus. On the other side, the country reported its first local COVID-19 infection when a 62-year old man who was found to have no travel history was infected by the virus. Work-from-home and class suspensions were sought immediately amid local transmission of the virus and preventive measures were tightened when President Duterte declared a State of Public Health Emergency on the first week of March 2020. However, despite the rising coronavirus cases in the country, President Duterte rejected Metro Manila lockdown. From then on, more and more cases of virus transmission were confirmed. And by the end of the first half of year 2020, the Philippines breached the one hundred thousand (100,000) mark which unfortunately doubled in the following months.

Consequently, the entire country was placed under a State of Calamity with Luzon under the Enhanced Community Quarantine (ECQ) status. It can also be recalled that President Duterte signed the *Bayanihan to Heal as One Act*, which gave him special powers such as the re-alignment of budget allocations and the declaration of savings to free up more funds for the government's COVID-19 response.

The first months of 2020 were tough for the country as lockdowns were extended and even strengthened in more provinces and cities. Upon entry of the second half of year 2020, quarantine ease was granted to bring back jobs and business activities after an economic steep recession during the first half

of the year. This meant more establishments in the country reopened and tourism operated back on track. A "Hatid Probinsya" program was also launched by the government, for the locally stranded residents who wished returning to their respective provinces. However, the said program was suspended in the mid-months of the year due to high confirmed cases of COVID-19 particularly in the National Capital Region (NCR) and Cebu Province, with Cebu City declared as the new focal point of the virus and being put under the strictest Enhanced Community Quarantine (ECQ) status. By July 2020, the Philippine government named more Anti-Coronavirus Czars as a response to the rise in the confirmed cases of COVID-19 with the goal of "flattening the curve" before the year ends.

While classes are suspended in the entire country, public schools were used as quarantine facilities to cater the increasing number of COVID-19 patients, particularly the asymptomatic ones. August of year 2020, Russian-made COVID-19 vaccine was given approval but government said it has to go through regulatory approval before it is administered to Filipinos. In just less than a month, the country exceeded the two hundred thousand (200,000) mark of COVID-19 tally. And as the year 2020 came to its end, the Bayanihan 2 Law was passed, to include additional standby fund and funds for vaccine purchase. The National State of Calamity for the entire country was also extended, alike.

For the first quarter of 2021, the Philippines logged almost 700 thousand cases, with recoveries running 600 thousand and deaths of almost 15 thousand being tracked.

On Vaccination and New Coronavirus Strains

Dating back to 1796, when the first successful vaccine was invented by a man named Edward Jenner for the smallpox outbreaks which is to date still one of the deadliest diseases in history, Jenner's discovery of the smallpox vaccine still remains to be the only one that has completely eradicated the disease through such¹. However, it is worth noting that there are existing studies that date back to earlier uses of vaccines, but the smallpox vaccine is the first large scale vaccine that was recorded to be a success. Ever since that infamous outbreak of the deadly smallpox, an array of new diseases was breathed into life and a number of them caused pandemics that led to the creation of other vaccines as a way to adapt to the everchanging sensitive nature of life.

Vaccines help develop immunity by imitating an infection. This type of infection, however, almost never causes illness, but it does cause the immune system to produce T-lymphocytes and antibodies. To understand how vaccines work, it helps to first look at how the body fights illness. When

¹ World Health Organization (WHO). *Small pox Vaccines*, retrieved from <https://www.who.int/news-room/feature-stories/detail/smallpox-vaccines#:~:text=The%20smallpox%20vaccine%2C%20introduced%20by,protected%20against%20inoculated%20variola%20virus.>

germs, such as bacteria or viruses, invade the body, they attack and multiply. This invasion, called an infection, is what causes illness. The immune system uses several tools to fight infection.² Scientists use different kinds of approaches when developing vaccines, it is largely based on what kind of infection the vaccine is for but there are also other factors that come into play like environmental factors, because a virus could have a different strain in other areas where the temperature and climate are different.

Understanding how a vaccine works is important now because of the gravity of the viral infection known to us as COVID-19. Since it is not only in an individual's personal interest to be getting vaccinated but in the masses also, people should be knowledgeable about what a vaccine is and what it does to our bodies.

As soon as the pandemic began, the race to developing a vaccine for COVID-19 had also set foot. To put it plainly, the entire world had been put on hold because of the pandemic, everyone's lives were impacted in so many different ways, some more tragically than others; the pandemic had no biases, it affected all walks of life and as such, there was an immediate need to create a vaccine that would successfully put an end to the pandemic. Although typically scientists spend years studying and developing vaccines, because of the magnitude of the cases globally, the process has been fast-tracked and underwent what they called a, "Operation Warp Speed" or OWS. While in the midst of the COVID-19 pandemic, the World Health Organization (WHO) together with its partners worked together on the response and its consistent efforts to develop and deploy safe and effective vaccines to combat the coronavirus disease.

According to the World Health Organization (WHO), there are currently more than fifty (50) COVID-19 vaccine candidates in trials. WHO is working in collaboration with scientists, business, and global health organizations through the Access to COVID-19 Tools (ACT) Accelerator to speed up the pandemic response. When a safe and effective vaccine is found, COVAX (one of the three pillars of the ACT) will facilitate the equitable access and distribution of these vaccines to protect people in all countries. People most at risk will be prioritized. While the WHO works towards rolling out a safe and effective vaccine fairly, countries all over the world are urged to continue the essential public health actions in order to suppress transmission and reduce mortality caused by the coronavirus.

The world hasn't contained the spread of COVID-19 that has, so far, infected over 125 million people globally, yet it faces more contagious variants of the deadly virus. On Dec. 2020, a new strain of the coronavirus that causes COVID-19 was reported in the news media. The new strain's existence raised questions: Is the coronavirus more contagious now? Will the vaccines being developed still work?

² Center of Disease Control and Prevention. *Understanding how Vaccines Work*, retrieved from <https://www.cdc.gov/vaccines/hcp/conversations/downloads/vacsafe-understand-color-office.pdf>

The new COVID-19 variant referred to as B.1.1.7 was first detected within the United Kingdom in September 2020. In November, around 1 / 4 of the reported COVID-19 cases within the country were found to be of the new variant of the SARS-CoV2, the virus that causes COVID-19. With this, health experts said that viruses naturally mutate. Scientists earlier said they observed minor mutations within the coronavirus that have not impacted its ability to spread or cause disease in any significant way.

Not only that, information about the characteristics of the new variants is rapidly emerging. Scientists are putting double efforts to learn more about how easily these new variants spread, on whether they could cause more severe illness and whether currently authorized vaccines will protect the people. Multiple variants of the virus that causes COVID-19 have been documented in the United States and in other parts of the world such as South Africa with variant called B.1.351 and in Brazil, a variant called P.1. As far as COVID-19 is concerned, studies suggest that antibodies generated through vaccination with currently authorized vaccines recognize these reported variants. These are being closely investigated and more studies are underway with scientists working to learn more and identifying what are the things that needed to be understood more about these emerging variants of the virus.

However, despite the brighter note of having developed several vaccines, the reception of this news varies from every individual. There is a divide between those who believe the vaccine should be mandatory and widely available right away and those who are skeptical and doubtful whether the efficacy of the vaccine is trustworthy and whether there might be any side effects to the vaccine that can be far harmful than the virus itself.

COVID-19 Vaccine

As the whole world waited on bated breath for the discovery of the vaccine for the deadly pandemic, it finally came in the last stretch of 2020. It was on November of 2020 that the pharmaceutical company, Pfizer, had announced its 95% efficacy rate of the COVID-19 vaccine they had been developing for months. An article from a website called biospace reveals that, “from March 30th of last year, the U.S. Department of Health & Human Services (HHS) started a program they coined “Operation Warp Speed,” (OWS) in an attempt to expedite a COVID-19 vaccine.”³

The active ingredient in the newly developed Pfizer vaccine is messenger RNA that carries instructions for making the virus’s spike protein, which it uses to gain entry to cells. The mRNA is synthetic, not extracted from actual viruses. It is delivered in a tiny sphere of inert fatty material called a lipid nanoparticle.

³ Will Brothers. *A Timeline of COVID19 Vaccine Development* Retrieved from <https://www.biospace.com/article/a-timeline-of-covid-19-vaccine-development/>

The RNA-bearing nanoparticles are suspended in saline solution and injected into muscle tissue in the upper arm. The mRNA is then taken up by specialist immune cells, which follow its instructions to make the spike protein, just as they would do if they had become infected with the actual virus.

The spike protein is recognised as foreign by the immune system, which mounts an attack against it. Antibodies, B cells and T cells are activated, according to Uğur Şahin, the chief executive of the small German company BioNTech that co-developed the vaccine with US drug giant Pfizer. An immune memory is also laid down, he says, which means the immune system has learned how to defeat the pathogen and is primed to mount a swift response if it encounters the coronavirus again.⁴

The Pfizer vaccine however, is not accessible for everyone. The recommended age group for the vaccine as stated in Center for Disease Control (CDC), it is only available to those within a certain age range and test from Phase III of the development of this vaccine has shown that not everyone has been receptive to the vaccination. However, a 95% efficacy rate is about as good as it gets provided the time-crunch they had to work with.

As the situation continues to unfold, many other brands of the COVID-19 vaccine have also surfaced, all from different pharmaceutical companies who have also been tirelessly working on their own vaccine and some have proven effective even with the new strain from the UK and the one in South Africa. Continued testing and monitoring is done as well for those who have received the vaccine already. The Pfizer vaccine or also known as, Pfizer-BioNTech COVID-19 Vaccine, is only currently approved for emergency use as again, the timeframe it had to work with had not been sufficient enough to warrant such authorization.

As expected for every vaccine, there are already side effects that have been noted by Pfizer, and the most commonly reported side effects, which typically lasted several days, were pain at the injection site, tiredness, headache, muscle pain, chills, joint pain, and fever.

According to the New York Times, “Pfizer’s chief executive has said that it could have 30 to 40 million doses of the vaccine before the end of the year, enough for 15 to 20 million people to get an initial shot and a booster three weeks later.

Exactly who will qualify for the initial doses has not been decided, but groups that are at higher risk for infection, or are more vulnerable to the virus, are likely to get priority. That could include health care workers as well as older adults and those who have risk factors like obesity or diabetes.

⁴ Lawton, Graham. *Everything you need to know about Pfizer/ Biontech COVID-19 vaccine* Retrieved from <https://www.newscientist.com/article/2261805-everything-you-need-to-know-about-the-pfizer-biontech-covid-19-vaccine/>

Pfizer and BioNTech say they could ramp up to 1.3 billion doses a year. That's still far from enough to satisfy the world's need for vaccines. If other vaccines also prove effective, companies will be able to manufacture them as well and help meet the demand.”⁵

It isn't with certainty yet when the vaccine will become widely available to the general public as again, continuous safety tests are being done and scientists are still observing the effects from those who have already received the vaccine.

In the Philippines, not only has the Pfizer vaccine been approved for emergency use, but the FDA has also recently approved the AstraZeneca, the Gamaleya, and the Sinovac COVID vaccine. “Health experts earlier said that AstraZeneca's vaccine would also be easier to distribute in poorer and harder-to-reach areas, considering it can be transported and handled at normal refrigerated conditions of 2 to 8 degrees Celsius (36 to 46 degrees Fahrenheit) for at least 6 months, making it compatible with the Department of Health's (DOH) storage facilities.”⁶ The Philippines has been said to have entered into a tripartite deal with AstraZeneca to secure up to 17 million doses for the Filipinos.

The COVID-19 vaccine rollout in March 2021 marked a historic event as the Philippine government began its vaccination drive with at least 756 frontline healthcare workers from 6 hospitals in Metro Manila who received Sinovac's CoronaVac. Other parts of the country also documented its first batches of individuals, being vaccinated for COVID-19 virus protection in the weeks that succeeded.

Now, even with the discovery of a vaccine, studies and tests are still ongoing especially now with the virus taking on new strains and mutating. And there are plenty of safety concerns that people are pressed about given the timeframe it took to develop the vaccine and considering that long-term side effects may take a while to manifest. So, it is without surprise that there are those who are skeptical about the vaccine and are hesitant to take it when it becomes widely available, at least, for everyone.

Polar Opposites: Pros and Cons of the COVID-19 Vaccine

As earlier mentioned, the development of the vaccines by different pharmaceutical companies has been met with differing reactions. More notably, those that are enthused and excited to be vaccinated so life may resume back to the way it was pre-covid and of course, those at the other end of the spectrum: the skeptics.

⁵ Carl Zimmer and Katie Thomas *Pfizer's Covid Vaccine: 11 Things You Need to Know*
Retrieved from <https://www.nytimes.com/live/2020/pfizer-covid-19-vaccine>

⁶ Sofia Tomacruz. Philippines Approves Astrazeneca COVID-19 vaccine for emergency use.
Retrieved from <https://www.rappler.com/nation/philippines-approves-astrazeneca-covid-19-vaccine-emergency-use>

Vaccinations have never been met with a singular positive response, even pre-covid, there were already those that were adamant on being against vaccination and were coined as, “anti-vaxxers”. These anti-vaxxers do not believe it is safe for them or their children to be vaccinated and may actually make them more susceptible to disease instead of prevention.

Now, with the COVID-19 pandemic, even with the wide scale damage it has caused economically, there are still those that do not believe in the gravity of the pandemic. And those, along with others who doubt the safety of the vaccine, form part of the population who are against the vaccination.

To speak fairly, normally vaccines take years and arduous research before it is released to the public and used by the masses. However, the pandemic has become such a constant pressing matter that time just had become the essence, so the development of the different vaccines that are now being approved for emergency use do not have the same hours of research and experiments dedicated to it compared to the vaccines that have been developed before. Hence, people’s hesitance towards its limited research is validated.

Various sources online have even shown for there to be a wide spreading of misinformation regarding the vaccine, mostly done by a movement from anti-vaxxers. Health officials are staying vigilant to fight against this because data shows that at least 60% of the world’s population has to be vaccinated for there to be an effective eradication of the spreading of the virus.

The Philippines, due to some incidents in the past with Dengvaxia also grow hesitant to get vaccinated, fronting the line of skeptics are healthworkers themselves, which helps inject doubt among Filipinos to get vaccinated.

An article revealed that, “the medic is particularly critical of the government’s decision to disallow Filipinos from choosing the type of coronavirus vaccine they receive. The government has said it will buy millions of doses from China’s Sinovac despite the absence of “reliable data” and incomplete clinical trials.”⁷

A December 2020 survey conducted by OCTA Research, which analyses Philippine health statistics, found that only 25 percent of respondents in Metro Manila were willing to get an anti-COVID shot.

Some 28 percent of the people surveyed said they would refuse any type of vaccine, while 47 percent were undecided and said it depended on the brands available.

A separate survey conducted between November and December by the Manila-based public opinion pollster, Pulse Asia, meanwhile, showed that only 32 percent of Filipinos nationwide wanted to get vaccinated against the

⁷ Ted Regencia, Dengvaxia Controversy haunts Duterte COVID vaccine rollout. Retrieved from <https://www.aljazeera.com/news/2021/1/29/philippines-covid-vaccination-policy>

coronavirus and 47 percent said they did not want to get vaccinated at all due to safety concerns.”⁸

The lack of transparency by the Philippine government regarding the Sinovac vaccines do not help quell the growing skepticism by Filipinos. So far, it is looking as if majority of the Philippines is against taking the vaccine at all.

Making the COVID-19 Vaccination Mandatory: Unconstitutional or Not?

Despite the differing views on the vaccine and initial polls showing the majority to be against the vaccine, for it to actually be effective in eradicating the virus, a certain percentage of the population should be vaccinated. Now the question stands on whether the vaccination should become mandatory and if it does, would that be unconstitutional?

“The main argument for those in favor of mandatory vaccination is the 1905 US Supreme Court case of *Jacobson v Massachusetts*. The popular interpretation accorded that ruling is that state police power allows the imposition of reasonable regulations to protect public health and safety. Mandatory vaccinations, it is posited, do not violate the constitutional right to liberty, individual restraints being sometimes necessary for the common good.”⁹

“Harvard’s Alan Dershowitz supports this: “Let me put it very clearly: you have no constitutional right to endanger the public and spread the disease, even if you disagree. You have no right not to be vaccinated. And if you refuse to be vaccinated, the state has the power to literally take you to a doctor’s office and plunge a needle into your arm.”¹⁰

However, this argument would ultimately fail as the subject of Dershowitz’s argument is about the smallpox outbreaks, “COVID-19 is nowhere near smallpox: aside from its low CFR/IFR rates (e.g. tuberculosis has a higher CFR rate at 35%), the coronavirus has an identified specific demographic that it relatively severely affects: the elderly and those with comorbidities. Practically, 90% of the population (those below 60 years of age, if without another serious health condition) will generally come off unscathed from the coronavirus. The probability of a 0-29 year old, for example (without comorbidities), needing hospital treatment for COVID-19 (i.e. those affected severely or critically) is just 0.92%.

⁸ *Ibid.*

⁹ Jemy Gatdula. *Mandatory vaccinations is unconstitutional*, Retrieved from <https://www.bworldonline.com/mandatory-vaccination-is-unconstitutional/>

¹⁰ *Ibid.*

The point is that with all that we know now about COVID-19, it would simply be unreasonable to impose a mandatory vaccination on an otherwise healthy and significant portion of the population, when the minority that is truly affected by the coronavirus has been identified. And even for that minority, the government can certainly apply less intrusive means to serve public health purposes that will not violate anyone's civil liberties."¹¹

Many people would argue against the constitutionality of a mandatory vaccination being passed on as a law, especially when the question is about public health and public safety that is safeguarded by the Philippine Constitution. It would still be a hotly debated issue in the days to come and there is no telling whether or not the vaccination will be made mandatory especially with educational institutions wanting to open up and resume face-to-face classes and business establishments desiring to return to a normal workforce. It may become company policy or a school policy for the students and employees to be vaccinated.

Conclusion

It is without a shadow of doubt that the entire world and its population was racked by this fast-acting pandemic. What used to be a 2-week long quarantine and lockdown protocol had stretched out to an entire year and already went past that. People have now adapted their very own version of a new normal, embracing government restrictions as a part of the everyday norm. Despite this sort of somber acceptance, everyone from countries still suffering and taking the brunt of this pandemic are longing and waiting on their toes for the fog to lift and for them to be able to put this entire plight behind them and recover from the catastrophic effects of the pandemic not only limited to their personal lives.

With the vaccination seemingly the only hope for things to ever have a semblance of normalcy again, it is still faced with great hesitation by most likely more than half of the population. As studies and research continue to take place regarding the virus, its new strains and how it reacts to the vaccination, it would only be left for time to tell whether this vaccine could be a light at the end of the tunnel for this arduous journey or prove to have more catastrophic effect and become a setback.

On whether or not it is unconstitutional, will remain to be debatable and we can only expect this to be unraveled further as the vaccine would become more widely available and more people are given the choice whether to be vaccinated or not.

¹¹ *Ibid.*

Philippine Calamity Response in The Time of Pandemic: What Happens When Disaster of Other Kinds Hit During a Pandemic and How does our Government Respond to It?

Victor Emmanuel Berroya, Farris Mae D. Jornales, Angelic Tesio and Marlyn F. Wee

Pandemic isn't new to us. Experts already warned us of pandemic decades ago. This coronavirus that we are experiencing nowadays is not and will not be the last pandemic that will occur as scientists believe that another pandemic will happen during our lifetime. This view came from health experts all over the world who study how and where new diseases emerge.

So, what makes you think these diseases from wildlife spread so quickly? Well, human encroachment on the natural world speeds up that process. Our behavior is one major factor that causes diseases to spread from animals into humans more often.

According to Professor Kate Jones from University College of London, evidence "broadly suggests that human-transformed ecosystems with lower biodiversity, such as agricultural or plantation landscapes, are often associated with increased human risk of many infections".¹²

With our current situation, have you observed how this pandemic was handled and how calamity responses in the time of pandemic are managed?

Pandemic Preparedness and Containment Plan: Covid-19 Pandemic Protocol

Before we tackle the pandemic protocol, let us first know what is pandemic and what is it all about.

A pandemic is an outbreak of global proportions. It happens when infection due to a bacterium or virus becomes capable of spreading widely and rapidly. The disease behind a pandemic can cause severe illness and spread easily from one person to the next.¹³

Is Covid-19 a pandemic or epidemic? What's the difference?

According to the World Health Organization, a pandemic involves the worldwide spread of a new disease. While an epidemic remains limited to one city, region, or country, a pandemic spread beyond national borders and

¹² Gill, V. (2020, June 6). *Coronavirus: This is not the last pandemic*. Retrieved from <https://www.bbc.com/news/science-environment-52775386>

¹³ Sampson, S, D.O. (2020, March 30). *What to know about pandemics*. Retrieved from <https://www.medicalnewstoday.com/articles/148945>

possibly worldwide. Writing in March 2020, the COVID-19 was already treated as pandemic and has had an unprecedented impact across the globe.

¹⁴

Starting from Wuhan, China, it now spreads globally, and a huge percentage of the world's population are affected including several huge countries who closed their borders, resulting in a massive impact on worldwide travel and industry. A great majority of the population lost their employment as quarantine protocols got rigidly enforced and non-essential business were forced to close due to lockdowns.

Covid-19 Pandemic Protocol

With the virus spreading vastly, different COVID-19 Pandemic Protocols across countries were implemented. The World Health Organization issued strategic actions that will greatly help to combat the speedy spread of the virus. Each strategic action has a goal that contributed to a larger goal. Few of those strategic actions were to reduce human exposure to the Covid-19 virus, strengthen the early warning system, intensify rapid containment operations, build capacity to cope with the pandemic, coordinate global scientific research and development and many more. The World Health Organization strongly stands that strengthening these strategies and developing it will improve the world's ability to collectively defend against many other emerging and epidemic-prone diseases.¹⁵

Aside from WHO, the United States along with many more countries worldwide has their own National Pandemic Strategy. This intends to stop, slow, or otherwise limit the spread of the pandemic: limiting domestic and international spread of the pandemic, mitigating disease, suffering and death: and sustaining infrastructure and mitigating impact to the economy and functioning of the society.¹⁶

Here in our very own country, the Philippines, we also have our different pandemic protocol designed and suited to control the spread of the virus and if possible, minimize the damage and stop the pandemic.

Both the national government and local governments have responded to the COVID-19 pandemic in the Philippines with various declarations of emergency, closure of schools and public meeting places, lockdowns, and other restrictions intended to slow the spread and progression of the virus.

¹⁴ World Health Organization. (2010, February 24). What is a pandemic. Retrieved from https://www.who.int/csr/disease/swineflu/frequently_asked_questions/pandemic/en/

¹⁵ World Health Organization. (2006). WHO Strategic Action Plan for Pandemic Influenza. Retrieved from https://apps.who.int/iris/bitstream/handle/10665/70038/WHO_CDS_EPR_GIP_2006.2a_eng.pdf

¹⁶ *Ibid.*

Following the confirmation of the first localized transmission, President Rodrigo Roa Duterte issued a Proclamation Order No. 922 declaring a public health emergency which authorized local government units to employ their local risk reduction management funds. A week after, the president signed Proclamation Order No. 929 declaring a State of Calamity throughout the country for six months implementing price control on basic needs and commodities, granting interest-free loans, distribution of calamity funds, authorization of importation and receipt of donations, and hazard allowance for public health workers and government personnel in the fields of science and technology. After that different administrative orders were issued to help the economy and the Filipinos. The Bayanihan to Heal as One Act was also enacted authorizing the President to exercise powers necessary to carry out urgent measures to meet the current national emergency related to COVID-19 only for three months unless extended by Congress.¹⁷

Aside from those mentioned above, lockdowns in different Barangays, Cities, Municipalities and Regions were also implemented, cash aids or this so-called Social Amelioration Program were provided to the citizens, Universal HealthCare was given more importance, enough medical supplies were secured, mass testing were conducted and many more.

Calamity Response When Disaster Hits During a Pandemic

It is not because we are still facing the pandemic that we will temporarily be excused from the earth's grumbling. Even in times of pandemic, natural disasters still hit, from different magnitudes of earthquake, to typhoon, heavy flooding, and volcanic eruption and a lot more. It is inevitable. The Philippines' geographical location has been the reason why tropical depressions and typhoons batter the country one after another. In just a year 6 tropical cyclones have hit the country – Typhoon Quinta, with its strength has lashed southern Luzon last October 2020, typhoon Rolly which brought heavy rains and strong winds as it traversed across southern Luzon and forced nearly 9,000 to flee from their homes last November 2020 and typhoon Ulysses resulting in the submerging of tens of thousands of homes in low-lying areas in Metro Manila, Rizal, Bicol and other parts of the country, prompting residents to scramble onto rooftops on the same month.

Generally, the calamity response of the National Government and of Local Government Units (LGU's) all over the country remain the same as in previous years although there is now the integration of COVID-19 health protocols in their response measures. Despite the struggles to implement the calamity responses, local leaders take into consideration the pandemic

¹⁷ Wikipedia. (2021, January 19). *Philippine government response to the COVID-19 pandemic*. https://en.wikipedia.org/wiki/Philippine_government_response_to_the_COVID-19_pandemic

situation. COVID-19 has drastically altered how the government responds to calamities afflicting their respective areas of responsibility.

Health Protocol Implementation

One of the challenges of effective calamity response during the pandemic is the implementation of health protocols such as social distancing and the use of masks and face shields. As we all know, typical rescue operations require close contact between the rescuers and the affected constituents. Also, during disasters, the affected population is usually billeted in evacuation centers. Here, thousands of evacuees come and stay together in gymnasiums or tightly packed shelters. This setup presents a problem because this situation makes it difficult to maintain social distancing and could become conducive to the spread of the virus.

The LGUs are the frontline forces of the government in the rescue and relief operations during the calamities. The local DRRM strictly monitor that DOH Guidelines on Risk Based Public Health Standard for COVID 19 mitigation, inventory of resources, checking of vital facilities, stockpiling of relief, other essential logistical requirement and health protocols are observed by posting a safety officer at every center.¹⁸

The relief goods are not just food stuffs but also non-food like face masks, vitamins, disinfectants and other health and medical supplies and the distribution are done by designated areas with safety markings. There is regular disinfection of the common areas and responders wear personal protective equipment or PPE to secure their safety.¹⁹

Evacuation Centers

Even before the onslaught of the pandemic, evacuation centers in the Philippines were a problem. The displaced victims of a calamity are cramped in evacuation centers-these are schools with limited facilities. With the pandemic, the schools have served another purpose, that even with limited wash areas, these classrooms were utilized as quarantine facilities for Locally Stranded Individuals (LSI) and Returning Overseas Filipino (ROF), but during the typhoons, they have been reconverted to evacuation areas;

In bigger spaces like covered court and gymnasium, modular tents were installed with covers on all sides that served as partition, provided privacy and allowed the needed space between families who are not related maintaining physical distancing. A family or two families where nobody is symptomatic camped in these tents.²⁰

¹⁸ www.oed.gov.ph/news/ndrrmc-625-outlines-guidelines-on-rainy-seasons-preparedness-covers-covid.19-health-protocols

¹⁹ www.rappler.com/news/5/22/2020

²⁰ www.cnnphilippines.com/news/11/2/20-evacuation-sites

The evacuation centers in some areas of Bicol were not really congested, the awareness of the victims of the pandemic and fear of the contagion, some evacuees have decamped early and returned home or stayed with relatives, only those whose houses were destroyed are staying at the evacuation centers. (Interview.Relief Op Team.ALSP)

Budget Constraints

With the current pandemic, a substantial amount of government funds go straight to addressing the problems caused by COVID-19. In the Local Government Units budget situation, the pandemic has resulted in the lesser funds for calamity response or in the case of some LGUs', the total depletion of their disaster fund as these have already been used for COVID-19 mitigation efforts. Different agencies and government units struggle to get funds for disaster response measures.

Realizing the impact of these calamities during this pandemic and in order to fill that financial gap, Philippine Business Groups (PBG) together with some Humanitarian and Private Organizations have joined hands to ensure that sufficient relief assistance is extended to our disaster stricken countrymen. PBG also called upon the public and private sectors to cooperate and address environmental concerns, to avert the ill effects and devastation brought about by typhoons and other disasters. On the other hand, Red Cross and its partners have provided cash assistance to the families badly affected by the typhoons, this relief efforts aim to help them start livelihood.²¹

Humanitarian Response

Over 80 humanitarian partners in the country – including the United Nations (UN), non-governmental organizations (NGOs), the Red Cross and Red Crescent Movement, and the private sector – are scaling up life-saving and protection response activities in support of the government response, building on established partnership agreements and relationships strengthened over years of collaboration.²²

Response efforts are already underway after the typhoon left a trail of extensive damage as it cut a swathe across southern Luzon on November 1. The Bicol Region bore the brunt of the typhoon's violent winds and torrential

²¹ [www.abs-cbn.news.com/11/16/20/PBG-urge-public-private-sectors-to-cooperate-for-disaster-response- \);\(www.pna.gov.ph.news./12/9/20-Red-Cross-partners-aid-typhoon-victims-in-Catanduanes-Camsur \)](http://www.abs-cbn.news.com/11/16/20/PBG-urge-public-private-sectors-to-cooperate-for-disaster-response-)

²² UN, PH humanitarian partners respond to areas hit by Super Typhoon Rolly, November 9, 2020. <https://www.rappler.com/bulletin-board/united-nations-philippine-humanitarian-partners-respond-affected-areas-super-typhoon-rolly?fbclid=IwAR1g5CtkwqAcMhMCU7wRAVBjBfgVYvwrSwdNoRMb2zrH3dN5lISEIvMBud4>. (January 14, 2020)

rains, blowing away roofs, toppling structures, and causing severe flooding and landslides.

The plan calls for \$45.5 million to deliver and implement humanitarian activities to typhoon-affected people living with poverty.²³

Interfacing/ Capacity Building

The pandemic has also caused problems on interfacing and the capacity building of National Agencies and Local Governments. The shift to virtual platforms has made it difficult to coordinate with agencies, other government instrumentalities and pertinent personnel for meetings, trainings and seminars which seek to enhance disaster response capabilities of different government instrumentalities.

Information Dissemination

Effective communication is important in crisis like typhoons and other forms of calamities. The National Disaster Risk Reduction and Management Council (NDRRMC) with the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA), informed the public in taking precautionary measures for possible tropical storms or would develop into a typhoon and in monitoring the path of the storm before landfall in the country through the news in television and even posts on social media. They also provided timely SMS alerts through mobile phones warning of heavy rains and floods, including evacuation advisory. But many did not heed to the call for evacuation during Typhoon Ulysses that resulted in 67 deaths and 180,000 evacuees affected by the flood.

The Office of the Civil Defense Deputy Administrator Casiano Monilla divulged in an interview that the government prepared sufficiently but people were bound to desensitization. It can be recalled that Ulysses was the 6th cyclone in that year, and the previous advisories of heavy rains and floods for typhoons Quinta and Rolly turned out to be mild.²⁴

Role of Social Media

Social media sites have become platforms for interaction during disaster and emergency situations. The posts include their full address and landmark so rescuers can get to them as fast as possible.

²³ UN, PH humanitarian partners respond to areas hit by Super Typhoon Rolly, November 9, 2020. <https://www.rappler.com/bulletin-board/united-nations-philippine-humanitarian-partners-respond-affected-areas-super-typhoon-rolly?fbclid=IwAR1g5CtkwqAcMhMCU7wRAVBjBfgVYvwrsWdNoRMB2zrH3dN5lISEIvMBud4>. (January 14, 2020)

²⁴ *www.rappler.com.news. 11/16/20-typhoon-ulysses-what-went-wrong-protocol*

It has been seen that assessment of damage from certain natural disasters can be found through monitoring social media activity. Living in an area under constant threat of disaster has led people to be prepared ahead of time. In the case of a natural disaster, people are dependent upon social media, local media, community organizations, and neighbors for updates on conditions and the necessary actions to take.

Filipinos have become especially adept in monitoring typhoons through social media. Government agencies, the media and concerned NGOs have adopted a constant hashtag formula in curating social media posts on typhoons. Thus, the hashtag typhoon name plus PH, i.e. #RollyPH, #QuintaPH and #UlyssesPH was popularized.

People living in Metro Manila, Central Luzon, CALABARZON, and other parts of the Philippines affected by a typhoon resorts to social media, particularly Facebook, to share updates about their situation. More importantly, affected Filipinos are posting requests for rescue as they are stuck on their roofs after the flood overwhelmed their homes. Most of them accompanied their post with the hashtag #RescuePH, which has become a trending topic on Twitter.²⁵

Apart from becoming a tool for information dissemination, social media has also become a source of news itself. Newsrooms refer to social media for additional information, and even for photos and videos. This is especially true when reporting the aftermath of disasters.²⁶

Filipinos post and constantly update their personal accounts about the recent disasters. Journalists also use social media to get leads on stories to pursue.

Loss of LGU Focus

The prevalence of the pandemic has made COVID-19 the primary focus of most LGUs in the country. This is good because such effort has allowed the lessening of COVID-19 cases in their respective localities. However, in some cases, some local governments placed all their attention on the COVID response so much so that they placed little attention to the monitoring and response to other calamities. When disasters strike, this could mean that the local governments would be caught flat-footed and would lag behind in their response efforts.

²⁵ Canete. December 2020. *Social media is a powerful tool for search and rescue operation during typhoons.* (January 24,2020. <https://www.noypigeeks.com/spotlight/social-media-powerful-tool-search-rescue-typhoon-ulysses>

²⁶ Popioco. December 17,2015. *How social media improves disaster journalism in the Philippines.* January 24,2015. <https://ijnet.org/en/story/how-social-media-improves-disaster-journalism-philippines>

For the past months, the Philippines battled not only against these calamities amid the pandemic, but also against the different opinions and views of the people.

Government Responses: Weak

Robredo of “grandstanding” in the height of typhoon?

Leni Robredo's spokesman on Sunday said leaders should be seen and felt in times of crisis in an apparent comment on the government's response to Typhoon Ulysses, which had left many Filipinos asking for help in submerged provinces.

The Duterte administration has found itself at the center of criticism for its handling of twin typhoons which ravage the country in November: Rolly, the world's strongest this 2020 and Ulysses, with scores dead and millions affected in the Luzon island. Many took to social media to ask about President Rodrigo Duterte's whereabouts as Ulysses wreaked havoc, which had turned to Twitter hashtags such as #NasaanAngPangulo.²⁷

Government Response : A Contest?

The President had responded about the criticism of being present in the public eye despite the several typhoons that hit the country.

He did not address the nation before the typhoon struck nor send a message to assure the public that response measures were ready. Netizens were also searching for the President when the country was being battered by the Super Typhoon Rolly. ²⁸

Duterte explained that government agencies prepared even before the typhoon hit the country, assuring his administration will provide necessary aid to those affected, only relief goods from Robredo's office were indeed ferried to Catanduanes at the time. He and Panelo then apologized to Robredo's camp for the mistake.

The Office of the Vice President has the lowest share of the 2021 budget among all government agencies. Even lawmakers appealed to raise

²⁷ Deiparine, 'Kung gusto may paraan': VP camp hits Duterte absence amid 'Ulysses'. November 15, 2020. https://www.philstar.com/headlines/2020/11/15/2057047/kung-gusto-may-paraan-vp-camp-hits-duterte-absence-amid-ulysses?fbclid=IwAR3n61hHoXeqXPqrlzanTtv7zHmo_QXMCZNsXSSo7YXX24dP_mvIPiotM4c. (January 14, 2014.)

²⁸ CNN, Duterte defends absence during Typhoon Ulysses onslaught, says he was told to prioritize his safety. November 12, 2020, <https://www.cnn.ph/news/2020/11/12/Typhoon-Ulysses-Duterte-address.html>. (January 14, 2021)

the ₱679 million budget to over ₱1 billion to help her reach out to different sectors in need.²⁹

Lessons Learned: Dealing with Uncertainty and Coping with Difficult Circumstances in Times of Pandemic

Life really finds ways of surprising us. It is filled with uncertainty. But even when life is out of our control, we can still take steps to cope and manage difficult situations and face the unknown. The spread of the virus does not stop natural disasters nor natural disasters stop the spread of virus. And as we all are aware of, we are already feeling the strain.

COVID -19 outbreak shocked the world. It started from a single point introduction in the human population, spread quickly from continent to continent, and infects globally, becoming a pandemic which resulted in many infected patients, increased death rates and devastated our entire economies worldwide. While we may not want to acknowledge it, the reality is this. Everything now is uncertain and uncertainty is a natural and unavoidable part of our lives. With what is happening lately, we can all say that life can change rapidly and unpredictably. One day we are on the top, the next day we're at the bottom. We may be anxious about the situation, but we need to stay strong and stay focused to be able to cope up.

The Philippines was greatly affected not only by COVID-19, but also by devastating typhoons, destructible earthquakes, and many more. Our economy shrank. Gains reversed. Global recession occurred. Despite all these challenges, we Filipinos always manage to rise above. We always and will always manage to pick ourselves up and smile.

What we experienced are eye openers that there are still a lot of things we need to work on to be more prepared for situations like these. This drive home the importance of the national private sector, resilience, preparedness, unity, collection and collaboration as vital part of local response. Good governance, responsive administration and coordination should be non-negotiable in a process driven by transparency and accountability. Enhancing our multi-sector disaster management, pandemic preparedness planning, communication system nationwide specially during the times of disasters, investing in community resilience and preparedness are essential for risk mitigation and effective disaster response.

²⁹ *Jalea, LIST: Robredo debunks Duterte admin's false claims on typhoon efforts. November 18, 2020, https://cnnphilippines.com/news/2020/11/18/Fact-check-Robredo-Duterte-false-claims-Typhoon-Ulysses.html?fbclid=IwAR0vqvjjjOsNgmEjI8phspHMH6O6uUg38ze95iaY_1DVzeK1ewwjm cH7bbM, January 14, 2020)*

“The series of natural disasters that hit the country while we are battling the pandemic highlights the importance of mainstreaming disaster risk reduction and climate change adaptation into policy and planning,” said Ndiame Diop, World Bank Country Director for Brunei, Malaysia, Thailand and the Philippines. “While the Philippines is financially resilient, stronger coordination, execution and implementation will help further improve social and physical resilience to frequent shocks.”³⁰

Further, disaster and crisis situations provide the opportunity to envision a new normal. While all of these have been a difficult situation, these also lead us to align agendas and priorities, make us stronger and more helpful and considerate towards one another. These crises have given us opportunities to reboot our system and our view of things. It makes us recognize what are those vital things for our survival and for the continuous development of our planet.

The COVID-19 mainly is our wake-up call and those natural disasters are the red flags.

³⁰ reliefweb. (2020, December 8). Philippines: While Battling the Pandemic, Strengthening Disaster Risk Reduction and Management Needed to aid Recovery. <https://reliefweb.int/report/philippines/philippines-while-battling-pandemic-strengthening-disaster-risk-reduction-and>

Quarantine Status of LGUs and Its Impact to the Economy

Led Caliao and Nehemiah Montecillo

The Local Government Units (LGUs) play a major role in a community's development. They address its community problems and concerns, provide links between the government and the people, enforce policies and hold influence over its communities. The LGUs are divided into three levels – provinces and independent cities; component cities and municipalities; and barangays.

According to the Constitution of the Philippines, the local governments "shall enjoy local autonomy", and in which the Philippine president exercises "general supervision". Congress enacted the Local Government Code of the Philippines in 1991 to "provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of local units."³¹ Local government is the sphere of government closest to the people. That is why the LGU is doing their part to help the people. Then here comes a big challenge particularly to the health and economic sectors not only here in the Philippines but also in other countries: the COVID-19 pandemic. The local government is exerting double efforts to keep their constituents healthy and their local economies functioning and growing.

COVID-19 Pandemic

The current situation that we are all facing is an ongoing pandemic of coronavirus disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). It was first identified on December 2019 in Wuhan, China. The World Health Organization declared the outbreak a Public Health Emergency of International Concern on January 2020 and a pandemic on March 2020. A year later, more than 92.3 million cases have been confirmed, with more than 1.97 million deaths attributed to COVID-19.

Symptoms of COVID-19 are highly variable, ranging from none to severe illness. The virus spreads mainly through the air when people are near each other. It leaves an infected person as they breathe, cough, sneeze, or speak and enters another person via their mouth, nose, or eyes. It may also spread

³¹ Local government in the Philippines, available at https://en.m.wikipedia.org/wiki/Local_government_in_the_Philippines, last accessed January 11, 2021.

via contaminated surfaces. People remain infectious for up to two weeks, and can spread the virus even if they do not show symptoms.

Recommended preventive measures include social distancing, wearing face masks in public, ventilation and air-filtering, hand washing, covering one's mouth when sneezing or coughing, disinfecting surfaces, and monitoring and self-isolation for people exposed or symptomatic of the virus. Several vaccines are being developed and distributed. Current treatments focus on addressing symptoms while work is underway to develop therapeutic drugs that inhibit the virus. Authorities worldwide have responded by implementing travel restrictions, lockdowns, workplace hazard controls, and facility closures. Many places have also worked to increase testing capacity and trace contacts of infected individuals.

Consequently, the responses to the pandemic have resulted in global social and economic disruption, including the largest global recession since the Great Depression. It has led to the postponement or cancellation of events, widespread supply shortages exacerbated by panic buying, agricultural disruption and food shortages, and decreased emissions of pollutants and greenhouse gases. Many educational institutions have been partially or fully closed. Misinformation has circulated through social media and mass media. There have been incidents of xenophobia and discrimination against Chinese people and against those perceived as being Chinese or as being from areas with high infection rates.³²

LGUs' Role in Revitalizing the Economy

Finance Secretary Carlos Dominguez III has underscored the vital role of local government units (LGUs) in the difficult task of rebuilding the pandemic-battered economy as he encouraged elective executives to make the best use of resources readily available for them to bankroll their recovery programs and help revive enterprises in their localities hit by the global crisis the hardest.

Republic Act (RA) No. 11494 or the Bayanihan To Recover As One Act (Bayanihan 2) as well as innovative solutions provided by government financial institutions (GFIs) can help local economies recover quickly from the COVID-19 crisis, Dominguez said. On behalf of the national government, Dominguez thanked the local chief executives who performed beyond expectations to be able to deliver emergency assistance to marginalized communities and enforce quarantine measures to help curb the spread of COVID-19.

³² *Ibid.*

The local government did not fail us. We were all unprepared to undertake new and heightened responsibilities in our COVID-19 response efforts. Despite this harsh reality, many LGUs performed beyond expectations. The effects of this pandemic would have been more severe had our local governments and health system not stood resilient. Dominguez pointed out that at both national and local levels, the government needs to optimize its revenue generation powers and improve tax administration. To achieve this goal, he urged LGUs to adopt digital technologies, which will also translate into a more responsive governance and the efficient delivery of frontline services.

“The LGUs are vital in the difficult task of rebuilding our economy. Closer to the ground, they are best positioned to help revive our enterprises hardest hit by the pandemic. They can help pump prime the national economy through local public investments,” Dominguez added.³³

People's livelihoods, their health and their food systems

This pandemic has led to a dramatic loss of human life worldwide and presents an unprecedented challenge to public health, food systems and the world of work. The social and economic disruption caused by the pandemic is highly devastating. It affected the entire food system and has laid bare its fragility.

As Article II Section 15 of the 1987 Constitution provides, the State shall protect and promote the right to health of the people and instill health consciousness among them.

There were border closures, trade restrictions and confinement measures that have been preventing farmers from accessing markets, including buying inputs and selling their produce, and agricultural workers from harvesting crops, thus disrupting domestic and international food supply chains and reducing access to healthy, safe and diverse diets. It resulted to decimated jobs and placed millions of livelihoods at risk. The breadwinners of families lost their jobs, fell ill and died. The food security and nutrition of millions of women and men were under threat. Those in low-income countries, particularly the most marginalized populations, which include small-scale farmers and indigenous peoples, being hit the hardest.

People were at risk of losing their livelihoods. Informal economy workers were particularly vulnerable because majority lacked social protection and access to quality health care and have lost access to productive assets. Without the means to earn income during lockdowns, many were

³³ Department of Finance, *Dominguez cites LGUs role in revitalizing economy*, available at <https://www.dof.gov.ph/dominguez-cites-lgus-role-in-revitalizing-economy/>, last accessed January 14, 2021.

unable to feed themselves and their families. For most, no income meant no food, or, at least, less food and less nutritious food.

In this time of crisis, the LGUs have been working for the food security, public health, and employment and labor issues. In particular, workers' health and safety converge, giving them a workplace for safety and health practices and ensuring access to decent work and the protection of labor rights in addressing the human dimension in this time of crisis. The LGUs did a purposeful action to save lives and give support to those most affected like giving them assistance or "ayuda". Such forms of support included healthy meals, shelter and food relief initiatives, and support for retention and recovery. In designing and implementing said measures, it is essential that LGUs work closely together.

Quarantine Status

There are differences as to the stages of the community quarantine, the ECQ, MECQ, GCQ. The Enhanced Community Quarantine (ECQ) enforced in Metro Manila, the island of Luzon, and several other areas in the Philippines was retained, modified, or scaled-down as the country moved to set up the "new normal" amidst efforts to stop the spread of COVID-19.

It was in the middle of March 2020 when the government placed the entire country under community quarantine, requiring people to stay at home and effectively stopping mass gatherings, school functions, public transportation, and most works.

That being said, it was during a virtual press briefing on May 13, 2020, when the government explained the differences between the levels of community quarantine that will remain enforced: GCQ or General Community Quarantine, ECQ or Enhanced Community Quarantine, and MECQ or Modified Enhanced Community Quarantine. Following are the key points of the government briefing on the different protocols and restrictions under each level of quarantine: (a) EXERCISE AND SPORTS, (b) GATHERINGS, (c) SCHOOLS, (d) WORK, (e) TRAVEL, (f) PUBLIC TRANSPORTATION.

Local government units were expected to issue specific guidelines for their respective communities following the recommendations of the National Task Force³⁴. Some LGUs created new quarantine facilities for the Locally Stranded Individuals (LSIs) and Overseas Filipino Workers (OFWs) such as converting container vans into rooms, and barangays making their halls more useful as isolation areas for infected people. Although there were

³⁴ Dela Cruz, Besilda, Know the *Differences in Lockdown stages of ECQ, MECQ, GCQ*, available at <https://www.goodnewspilipinas.com/know-the-differences-in-lockdown-stages-of-ecq-mecq-gcq/>, last accessed January 14, 2021

instances that the facilities didn't have complete equipment as to health precautions, the LGUs tried to cope with the situation to help their people. As the community quarantine continued, and as it referred to the restriction of movement within, into, or outside of the borders, large groups of people, or communities designed to reduce the likelihood of transmission of COVID-19 among persons in and to persons outside the affected area. Survival became a task for the infected individuals and most especially to the medical and non-medical frontliners.

Following the strengthened bio-surveillance and border control efforts, the DOH, IATF, and other agencies of the government worked hard together in facing this pandemic. The LGUs looked forward for the cooperation of their constituents. There were returning individuals to their respective provinces, cities, and municipalities. Filipinos who had no exposure to a confirmed case prior to their departure nor had any travel activity outside needed to be tested and monitored. Immediate contact tracing initiatives were done in close coordination with the LGUs. Through this process, LGUs identified contacts of individuals who were asymptomatic/symptomatic and currently under strict home quarantine. The DOH continued to work closely with the LGUs to ensure that effective measures were in place to mitigate virus transmission. They also secured the flight manifest and contact tracing of other passengers. Meanwhile, weekly biosurveillance among incoming passengers and returnees, local cases, re-infected patients, and those with reported clustering of cases will be intensified, and also coordinated with the Department of Interior and Local Government for the expansion of contact tracing to ensure that all contacts of confirmed cases will undergo strict 14-days facility-based quarantine.

The DOH reiterated its call to the LGUs, agencies, and the public for stricter observance of the minimum public health standards and stricter implementation of quarantine protocols to further mitigate the risk of acquiring the virus and slow down possible mutations, which could pose more harmful effects.

To clearly state, the quarantine classifications were implemented by the Inter-Agency Task Force (IATF) from Enhanced Community Quarantine (ECQ) where there is a critical zone, for areas with more than 20 COVID-19 cases. There is also the Modified Enhanced Community Quarantine (MECQ) where there is a containment zone, for areas with 1-19 COVID cases. The General Community Quarantine (GCQ) is where there is a buffer zone, localities without cases but contiguous to localities with COVID cases. The Modified General Community Quarantine (MGCQ) is where there is an outside buffer zone, without confirmed cases. Also, there is this "so called" New Normal where there are behavioral changes, and the need to practice social distancing and health measures became part of the everyday norm.

A Look into Particular LGUs

In line with this, provinces such as Misamis Occidental, Zamboanga del Sur, Zamboanga del Norte and Lanao del Norte initiated moves like checkpoints, proper wearing of face mask and face shield, age brackets were implemented for those who are allowed to go outside and quarantine facilities were built to guarantee the health and safety of their residents.

As to educational institutions, there are two universities particularly in Ozamiz, La Salle University, formerly known as Immaculate Conception College (ICC), and Misamis University. Most of the population comprising these universities are students coming from Lanao del Norte, Zamboanga del Sur, Zamboanga del Norte and Misamis Occidental who come to Ozamiz to pursue their college education. Ozamiz City has private and public secondary schools as well. When the pandemic started, it really changed the nature of the means of learning for students. Different modes of learning were administered, such as modules for those who do not have access to the internet, and online classes were also adapted to allow the students to continue their education. However, these new modes of learning as the “new normal” set in, have left students and their parents to struggle with adjusting themselves, as well as teachers and professors who found difficulty getting used to the new setup of learning.

As to health sector, there are hospitals and healthcare facilities which are located within the city. During the first stages of the pandemic, individuals working in the medical field such as doctors and nurses, who were considered “frontliners” were thrown into a challenge that surpassed the difficulties of a graveyard shift to ensure that there would be an immediate response coming from healthcare providers, should there be any emergency that calls for such. Those frontliners earned the right to be called heroes, as they did sacrifice not only their time but also their family, not being able to be with them, to hug and to care for them, all for the sake of other individuals. Shortage of manpower and facilities were a challenge to the city of Ozamiz in terms of its healthcare facilities and coping up to guarantee that efficient services will be provided.

Ozamiz City has its own airport with routes to Manila and Cebu City, expanding the development and construction due to a high demand of passengers, cargo, and tourists arrivals. The city has its port having several major shipping lines to transport passengers, cars/ trucks, and goods by sea. As to transportation by land, Ozamiz City has a different mode of public transportation within the city such as pedicab and motorized tricycle, while busses, vans, and public utility jeepneys were the predominant modes of transportation for interprovincial routes, to and from the city but things went into change as pandemic started. Restrictions were implemented as to its routes and the numbers of passengers allowed to ride in a particular vehicle, as well as the passengers’ fare were all adjusted. That likewise led to adjustment on the part of the drivers and commuters alike.

Also, tourist attractions/ destinations had been temporarily closed until further notice to avoid crowd attraction. It has, indeed, heavily affected the livelihood of those individuals who somehow rely on tourism and culture.

As to its economy, Ozamiz City is not only relying on agriculture as its primary source of livelihood. The city also becomes the center of commerce, health, transportation, and education in this part of Mindanao, considering its strategic location and its atmosphere. But the law of supply and demand was a great challenge since pandemic set in. Many individuals lost their jobs and some private establishments were temporarily closed due to financial difficulties.

It was on March 15, 2020 that an Executive Order was issued directing all Barangay Health Workers (BHWs), Barangay Health Emergency Response Teams (BHERTs), and Barangay Officials to conduct a house to house visit, to scan and/or monitor all the residents and visitors who came from places with COVID-19 local transmission and report them as Persons Under Monitoring (PUMS). In that same month, another Executive Order was issued placing Ozamiz City under General Community Quarantine (GCQ) from March 18, 2020 until April 2, 2020. Due to the increasing number of individuals afflicted with Covid-19 in the Philippines, the GCQ was extended until further notice. The Provincial Government of Misamis Occidental saw the need to put the entire province under General Community Quarantine in order to further intensify the precautionary and safety measures of the province against the COVID-19 virus. The oft-repeated saying, “An ounce of prevention is worth a pound of cure”, was very apt under these circumstances.

Consequently, Local Government Units are empowered through Section 16 of Republic Act No. 7160, “to exercise powers which are expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the of the general welfare” and are mandated “to ensure and support the promotion of health and safety of its inhabitants”.

Due to the ongoing pandemic, things went into change, restrictions and prohibitions were strictly implemented. The constituents of the city of Ozamiz and the entire province of Misamis Occidental adjusted themselves. Plans and actions were done to support the residents such as giving relief goods to sustain the needs of each family in the city. LGUs used their emergency fund to procure the needed supplies, medicines and equipment in order to undertake critical, urgent and appropriate response and measures in a timely manner to curtail and eliminate the COVID-19 threat.

Prohibition and strict implementation have been done in the city, as it is always active and mindful of the educational needs of the learners and in

compliance with Article 2, Section 16 of the 1987 Philippine Constitution which states that:

“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. Additionally, Section 17 of that same Article provided that, The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.”

Due to the COVID-19 pandemic, the government has been implementing appropriate measures to respond to the crisis. Modalities had been endorsed in the plan to curb the spread of COVID-19 while meeting the demands of individuals.

Other municipalities in Misamis Occidental like Clarin, Tudela, Sinacaban, and Jimenez also abided with the implementation. The mandatory wearing of face masks and face shields were regulated in all public places including, but not limited to, commercial establishments, public markets, public transport and work places in order to mitigate the spread of the virus. This is in consonance with Section 15 of Article 2 of the 1987 Philippine Constitution which explicitly states that:

“The state shall protect the right to health of the people and instill health consciousness among them.”

Section 16 of the Local Government Code of 1991 which mandates Local Government Units, among others

“to promote the health and safety of their constituents.”

It is the duty of the local government to protect its people in everything detrimental to its health and safety. It is now, more than ever, high time to implement such additional precautionary measures in containing the spread of the COVID-19 virus.

Its Impact to the Economy

The pandemic really changed the lives of the people in the community, the livelihood, and other factors affecting their daily lives. Responding swiftly to the pandemic, while ensuring that humanitarian and recovery assistance reaches those most in need, is critical.

The economic and social disruption caused by the pandemic is devastating. Millions of people are at risk of falling into extreme poverty. The extreme uncertainty about the path, duration, magnitude and impact of the pandemic could pose a vicious cycle dampening businesses and society.

According to the Philippine Statistics Authority, the Philippines ended the pandemic year of 2020 with its worst economic performance since the country began releasing growth data just after World War II in 1947, as a consequence of policies to save lives during the COVID-19 crisis.

The country's gross domestic product (GDP) shrank 9.5% in 2020 -- the first annual contraction since 1998 -- a year after the Asian financial crisis erupted. Household spending, a key economic driver for the country with an estimated population of 109 million, contracted by 5.7% in 2020³⁵ as about 4.5 million Filipinos have lost their jobs last year, with the unemployment rate at 10.4 per cent - the highest in 15 years due to the Covid-19 pandemic and the lockdown shuttering thousands of businesses.³⁶

Department of Trade and Industry (DTI) Secretary Ramon Lopez said at least 90,000 businesses in the Philippines remained closed half a year after the country imposed lockdown in the National Capital Region and several provinces to prevent the spread of the COVID-19. Between August and September 2020, 6 percent of the 1.4 million micro, small and medium enterprises (MSMEs) in the country remained closed. Lopez added that six percent is a big number already because that should be zero.³⁷

Conclusion

Now is the time for LGUs' solidarity and support, especially with the most vulnerable in our society and to those less fortunate ones to ensure that no one will be left behind. Unity is the only way they can overcome the intertwined social, health and economic impacts of the pandemic and prevent its escalation into a protracted humanitarian and food security catastrophe, with the potential loss of already achieved development gains. All individuals should also cooperate with the implementation of the LGUs' protocols and guidelines so that we can protect the health, livelihood, food, security and nutrition of all people, and to ensure that our 'new normal' is the better and brighter tomorrow of yesterday's horrors.

³⁵ <https://asia.nikkei.com/Economy/Philippines-GDP-shrinks-9.5-in-2020-worst-since-1947%60> ,last accessed February 12,2021.

³⁶ <https://www.straitstimes.com/asia/se-asia/philippines-suffers-worst-job-losses-in-15-years-due-to-covid-19-and-lockdown> , last accessed February 12,2021.

³⁷ <https://news.abs-cbn.com/business/09/28/20/number-of-closed-businesses-closure-affected-covid19-coronavirus-disease-pandemic-philippines> , last accessed February 12,2021.

Freedom of Information and Its Limitations: What Happens During a Pandemic

Jann Peter Rocas

Freedom of information is a fundamental right vested by the Philippine constitution. It refers to the right of the people to information with matters of public concern. It is the in which every citizen has the right to access official records, documents and papers referring to the government's official acts, transactions and decisions as well as to government research data used as basis for policy development.³⁸

Freedom of Information is implemented in the Philippines by E.O. No. 2 Series of 2016 which aims to increase the transparency of the executive branch of the government and its agencies. This executive order is manifested through the government's program E-FOI portal which is the forefront in which the people may request information for various records and documents.

FOI not an Absolute Right

Although the freedom of information is a fundamental right vested by the 1987 constitution. This right is however, not an absolute right. The right only covers information that pertaining to public concern. Information regarded as "non-disclosable information" protected by laws, rules or resolutions of the Supreme Court En Banc are excluded. Outright, Executive Order No. 2 passes conditions to which you can access information. These are: (1) valid proof of identification must be provided, and (2) "the reason for, or purpose of, the request for information" must be provided.

Furthermore, there are several other limitations of the executive order pertaining to the access of information. Firstly, the executive order does not mandate Local Government Units (LGUs) compliance but only "encouraged to observe and be guided" the executive order thus allowing discretion on whether to accept or reject requests of information. Secondly, information limited by existing laws are exempt and the exemption list may be updated and the list of exemptions are decided without public consultation. And these exemptions are absolute as the executive order does not provide for exemptions for the access of such exempted information.³⁹

³⁸ (Sec. 7, Art. III, 1987 Constitution).

³⁹ Executive Order No. 2, s. 2016 -- Operationalizing in the executive branch the people's constitutional right to information and the state policies to full public disclosure and transparency in the public service and providing guidelines. Official Gazette of the Republic of the Philippines. <https://www.officialgazette.gov.ph/2016/07/23/executive-order-no-02-s-2016/>

Although the constitution provides for the Freedom of information as a fundamental right, just like with any other right, it is not absolute as restrictions, limitations and exemptions are in place.

Impact of COVID-19 to FOI

The freedom of information has never been more sought after during the global pandemic. During a state of public health emergency, the 1987 constitution states several provisions that may affect the right to freedom of information. As paragraph 2 of Section 23 Article 6 states:

“In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy.”

This provision from the constitution may put the president to exercise necessary powers to mitigate the effect of a national emergency. In this case, during a public health emergency, the president may suspend the dissemination of certain public records or information regarding the pandemic if he so deemed that such information may cause panic or a threat to national security.

Furthermore the constitution provides that the freedom of information is not an absolute right and such is limited though exemptions as provided by law as Article 3 Section 7 of the 1987 constitution states:

“The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.”

This is further expounded and affirmed by Section 4 of the Executive order No. 2, s. 2016 that provides for the exemption from the information covered by the freedom of information as paragraph of section 4 states:

“Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law or jurisprudence.”

It is important to note that the pandemic brought various changes in our society. First, there was fear, leading to lockdowns and shops closing. Various industries were and still are affected. Massive layoffs from big companies that

you thought would have brought job security before the pandemic. The economy is crashing all over the world. Next, there was the scrutiny of the government's response to fight off the pandemic. Support and criticisms were brought up by the public. All these amidst the race to figure out and develop a vaccine.

It is not surprising that the people wanted accurate factual information regarding the cause of the pandemic. People are speaking out their opinions on how should we fight it or criticizing the government on their response to the global crisis. Due to fear, people are likely to believe inaccurate news and stories being spread on the internet, seemingly to create panic among the people.

Importance of FOI in a Time of Pandemic

During pandemics, accurate information plays a vital role that can help save lives such that timely access to accurate information can be a matter of life and death. Accurate information makes way to prompt response from the government and people to safeguard themselves from a pandemic or any other global crisis in this regard. Appropriate measures would be deployed earlier if timely information is disseminated and the spread of the pandemic may be mitigated from progressing too fast or even allowing it to spread at all. Good and accurate data also help mold and help the government and the people adapt their responses to the pandemic.

As with any crisis, misinformation are rampant and to counter such, the public calls for transparency and responsible journalism are needed. Thus the call for the freedom of information and requests for transparency from the government is never more apparent from the public.

The Government's Role

The government has the duty to be transparent to the public and provide useful and accurate data regarding the crisis. As FOI Program Director Kris Ablan stated during the Laging Handa network briefing:

“Para po sa kaalaman ng karamihan, ang FOI ay isa sa mga programa ng Duterte administration na nagtataguyod ng transparency at accountability sa gobyerno. Ito po ay sa pamamagitan ng standard FOI request o sa ating electronic FOI portal o e-FOI”⁴⁰

⁴⁰ Paunan, JC. (2020, June 25). " FOI official assures public of right to information amid COVID-19 pandemic". Philippine Information Agency. <https://pia.gov.ph/news/articles/1045820>

It was also stated in Paunan (2020), that the challenges brought about by the pandemic due to lockdowns and limits on physical contacts, the FOI limited their face-to-face capacity development and promoted their online FOI portal and the In Focus Webinar series.

However, they also have the goal not to cause panic among the people. Finding the right balance of disclosing accurate information and not causing panic to the public is a hard task to accomplish. This tends to make people think that there is censorship from the government regarding the real information about the pandemic.

Restrictions of FOI During the Pandemic

Lockdowns are one of the restrictions to freedom of information during this pandemic. Although we are now in the digital age and most people are on social media. Few only follow pages and sites that provide the latest news and information regarding the current events. More so that fewer now watch the news. Lockdowns does not only mean being cooped up in your home as a consequence. People are losing the ability to work due to their companies and offices were not equipped to do work from home situations. Work was done in the office and before the pandemic and lockdowns imposed by the government, companies did not think of countermeasures of such a situation happening.

Even after the lockdown and quarantine was loosened, public transport was limited thus commuting to work was difficult and such rush to get to work on a limited number of public transportation made people take long lines to get to work. Now begs the question, what does the ability to work affect the freedom of information? Due to lockdowns and the lack of the ability of government agencies and institutions to adapt a work from home set-up debilitated their ability to respond to requests for information.

Another restriction of the freedom of information is the inclination of the government to hide information to mitigate panic from the people. It is undeniable that one of the goals of the government during the pandemic is to not cause panic from the public. As a consequence of this, there is an inclination of the government to hide unpleasant facts about the pandemic from the people especially if such information is unverified. Such inclination puts a restriction on the right to freedom of information.

Misinformation also hinders the right to freedom of information. As with any global health crisis, fear brings about the propagation of misinformation through the masses. Whether it may solely be based on lack of information and fear, propaganda to cause panic to the people, misinformation is the enemy of freedom of information.

Freedom of the press plays a vital role in disseminating information through accurate and up-to-date events during the pandemic. However, after

Republic Act 11469 known as the was “Bayanihan To Heal As One Act” passed on March 2020, it opened up more opportunities for censorship of information to the public. This act aims grant the president to exercise powers necessary to carry out urgent measures to meet the current national emergency related to COVID-19 and additionally allows the president to “reallocate, realign, and reprogram” a budget of almost P275 billion in response to the pandemic. As one of the provisions in the Act stated:

“Under this law, a penalty of two months imprisonment or a fine of not less than ten thousand pesos (P10,000.00) but not more than one million pesos (P1,000,000.00) or both shall be meted to offenses such as: creating, perpetrating or spreading false information about COVID-19 crisis on social media and other platforms, with no valid or beneficial effect on the population which promote chaos, panic, anarchy, fear or confusion;...”⁴¹

The said provision provided an avenue for enforcement bodies to arrest persons who they have deemed in violation thereof and the provision itself restricts the freedom of the press and the freedom of information.

Although the Bayanihan Act already expired on June 25, 2020, issues were raised that the said provision of the said Act was in violation of the constitution. According to the Bill of Rights, “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for a redress of grievances”.⁴²

As stated in an article, The Philippine Commission on Human Rights said “A fully functional democratic society should be able to allow the reasonable exercise of free speech and expression as a means to participate in matters concerning public life. Arrests should never be made as a default response to dissent”.⁴³

Spreading fake news that may cause public panic in this time of pandemic is just plain wrong and the government’s goal of penalizing such

⁴¹ "Republic Act No. 11469 – An Act Declaring the Existence of a National Emergency Arising from the Coronavirus Disease 2019 (Covid-19) Situation and a National Policy in Connection Therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Resctrictions, to Exercise Powers Necessary and Proper to Carry Out the Declared National Policy and for Other Purposes"(PDF). Official Gazette of the Republic of the Philippines. Retrieved January 20, 2021.

⁴² Constitutional Commission of the Philippines (1987) The 1987 Constitution of the Republic of the Philippines – Article III: The Bill of Rights. Official Gazette Republic of the Philippines.<https://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-iii/>.

⁴³ Joaquin JJ., & Biana, T. (2020, July 30). Philippine crime of dissent: Free Speech in the time of COVID-19. Sage Journals. <https://journals.sagepub.com/doi/full/10.1177/1741659020946181>

acts may be a genuine concern for public safety. Restricting free speech may have caused further restrictions in the access to information but spreading fake news have far more destructive consequences for the country.

Before, the pandemic censorship on information and the call for transparency for government transactions were present. After the pandemic, the call for information and transparency have surged as the right of information is now being seen as the key to the fight against the pandemic. It's not surprising as the pandemic has made people fearful and lapses in the government's decisions and implementation of protection against the pandemic may have drastic consequences to the public safety.

Conclusion

Although the government aims to maintain the transparency and upheld the people's right to information during this pandemic, restrictions such as closing down of government agencies and the constant act of balancing national security and the freedom to information among others have taken a massive pause to the people's right to freedom of information.

It is the inclination of the government, or any institution in that regards, to hide unpleasant facts from the public. This fact may not be pretty but it may be necessary. Thus, for the goal of ensuring national health and security during a global health crisis, some rights may have been restricted in lieu of ensuring the right to life and health of the people in general.

**Impact of 2019 Corona Virus Pandemic towards
“No Child must be Left Behind”
Program of Department of Education**

Marvhel J. Marata

The world is inevitably changing from time to time. As the countries become strongly interconnected, so do the risks we face. The 2019 Corona Virus Disease (COVID-19) is one of the crises that put the health of all the people at risk. It has not clogged at only one state border. Indeed, it has affected all the people irrespective of their status in life, gender, nationality and age.

The COVID-19 pandemic affected all the industries and sectors. Education is of no exemption. As stipulated in the Bill of Rights, to get a decent education is one of the fundamental rights of every citizen. Article XIV of our Constitution clearly imposes upon the State the responsibility to protect and promote the right of all citizens to quality education at all levels and take appropriate steps to make such education accessible to all.⁴⁴ It is unfortunate that the pandemic challenges the State to uphold the aforesaid constitutional responsibility.

United Nations Secretary – General in a statement said that “almost all students are now out of school. Some schools are offering distance learning, but this is not available to all. Children in countries with slow and expensive Internet services are severely disadvantaged”. However, Department of Education Secretary Leonor Briones, in an online conference, said that “The SLMs and the other alternative learning delivery modalities are in place to address the needs, situations, and resources of each and every learner and will cover all the bases in ensuring that basic education will be accessible amid the present crisis posed by COVID-19”.

This research paper will define the impact of pandemic towards education based on the previous and current enrolment data of the students as the State addresses the existing challenges to quality education especially by the Department of Education with their “No Child Must be Left Behind” program amidst the adversities and current pandemic situation.

Survey of Related Literature

It is now a global crisis that the world is currently exposed to a serious health disease that risks the lives of people in all ages. In an abstract of Coronavirus disease 2019 (COVID-19): A literature review by H. Harapan et al./ *Journal of Infection and Public Health* 13 (2020), it was on December 2019 when an occurrence of coronavirus disease 2019 (COVID-19), caused

⁴⁴ The 1987 Constitution of the Republic of the Philippines – Article XIV.

by a novel severe acute respiratory syndrome coronavirus 2 (SARS- CoV-2), transpired in Wuhan City, Hubei Province, China. On January 30, 2020, the World Health Organization confirmed the outbreak as a Public Health Emergency of International Concern. Anticipated risk of acquiring the disease has led many governments to institute a variety of control measures.⁴⁵ In addition, in words of OECD (2020a), “the Covid-19 pandemic struck the world with exceptional speed, severity and breadth.” Ferguson et al. (2020) place Covid-19 as the most serious episode since the Spanish flu pandemic of 1918. Despite aggressive and suppression strategies, the author estimate, that Worldwide, Covid-19 could be the second most devastating event of the past 100 years.⁴⁶

Given the rapid spread of COVID-19, countries across the World have adopted several public health measures intended to prevent its spread, including social distancing (Fong et al. (2020)). The main goal is that through social distancing, countries will be able to “flatten the curve”, i.e., reduce the number of new cases related to COVID-19 from one day to the next in order to halt exponential growth and hence reduce pressure on medical services (John Hopkins University, 2020a).⁴⁷ As part of social distancing, mass gatherings have been prohibited, lockdown measures have been imposed in many countries and non-governmental organizations (NGOs), community centers, businesses and even schools have been moved to close. More than 1 billion and 575 million students in approximately 188 countries around the world are reported to have been affected by the closure of schools and universities due to preventive measures taken by countries against the spread of COVID-19 (UNESCO, 2020).⁴⁸

In the Philippines, there are 10,794 cases recorded as of May 11, 2020 and is still growing (DOH, 2020) with more than four million cases worldwide (Worldometer, 2020). In response to these situations, educational leaders decided to adopt the new normal in education. At the basic education, the Department of Education (DepEd) will be implementing the Learning Continuity Plan (LCP), which will be in effect School Year 2020-2021 (DepEd, 2020).

In the higher education sector, the Commission on Higher Education, HEIs exercised academic freedom and planned to implement available distance learning, e-learning, and other alternative modes of delivery to students (CHED, 2020).

⁴⁵ Coronavirus disease 2019 (COVID-19): A literature review by H. Harapan et al./ *Journal of Infection and Public Health* 13 (2020).

⁴⁶ Impact of the COVID-19 pandemic on poverty in MENA countries: Focus on child poverty.

⁴⁷ IZA DP No. 13411; A Literature Review of the Economics of COVID-19

⁴⁸ Ibid.

It is stipulated in the Article XIV of the 1987 Constitution of the Republic of the Philippines that the State shall protect and promote the right of all citizens to quality education at all levels, and shall take the right steps to make such education available to all. ⁴⁹And it can be recalled last June 24, 2020 during the first SouthEast Asian Ministers of Education Organization (SEAMEO) Ministerial Policy e-Forum when Education Secretary Leonor Briones assured that the Department of Education (DepEd) will use all possible means to guarantee that no Filipino learner will be left behind in terms of education as the country continues to face with the COVID-19 pandemic. In her statement, she stated that “the first principle that we adhered to and which we are committed to, in compliance with the President’s directive is to protect the safety, health, and well-being of our learners, teachers, and personnel and to prevent further transmission of COVID-19”. She added “but at the same time, we want to ensure learning continuity, our battle cry is (that) learning must continue”.

This research survey review’s purpose is to help the reader understand the prevailing impact of the Covid-19 pandemic towards the commitment of Department of Education that No one (Filipino learner) must be left behind. This is significant because many learners are suffering from the effects of the current pandemic just to have a continuous quality education that they constitutionally deserve. In addition, it is important to conduct more studies on the effects of the pandemic why some of the parents decided not to enroll their students for this year and why some of them chose to take the risk of getting the health disease just not to be left behind.

Disquisition

Quality and proper education has been one of the fundamental and constitutional rights of every Filipino. OOne has to undergo proper education to secure a decent employment and favorable living. However, there have been obvious gaps and resistance in education, especially in the past. Most of the students were able to get good remarks and grades in their primary education but failed to study and continue secondary or tertiary education due to economic status and financial condition. Eventually, this is just one of the many reasons why most of the students are left behind by their peers and other youth in their ages.

It can be remembered that during the First Regular Session of the Fifteenth Congress of the Republic of the Philippines, Senator Manny Villar introduced Senate Bill 75 – No Filipino Child Left Behind Act of 2010. In the implementation of the said Act, the following objectives are being set: (1) By the year 2014, all Filipino children of compulsory age must have completed

⁴⁹ The 1987 Constitution of the Republic of the Philippines – Article XIV

elementary education and (2) By the year 2018, all Filipinos must have obtained and completed high school education.⁵⁰

Even if the Senate Bill 75 did not prosper into a law, the Department of Education (DepEd) manifested and applied the credo of “No Child Should be Left Behind” in education especially during the induction and implementation of the K-12 program as it drives the students who have less in life and those who live in far-flung communities to adapt the new program.

As DepEd gears forward with the complete and continuous implementation of “No Child Should be Left Behind”, the 2019 Coronavirus Disease strikes and highlights a clear division and gaps in education. A division that transparently segregates students who can afford education to those who cannot.

Nevertheless, the inevitability of the current education gaps and division did not obstruct DepEd to deliver its mission as it formally opened the 2020 – 2021 School Year last October 5, 2020 after two (2) postponements and a delay of four (4) months from the accustomed June schedule. But the big question now is, what are the possible impacts in the reopening of classes during this pandemic and how would it greatly affect the huge number of students? And can DepEd continuously embrace and implement the “No Child should be left Behind” program in the new normal setting?

No Child should be Left Behind

This has been a strong battle cry of the Department of Education since the implementation of the K-12 program.. Its primary goal is that no child should be left behind when it comes to accessing quality education as it is the basic right.⁵¹

Presidential Decree 603, s. 1974 is known as the “Child and Youth Welfare Code” that applies to persons below twenty-one years of age except those emancipated in accordance with law.⁵² Article 3 of the said Presidential Decree stipulates that all children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors.⁵³

On the side note, during the first phase of implementation, the “No child left behind” policy challenged all the teachers working in the Department of Education since it imposed a “**zero dropout**” target every School Year. With the system, all public school teachers will be assessed or evaluated

⁵⁰ Fifteenth Congress of the Republic of the Philippines, First Regular Session, Senate Bill 75 introduced by Senator Villar.

⁵¹ Presidential Decree 603 Article 3 Number 6

⁵² Presidential Decree 603, s. 1974

⁵³ See Article 3 of P.D. 603, s. 1974

based on the dropout rate which became inversely proportional to their respective performance rating. It just mean that the higher the dropout rate, the lower their performance rating in a particular school year. And the performance rating is the primary basis for the Performance-Based Bonus (PBB) that the teachers will get every end of the school year. And this became the factor that nobody wants to fail a student because the PBB will be lower than the agreed benefit. Some of the critics said that this is the main reason why teachers allowed and let all their students to pass – it does not count if they failed all their tests or did not go to school for the entire year.

However, the Department of Education changed its parameters in evaluating and assessing the performance of all their teachers. In fact, from the implementation of its policy, no teachers were not able to receive their Performance-Based Bonus and the DepEd stressed the fact of providing quality education instead of quantifying the result.

Drop Expected

As of July 16, Department of Education disclosed its data showing that only 20.7 million have expressed their intent to enroll this year in kindergarten, elementary and high school. The data represents only 74.6 percent of the over 27.7 million students in public and private. It is said that the country's number of out-of-school youth will rise in the next few months since millions of parents decided to skip the education of their children due to the coronavirus disease 2019 (COVID-19) pandemic.

During the “Laging Handa” public briefing on July 16, Department of Education Undersecretary Revsee Escobedo anticipated that 20 percent of the student population last year may not enroll this year. He also cited the primary concern of parents regarding the safety of their students during the pandemic.

National Union of Students of the Philippines (NUSP) Deputy Secretary General for campaigns and advocacies Jandeil Roperos said that “the projected dropouts in basic education should not fall into mere statistics”. She added that “every Filipino who cannot have access to the right to education should hold Duterte and his officials accountable as they are fine with millions of students getting left behind”.

New Normal

Department of Education prepared self-learning modules for the current education's “new normal” setting.

Education Secretary Leonor Briones assured that they have prepared various alternative learning delivery modalities as a response to the current pandemic in the country with the hasty increase of COVID-19 cases. “We will

offer more than just online learning”, she said. She explained that the integration of Self-Learning Modules (SLMs) with the use of available alternative learning delivery modalities (modular, television-based, radio-based instruction, blended, and online) will support DepEd in ensuring that all students will have equal access to quality basic education for the School Year 2020 – 2021 with face-to-face classes still restricted due to the public health situation.

Briones explained that SLMs will be printed and delivered in coastal areas, far-flung provinces, and communities without accessible internet and/or electricity. “For households with gadgets and devices, the DepEd said that SLMs can also be accessed online or offline” Briones said. And for K to 3 learners, SLMs will be integrated into the video lessons considering that they need auditory learning than other grade levels.

For the teachers and personnel, Briones directed them to follow strictly the existing work arrangement and health protocols in preparing and delivering the SLMs since their safety and health is also the top priority of the Department.

Department of Education on Reopening of Classes

Despite the current situation due to the existence of 2019 Coronavirus Disease, the reopening of classes has been the subject of many heated arguments and debates. Many wanted the education sector to skip 2020 – 2021 school year so no student gets left behind while a lot of parents are also eager to try the remote and flexible learning. This explains that there are learning programs produced based on the capacity of the students, schools, or the community.

"This August 24 opening is already the furthest of what is legally allowed," Education Secretary Leonor Briones said when asked about the date of the opening of classes, during a virtual press briefing on Monday, August 10.

Briones was referring to RA 7797, which originally mandated the Secretary of Education to set the start of the basic education school year between the first Monday of June and the last day of August.⁵⁴

On Friday, Aug. 14, 2020, Education Secretary Leonor Briones announced the President’s decision to postpone the opening of classes, and

⁵⁴ Section 3 of Republic Act 7797

that no face-to-face classes will be conducted when schools reopen on Oct. 5, 2020.

“Sessions will not be limited to online sessions alone,” Briones said. “This is because we have adopted a policy of blended learning wherein various modalities are being recommended depending of the situation at the level of the region and the school.”

In the news of onenews.ph, Briones cited the recently enacted Republic Act No. 11480, which allows the President – upon the recommendation of the education secretary – to set a different date for the opening of classes when the country is under the state of calamity or emergency.

RA No. 11480 amends RA 7797, also known as “An Act to Lengthen the School Calendar from Two Hundred (200) Days to Not More Than Two Hundred Twenty (220) Class Days,” which states that the opening of classes should be between the first Monday of June to the last day of August.⁵⁵

A one-page memorandum from Executive Secretary Salvador C. Medialde was given to Department of Education Secretary Leonor M. Briones deferring the classes to October 5, 2020 and that DepEd was hereby instructed to ensure that all preparations have been made for the smooth and successful virtual opening of classes for Academic Year 2020 – 2021.

Cons in Reopening of Classes

Over the past months, Department of Education focused its efforts and initiatives in ensuring learning continuity despite limitations imposed due to the pandemic. However, after the announcement of the reopening of classes, there were prevalent negative impacts reported.

According to Katrina Son’s “24 Oras Weekend” report on Sunday (October 4, 2020), teacher Marcelina Dumaguing found numerous issues with the printed learning modules that have already been disseminated to students. “*Marami pong problema. Walang page lahat po ‘yan tapos ‘yung printing tapos may mga correction po... paano na e na-distribute na namin ang mga module sa mga bata?*” she said. Besides, some parents and guardians do not know how to navigate tools for online classes like Zoom. Another parent also bought a new phone for her child’s online classes but is still problematic as to where to get money for mobile load. Some students need to borrow a laptop just to attend online classes. While others, in order to secure good signal, they need to cross a river and climb a mountain. It is also a turmoil to some teachers who must pass through muddy areas and a mountain to bring modules to students. And as per report, in Catanduanes,

⁵⁵ Republic Act No. 11480

teachers need to pass through ravines and cross a river and hanging bridge to reach students enrolled in an alternative learning system.

Members of the Alliance of Concerned Teachers (ACT) held a protest in Mendiola coinciding with the opening of classes and the annual celebration of World Teachers' Day last October 5, 2020. "The government has left teachers at the frontlines of education while the health and socioeconomic crises relentlessly rage on," ACT Secretary-General Raymond Basilio said, reiterating their call for adequate support to educators this school year. While the Teachers' Dignity Coalition (TDC) reiterated its request for the government to safeguard teachers from COVID-19 and relieve them of "the insane workload that inexplicably quadrupled during the pandemic." The group asked for support, such as giving service laptops and internet provisions for teachers, which became vital with the move to distance learning.

"Never in history have teaching and learning meant giving and risking so much. Already, some of our colleagues have fallen ill. Some are struggling at this very moment. A few have failed to make it back to their families and to us," TDC said.

On July 2, 2020, the Department of Education anticipates a 20 percent drop in both elementary and secondary school enrollment due to the economic impact of the COVID-19 pandemic. However, parents are given until July 15 to enroll their children. During the press briefing, Education Secretary Leonor Briones said their initial projection for the new school year was that enrollment will not reach the all-time high of 27 million learners as of the previous year because of the economic impact of the coronavirus disease 2019 (COVID-19) pandemic.

About 3.3 million learners are still "missing" or not yet enrolled weeks before the formal school opening on Oct. 5, the latest enrollment data from the Department of Education (DepEd) released Thursday (September 17, 2020) showed.

Based on the survey conducted by Save the Children International, at least 10 million students worldwide will not be able to return to school this year due to lack of access to technology vital for distance learning and guardian support they need at home.

Pros in the Reopening of Classes

In a report of CNN Philippines last October 5, 2020, Education Secretary Leonor Briones claimed the government's win over the COVID-19 pandemic as over 22 million students from public schools returned to school without face-to-face classes despite the uproar of teachers and parents facing

numerous challenges. Regardless of calls for postponement, DepEd reiterated that lessons will be integrated and provided through the digital platforms, radio and television broadcasts and produced self-learning modules. The strategy is called blended learning.

"Today we celebrate a great victory, we declare our victory over COVID-19... We will not allow COVID-19 to destroy our children's education and their future," Briones said during DepEd's online event. She said education cannot be postponed despite the raging COVID-19 crisis. She advised critics to end the debates on DepEd's decision.

In an interview with CNN Philippines on October 5, 2020 (Monday), Education Undersecretary Tonisito Umali also acclaimed the opening of the school year. *"Napakahusay ng unang araw ng pasukan,"* he told Newsroom Ngayon. He said 207 TV channels and 162 radio stations nationwide have partnered with school division offices to air the modules. He also said the department has provided guidelines for teachers in the grading and assessment of learners, as well as a guide for guardians helping with their children's lessons.

In June, DepEd released the Learning Continuity Plan (LCP), a comprehensive document outlining various interventions that the department anticipates to adopt in response to the pandemic. It presented a trimmed down curriculum and a menu of remote learning modalities that students and their parents can select from. These consist of the use of self-learning modules, available online platforms, radio and television.

DepEd prepared a five-hour program aired online and on several government platforms to report the situation in different parts of the country. *"We are in touch with our field units and field offices and wherever we go – whether it is a division, a regional office or a school – they are ready and have already distributed the learning modules,"* DepEd Undersecretary Nepomuceno Malaluan said.

Briones assured the public that DepEd would regularly monitor and evaluate the implementation of the blended learning approach to make sure that any challenge would be directly addressed. *"We will do everything so no one will be left behind,"* she said in Filipino. *"Even if it is difficult, we will still do it, we will not wait it out."*

Updated data showed that around 329 million out of the 921 million printed self-learning modules have already been given to students, in time for the opening of classes. These SLMs cover the first few weeks of the first grading, with succeeding distributions scheduled later this month.

In a report of onenews.ph, over 8,000 video lessons and almost 6,800 radio-based instruction episodes have also been produced for airing in over

500 radio and television stations nationwide. In addition, President Duterte congratulated DepEd for the smooth school opening. *“The school opening of this year is momentous because it is pushing through despite the global health crisis due to COVID-19,”* he said.

In lieu of face-to-face classes, students will be learning inside their homes through the distance or blended learning approaches prepared by the Department of Education. Based on what the students have chosen in the Learner Enrollment Survey Form (LESF), they will be learning under various learning delivery modalities: Modular (printed or offline); online learning; and television or radio-based instruction. Some students will be under blended learning approach in which two or more of the modalities will be combined and provided to them.

DepEd understood that the modular distance learning is the “most preferred modality” among the options provided in the Basic Education-Learning Continuity Plan (BE-LCP). As per latest record, 9,424,925 students chose modular; 4,171,719 chose combination of modalities or blended; 3,628,636 for online; 1,324,803 for TV; 977,929 for radio, and 531,229 others. While, some students have chosen multiple answers, DepEd said.

During the virtual press briefing on Oct. 23, Education Secretary Leonor Briones reiterated that the DepEd has already surpassed its target number of enrollees (80% assigned by NEDA) for this current school year. Department’s national enrollment data as of Oct. 26, 2020 showed that there are 25.03 million students who were enrolled for School Year (SY) 2020-2021. DepEd said that the enrollment data includes both public and private schools and comprises 90.14 percent of SY 2019-2020.

Questioned about the possible initiatives of DepEd on the remaining 2.6 learners that were not yet enrolled, DepEd Undersecretary for Curriculum and Instruction Diosdado San Antonio said that there are available programs for them. *“Aside from the ALS, we also have Flexible Learning Options (FLOs),”* he said.

On the brighter side, DepEd reminded that students can still remotely late register and will be accepted in public schools until November 2020. The main goal of the Department is to let all the students be enrolled and that no one must be left behind.

Indeed, the Department of Education, with the commendable and resilient efforts of the teachers and its administrators, made a huge milestone in providing the quality education that every Filipino student deserves with or without the pandemic.

Critique and Recommendations

On the Sixteenth Congress of the Republic of the Philippines, during the First Regular Session, Senator Miriam Defensor Santiago introduced Senate Bill No. 1573 or an Act Strengthening National Preparedness and Response to Public Health Emergencies with a short title of “Pandemic and All – Hazards Preparedness Act”.

One of the provisions of the SB No. 1573 is that the Secretary of Health shall spearhead the creation of a national health strategy to address public health emergencies. This strategy shall offer unified policy coordination and strategic course with respect to all matters related to general public health and medical preparedness and implementation and deployment of national response before, during, and following public health emergencies.⁵⁶

If only the above-mentioned bill became a law, the current administration will be able to prepare all the sectors, including education, in giving or providing favorable assistance and quick responses over matters that will arise during a pandemic since the bill sought to strengthen national response and preparedness for public health emergencies like pandemics. It cannot be denied that during this adverse moment, policy-making is much needed.

Nevertheless, on April 28, as per CNN report, Senator Grace Poe filed a bill on Tuesday proposing the establishment of a Center for Disease Control to boost the country’s preparedness and response to public health emergencies.⁵⁷

In her “Pandemic Preparedness and Response Bill”, Poe stressed the necessity of building and improving the country’s expertise in disease prevention and control. *“We need to catalyze support for a proactive and efficient health system with increased capacities to prevent and control the spread of new or recurring infectious diseases,”* Poe said.

April 16, during the House Defeat COVID-19 committee virtual hearing, Health Secretary Francisco Duque III encouraged the lawmakers to pass a bill creating the CDC in the country. A House version of the CDC bill was also filed by Albay second district Rep. Joey Salceda.

If the bill will be enacted into law, it will surely be of great use because it will provide the government and its people the assistance and clear direction vital for the control of a pandemic. Apparently, it will not compromise all the

⁵⁶ Sixteenth Congress of the Republic of the Philippines, First Regular Session, Senate Bill 1573 by Senator Miriam Defensor Santiago

⁵⁷ Senate Bill No. 1450 or the “Pandemic Preparedness and Response Act”

existing sectors especially the education marching over its battle cry that no child should be left behind regardless of the adversities.

Conclusion

As we march forward in the 2019 Corona Virus Disease recovery phase, all the government sectors and departments are hopeful with the new normal setting. The global health crisis and unusual halt of day-to-day operations due to intermittent lockdowns really challenged the entire world. Most of the countries exerted spontaneous efforts to stabilize its economy and decongest the health crisis.

Even if our country has the record of longest lockdown, the government were able to provide relief to its people when the Congress responded to the call of desperate times by passing the bill entitled “Bayanihan to Heal As One Act” or known as Republic Act No. 11469 effective March 25, 2020.

Republic Act No. 11469 is an act declaring the existence of a national emergency arising from the coronavirus disease 2019 (COVID-19) situation and a national policy in connection therewith, and authorizing the president of the Republic of the Philippines for a limited period and subject to restrictions, to exercise powers necessary and proper to carry out the declared national policy and for other purposes. This bill, with its provision, allowed the government employees, teachers and officials to enjoy loan moratoriums and financial assistance which brought relief in desperate times as they continue to fulfill their mission in providing quality education.⁵⁸

On the other hand, Department of Education (DepEd) on Thursday (October 8, 2020) reported that it has achieved "100 percent enrollment" in public schools nationwide for the school year 2020 to 2021 which opened October 5.

As of October 8, 2020, the Department of Education reported that a total of 22,587,496 learners have enrolled in the public schools nationwide which is actually 14,573 higher compared to the last year's number of enrollees at 22,572,923. While in private schools, the enrolled learners reached to 2.18 million. Combined, the total enrollment tally is 24.8 million nationwide.

Thus, considering the latest data, the Department of Education was able to meet and realize its mission that “No Filipino learner should be left behind amidst the pandemic.” The presence of modalities and flexible approaches of learning allowed all the learners to have an equal access to the education that they deserve.

⁵⁸ Republic Act 11469 entitled “Bayanihan to Heal As One Act”

**Economy Or Public Safety?
Analyzing the Intention of Domestic and International Flight
Restrictions for the Sake of Public Health Safety**

Angelica D. Medina

Tourism industry plays a huge role in the economic growth of a country, it brings business activity that generates demand and refinement for several industries. One of the sectors that complements with tourism industry is the aviation sector which encloses practically all aspects of air transportation and services. Air transportation, as accentuated, includes the airline industry to which tourism mainly depends in order to transport tourists in and out of the country and to produce deals from its services for the growth of the industry and generally for the progression of the economy. The economy's progression bounces to thousands of travel and tourism related jobs and businesses that made it in a giant shape, they are mainly supported by the earnings of domestic and international passengers flying by air through the operation of the airline industry.

In a study led by Oxford Economics, it was established that aviation supports P35.5 billion of economic activity — equal to 0.4 percent of GDP (Gross Domestic Product) — and has created some 123,000 jobs. If we augment in the power of aviation-related tourism, the numbers rise to P192.2 billion — 2.4 percent of GDP — and some 874,000 jobs (2.5 percent of the workforce).⁵⁹ Thus, we can say that, a growth in volume of passengers who are flying domestic and international flights significantly profits the country's economic performance and employment solidity.

Airline industry's economic contribution to the Philippines can be more than that, yet, in this time of the year, the year of COVID-19 pandemic has been greatly affecting this industry. The International Air Transport Association (IATA) released its financial outlook for the global air transport industry showing that airlines are estimated to lose \$84.3 billion in 2020. To be precise, according to Alexandre de Juniac, IATA's Director General and CEO, 2020 will go down as the worst year in the history of aviation. He said that each day of the year will add \$230 million to industry losses and in total that's a loss of \$84.3 billion. That means — based on an estimate of 2.2 billion passengers this year — airlines will lose \$37.54 per passenger.⁶⁰ IATA said passenger demand evaporated as international borders closed and

⁵⁹ Source: Aviation Benefits Beyond Borders 2018 report (all currency is in United States dollars at 2016 prices)

⁶⁰ Industry Losses to Top \$84 Billion in 2020 [09 JUNE 2020]
<https://www.iata.org/en/pressroom/pr/2020-06-09-01/>

countries locked down to prevent the spread of the COVID-19 pandemic leading to the biggest driver of industry's slow economic downfall.

Consequently, different airlines in the air industry per country have to follow and implement different restrictions and set protocols. The latter were coordinated in accordance with the Inter-Agency Task Force on Emerging Infectious Diseases (*IATF-EID*). *IATF-EID* is a task force organized by the government to respond to affairs relating to emerging infectious diseases in the Philippines. The coordination between the *IATF* and the airlines with regards to the restrictions and protocols are the aggressive precautionary measures to control the spread of the virus and lessen the public health threats brought upon the pandemic. There is a need to understand the commonalities between these restrictions so as to have a basis on deciding what to do in case of future events that require travel restrictions.

The outbreak of the pandemic in the first quarter of the year resulted to flight disruptions and cancellations for domestic and international flights, in the same way it also includes travel bans in some countries. Travel restrictions that were implemented limits the movement of all airlines per region for the purpose of public health safety.

Analyzing the policies set by the airline companies pave way for unveiling possible rights violation or other impartialities set by existing legislations. From one point to another this study was purposely prepared to investigate the intention of the airline in implementing travel restrictions in considering economic stability without prejudice to the public health protection.

Survey of Related Literature

Tourism Industry at the Start of COVID-19 Pandemic

Baraero-Era and Del Rosario (2020) explain that, based on its 2019 performance internationally, the tourism industry started this year with progressive predictions of the surge in tourist arrivals. In accordance with the report of the United Nations World Tourism Organization in 2019, the global tourist arrivals reported with a total of 1.5 billion international tourists. It marked the increase of 4% in overnight tourist arrivals.

On the other hand in Asia, the Association of Southeast Asian Nations (*ASEAN*) projected the continuous growth of tourism industry in the region with 129 million tourist arrivals marking 7.6% increase from 2017. In the Philippines, the Department of Tourism reported

8,260,913 visitor arrivals in 2019 marking a new milestone compared to 7,168,467 in 2018.⁶¹ As soon as the economy has gone beyond success due to the contribution of airline industry, unfortunately the world is now facing an unprecedented global health, social and economic crisis as a result of a pandemic.

According to the study conducted by Abate et al. (2020), during the first half of 2020, the coronavirus disease (COVID-19) pandemic had far-reaching implications to society. Apart from the direct impact on health and mortality, the measures to regulate the spread of the disease caused major disruptions in economic activity that will probably be followed by a long recovery period. Aviation was particularly hit, with a 50% decrease in the total number of flights globally during April and May 2020. Several countries saw their air transport activity decreased by over 90% for 2 months or more.⁶² According to the latest issue of the UNWTO World Tourism Barometer, international tourist arrivals (overnight visitors) declined **70% in January-August 2020** over the same period of last year, amid global travel restrictions including many borders fully closed, to contain the ongoing COVID-19 pandemic.⁶³

Travel Restrictions in the Philippines and Asian Countries Related to COVID-19

In order to contain local transmission of COVID-19, the government controls the incoming travel. The threat of the COVID-19 pandemic resulted to imposition of quarantines, entry bans, and other restrictions for citizens of or recent travelers to the most affected areas. The impact of the pandemic even led to imposition of global restrictions that apply to foreign countries and territories, or prevent their own citizens from travelling overseas.

These travel restrictions, paired up with a decreased willingness to travel among the citizens have had a negative economic and social impact on the travel sector of the regions where travel ban is imposed. Fredman (2020) presents that among several long-term impact has been a decline of business travel and international conferencing, and the rise of their virtual, online equivalents. The Philippines is not an exemption.

⁶¹ Examining Tourism Resilience Practices as Basis for a Post-Covid 19 Recovery in the Philippines

ASEAN Journal on Hospitality and Tourism Vol. 18, No. 1, June 2020, pp. 1-12

⁶² Government support to airlines in the aftermath of the COVID-19 pandemic [2020]
<https://www.sciencedirect.com/science/article/pii/S0969699720305147>

⁶³ IMPACT ASSESSMENT OF THE COVID-19 OUTBREAK ON INTERNATIONAL TOURISM [OCT 2020]

<https://www.unwto.org/impact-assessment-of-the-covid-19-outbreak-on-international-tourism>

On March 12, 2020, President Rodrigo R. Duterte, through a national address, declared a massive lockdown over Metro Manila. This announcement was made in pursuant to Resolution No. 11 of the Inter-Agency Task Force (IATF) on the coronavirus outbreak, where “stringent social distancing measures” are imposed and suspended land, domestic air, and domestic sea travel to and from Metro Manila.

This event was followed by President’s issuance of Proclamation No. 929 which placed the Philippines under a State of Calamity, and imposing the so-called enhanced community quarantine (ECQ) over Luzon. Pursuant to this Presidential issuance, the Department of Transportation (DOTr) imposed guidelines relating to travel restrictions during the ECQ and limited Philippine airport operations to outbound international flights only. By then, DOTr allows inbound international flights for repatriating Filipinos only.

Still in pursuant of the IATF guidelines, the Department of Foreign Affairs (DFA) on March 19, 2020, issued Foreign Service Circular No. 29-2020. The said circular temporarily suspends visa-free entry privileges and the issuance of visas in Foreign Service posts. Entry visas to the Philippines that were previously issued were deemed cancelled albeit there were very limited exceptions. Subsequently, the Bureau of Immigration (BI) issued Memorandum Circular No. JHM-2020-002 on March 20, 2020. This circular imposed a blanket travel ban against inbound foreign nationals except for foreign spouses and children of Filipino nationals, foreign government and international organization officials, and foreign airline crews.

Countries that in effect of closed borders and lockdown measures within the borders of Asia as of Nov. 2020: ⁶⁴

Closed borders in Asia

China: there are restrictions on who can enter China. Check your government travel advisory for the latest information.

India: International flights remain suspended. The Indian Bureau of Immigration website outlines categories of foreign nationals who are now eligible to travel to India. Anyone exempt from the entry ban is subject to medical screening and quarantine for 14 days upon arrival.

⁶⁴ COVID-19 travel restrictions and border closures – updated 25 November, 2020
<https://www.worldnomads.com/travel-safety/worldwide/worldwide-travel-alerts#closed-asia>

Indonesia: Foreign nationals are banned from entering Indonesia. If you meet the criteria for entry, you must present a negative COVID-19 PCR test result and a certificate written in English, and the result must be no older than 7 days. If you do not have a negative COVID-19 certificate, you will undergo a swab test and quarantine at your expense until the results are received (this could take up to 7 days). You will also need to provide a personal statement that confirms you are ready to be quarantined for 14 days if required.

Laos: International flights are suspended, and borders are closed to foreign travelers. Foreign nationals who are granted permission to enter must apply for a visa. Arrivals will undergo mandatory health screenings and 14 days of quarantine at their own expense. Passengers must have a medical certificate with a negative COVID-19 test result issued no more than 72 hours before departure, and complete a health declaration form.

Malaysia: Foreign nationals are not allowed to enter Malaysia, unless for medical tourism or long-term pass holders. Medical tourism is only allowed from designated green zone countries. Foreign nationals holding certain categories of residency and employment passes are also allowed to enter. My Travel Pass has been launched for foreigners looking to enter the country. Arrivals are subject to medical screening, quarantine for 14 days at your own cost in a designated facility, and must download the MySejahtera app.

Mongolia: All international flights and rail transport to Mongolia is suspended until at least 31 December. The Mongolian government may allow foreign nationals to enter if they meet certain criteria: passengers with a short-term visa (business (B-type), diplomatic (D-type) or official (A-type) visa) issued on or after 8 October, 2020. International arrivals are subject to quarantine for 21 days at designated facilities.

Myanmar: All international flights are suspended until 30 November. Read the latest updates on the Ministry of Hotels and Tourism.

Nepal: Most foreign travelers are still not allowed to enter. From 1 September, a progressive approach to resuming flights began. Only Nepalis, international passengers from certain employment categories, and their dependants will be allowed to enter Nepal.

Eligible passengers must show evidence of a negative COVID-19 test result taken within 72 hours, fill out a Passengers Locator Card and may be required to self-quarantine for 14 days.

North Korea: All international air and train routes has been temporarily suspended since 31 January, 2020. Passengers traveling for tourism purposes are not allowed to enter. Arrivals from COVID-19 affected countries will be quarantined for 30 days.

Philippines: Filipino nationals, spouses or children of nationals, and residents returning from abroad may be subject to quarantine for a maximum of 14 days upon arrival or required to undergo COVID-19 testing. Foreign nationals with existing long-term visas are allowed to enter the Philippines, subject to certain conditions.

Sri Lanka: Commercial flights are suspended indefinitely. Any returning residents must quarantine for 14 days upon arrival. Sri Lankan nationals and residents returning from overseas will be quarantined for 14 days upon arrival, followed by 14 days of self-isolation at home. Arrivals will undergo temperature checks at the airport and must now take a PCR test.

Turkmenistan: Commercial flights are suspended until at least 1 January 2021. Repatriation flights are permitted for nationals of Turkmenistan, accredited diplomats, permanently registered foreigners and some employees of international companies and organizations. Passengers must have a negative medical certificate for a COVID-19 test result issued no more than 72 hours before departure, and will be subject to testing on arrival and self-isolation for 21 days.

Vietnam: Vietnam's borders remain closed to most foreign travelers. From 22 September, Vietnam has resumed international commercial flights to six destinations: Guangzhou, Taiwan, Seoul, Tokyo, Phnom Penh, and Vientiane. Entry is only permitted for diplomats, experts, investors and their family members, and Vietnamese nationals returning home. Inbound travelers must submit an online health declaration form, and undergo medical checks upon arrival. Quarantine lasts a minimum of 14 days, and may be extended longer if you test positive at any point. For the latest information, read the Vietnam tourism travel advisory.

Though certain countries have closed and restricted borders, there are several countries that have reopened borders and eased their local restrictions:⁶⁵

Open borders in Asia

Bangladesh: International flights from selected countries have resumed. Check for the latest information on who is permitted to enter. Arrivals from high-risk COVID-19 countries must complete a Health Declaration Form and Passenger Locator Form provided by cabin crew, and health officials will assess if you are able to self-quarantine for 14 days or be quarantined for 14 days. All foreign nationals must show proof of medical certificate with a negative COVID-19 test result dated no more than 72 hours before departure.

Cambodia: Travelers who are eligible to enter must provide a negative COVID-19 test result that is no older than 72 hours, get a visa before arrival, and prove that they have medical insurance with minimum coverage of US \$50,000. Foreign travelers are required to deposit US \$2,000 for COVID-19 service charges at the airport upon entry. Once deductions for services have been made, the remainder of the deposit will be returned. Anyone who tests positive upon arrival will be quarantined for 14 days at designated facilities. Travelers who test negative must self-isolate at their own accommodation.

Iran: Entry is permitted to anyone holding an Iranian passport or a valid visa. Arrivals who are exempt from any entry bans must have a valid health certificate containing a negative COVID-19 molecular test result taken within 96 hours of entry, and no self-isolation or quarantine is required. Non-nationals without a certificate will be denied entry. Nationals will be directed to quarantine locations for 14 days and will cover associated medical and accommodation costs.

Japan: Borders are partially open. Foreign nationals arriving from a country where an entry ban does not apply (restrictions are listed here) are subject to a COVID-19 PCR test upon arrival, and self-isolation for 14 days at a location designated by the quarantine station chief.

⁶⁵ COVID-19 travel restrictions and border closures – updated 25 November, 2020
<https://www.worldnomads.com/travel-safety/worldwide/worldwide-travel-alerts#closed-asia>

Maldives: Commercial flights have resumed to the Maldives. All visitors must fill out a health declaration form and an immigration arrival card. Health screenings are in place on arrival, and anyone showing symptoms will require a PCR test at their cost. All tourists and short term visitors must present a negative PCR test for COVID-19, conducted within 96 hours of departure.

Pakistan: All arrivals must submit a health declaration form, and will be subject to thermal screening. Anyone without COVID-19 symptoms will be given instructions to self-isolate for 14 days. Flights are limited, but have resumed.

Singapore: Anyone permitted to enter Singapore will be issued with a 14-day Stay at Home Notice, which will be served at a government designated hotel or at your place of residence in Singapore. From 17 November, travelers who have been granted permission to enter from most countries (except for Singapore citizens and Singapore Permanent Residents) must obtain a negative COVID-19 PCR test within 72 hours of travel. Check the latest information to see which measures apply to you. The 14day period cannot be reduced, even if you wish to leave Singapore. Transit via Changi Airport is permitted, and includes health screening measures.

South Korea: Anyone who arrives in South Korea will undergo quarantine for 14 days. Some travelers may be tested for COVID-19 within 3 days of arrival depending on the country of origin, others will be tested within 14 days. If you are not a resident of South Korea, you will be quarantined in government-arranged facilities and charged a fee. Check visa requirements.

Taiwan: From 29 June, travelers who want to visit Taiwan for reasons other than tourism and regular social visits must apply for an entry permit. Approved travelers must produce a negative RT-PCR test result that is no older than 72 hours prior to arrival, and fill out a health declaration form detailing travel history for the previous 14 days. Specific travelers from low or medium risk countries may be eligible to apply for a shorter quarantine, instead of the required 14 days. Face masks must be worn on public transport.

Thailand: A limited number of foreign tourists from approved destinations with a valid visa are eligible to travel. However, they must undergo quarantine for 14 days. For the latest information, read our Thailand travel alert.

Uzbekistan: From 1 October, international flights have resumed. Countries will be divided into color categories of green, yellow and red. Click here to find out if you are eligible to enter without restrictions. Travelers from the yellow or red zones must obtain a negative test result prior to arrival, and may be subject to further testing and self-isolation for 14 days.

In the Philippines, Four (4) months after imposing Proclamation No. 929, the IATF adopted Resolution No. 56 on July 16, 2020. In this resolution, foreign nationals with long-term visas were now allowed to enter the Philippines. According to the resolution, these foreign nationals include those who have Sec. 13 immigrant visas, those who availed of the alien legalization program (EO 324 visas), those who availed of the Alien Integration Social visas (RA 7919 visas), native-born visa holders, duly recognized refugees (47(b) visa holders), and those who have acquired permanent resident status by reason of his/her marriage to a Filipino citizen. However, prior to arrival, these categories of foreign nationals are expected to have a valid and existing visa at the time of entry, and should have already pre-booked their COVID-19 testing providers and quarantine arrangements in an accredited quarantine facility. Their arrival shall also be subject to the maximum capacity of inbound passengers at the port on the date of entry.

A slackening of the travel ban induces anxiety and fear of a new outbreak. From a public health perspective, the major challenges are (1) to understand the effect of the travel bubble; (2) to predict the effect of a wider opening; and (3) to estimate the effect of imperfect quarantine assuming that a fraction of travelers would ignore the guidelines for self-isolation. Answering these questions will help to understand the short and long-term effects of reopening.⁶⁶

In a national address by IATF's spokesperson Harry Roque on October 16, 2020, he announced that non-essential foreign travel shall be allowed starting on October 21, 2020. Non-essential foreign travelers must present a round-trip ticket as well as adequate travel and health insurance for tourist visa holders. They must also follow the existing rules for returning overseas Filipinos as they fly home, which involves undergoing quarantine in dedicated isolation facilities while waiting for a negative swab test result.

As the country continues to ease travel restrictions, Gonzales (2020) describes the corresponding rules and guidelines as fluid and organic, which means that those who wish to re-enter the country must be sufficiently informed with updated and relevant information

⁶⁶ Is it safe to lift COVID-19 travel bans? The Newfoundland story [2020]
<https://link.springer.com/article/10.1007/s00466-020-01899-x#Abs1>

in order to avoid any potential travel impediments. With this in mind, the question on whether or not the Philippines should completely re-open its borders is still an on-going discussion.

A study made by Chinazzi, et al. (2020) published in Science, argued that travel restrictions only had modest effects delaying the initial spread of COVID-19, unless combined with infection and prevention control measures to avoid and reduce transmissions. In fact, based on the researchers from the University of Oxford, travel restrictions are most useful in the early and late phase of an epidemic and that the travel restrictions from Wuhan China came in too late.

Impact of Travel Restrictions to the Aviation Industry in the Philippines

Jolly (2020) stated that the COVID-19 pandemic has had significant impact on the aviation industry due to the aforementioned travel restrictions among several countries, the Philippines included. In the global setting, significant reductions in passenger numbers have resulted in flights being cancelled or planes flying empty between airports, which in turn massively reduced revenues for airlines and forced many airlines to lay off employees or declare bankruptcy. Airline manufacturers and airport operators have also laid off employees. These several negative impacts on the aviation industry are described by some as the worst ever encountered in the said industry.⁶⁷

According to the national report presented during the APEC Virtual Aviation Experts Group Meeting of the 49th Transportation Working Group Meeting on August 03, 2020, there were 15,160,199 recorded passengers and 151,248,757 cargo during the first semester of 2019. On the other hand, the first semester of 2020 witnessed a decreased number of passengers and cargo recorded as 5,923,863 and 72,333,754 respectively. This is for domestic flights alone. Records of international flight reports that during the first quarter of 2019, there has been a passenger traffic of 3,996,369 which decreased in the first quarter of 2020 with a number of 1,306,176 passengers.⁶⁸

Moreover, the three largest airlines were reported to have cut jobs within its crew and staff due to the decreased demand in the aviation industry. Philippine Airlines reported to have cut off 300

⁶⁷ Airlines may not recover from Covid-19 crisis for five years, says Airbus. [2020] <https://www.theguardian.com/business/2020/apr/29/airlines-may-not-recover-from-covid-19-crisis-for-five-years-says-airbus>

⁶⁸ Asia Pacific Economic Cooperation (2020). Philippine aviation in the time of the COVID-19 pandemic. Retrieved from: http://mddb.apec.org/Documents/2020/TPTWG/TPTWG49-AEG/20_tptwg49_aeg_007.pdf

jobs which includes ground-based administrative and management personnel.⁶⁹

Cebu Pacific reported to cut 150 newly-hired crew members in March; More than 1,000 ground handling service provider will be laid off; 200 retired tenured workers in June; and another 800-estimate starting in August 2020.⁷⁰ Moreover, Philippines AirAsia cut off 260 employees ranging from admin personnel to cabin crew and an estimate of additional 2,200 starting on July 2020.⁷¹

In a report made by Robert Lim, the second-quarter net losses of these three (3) largest airline companies in the Philippines likely reached 22 billion pesos following the 94 percent drop in passenger traffic.

Impact of Travel Restrictions to Public Health in the Philippines

Riding of airplanes by travelers have been involved in the circulation of the COVID-19.⁷² According to the World Health Organization, "Transmission of infection may occur between passengers who are seated in the same area of an aircraft, usually as a result of the infected individual coughing or sneezing or by touch".⁷³ Moreover, air travel requires time spent in security lines and airport terminals, which can bring close contact with other individual and often touched surfaces. Since, travel increases the chance of acquiring and spreading COVID-19, staying home is the best way to protect yourself and others from the virus.⁷⁴

In line with actions taken by government, **restrictions on movement have been imposed** in order to restraint the spread of COVID-19 and there is a worldwide effort to contain the disease.

⁶⁹PAL lays off 300 personnel after revenue losses due to COVID-19 [2020] <https://newsinfo.inquirer.net/1234720/pal-lays-off-300-personnel-after-revenue-losses-due-to-covid-19>

⁷⁰Cebu Pacific announces layoffs as local flights grounded due to COVID-19 [2020] <https://business.inquirer.net/292704/cebu-pacific-announces-layoffs-as-local-flights-grounded-due-to-covid-19>

⁷¹COVID-19 casualty: AirAsia to lay off 12 percent of workers [2020] <https://business.inquirer.net/299183/covid-19-casualty-airasia-to-lay-off-12-percent-of-workers>

⁷²McKeever, Amy (6 March 2020). "Here's how coronavirus spreads on a plane—and the safest place to sit". National Geographic. <https://www.nationalgeographic.com/science/2020/01/how-coronavirus-spreads-on-a-plane>

⁷³Passy, Jacob (14 March 2020). "Should I cancel my flight? Does recirculated air on a plane spread coronavirus? Here's what you need to know before traveling". Market Watch <https://www.marketwatch.com/story/should-i-cancel-my-flight-will-recirculated-air-on-a-plane-spread-coronavirus-heres-what-you-need-to-know-before-traveling-2020-03-06>

⁷⁴Travel during COVID19 (2020). Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19>

Temporary measures, such as travel bans, are considered to be an **effective means of control**, preventing the movement of people and therefore the diffusion of the virus. The Philippines visa policy has been adapted to prevent further cases.⁷⁵ These travel restrictions are one of the keys in preventing the spread of this virus in the country thus, promoting public health and safety.

COVID-19 Pandemic as a Force Majeure Event

The occurrence of novel coronavirus disease 2019 (COVID-19) at the end of 2019 has transmuted from an epidemic to a pandemic disaster in a short period of time. Up to date 218 countries and territories around the world have reported a total of 81,655,078 confirmed cases of the coronavirus COVID-19 that originated from Wuhan, China, and a death toll of 1,780,874 deaths.⁷⁶

In the view of COVID-19 pandemic, businesses are facing circumstances that may delay their obligations to perform under existing contracts due to the emergence of so -called force majeure event. What is Force majeure? It is a contractual defense that allows a party to suspend or discontinue performance of its contractual obligations under specific circumstances. It may also operate to limit a contract party's liability.⁷⁷

The concept of force majeure translates as 'a superior force' and refers to the occurrence of an event that is outside the reasonable control of a party, which prevents that party from performing its obligations under a contract. The ability to claim that force majeure exists depends on the applicable law and the wording of the force majeure provision itself.⁷⁸

Force Majeure Events include, but are not limited to, the following circumstances:⁷⁹

- a) plague, epidemic and natural disaster, such as but not limited to, storm, cyclone, typhoon, hurricane, tornado, blizzard, earthquake, volcanic activity, landslide, tsunami, flood, lightning, and drought;

⁷⁵Philippine Travel Restrictions – COVID19 Travel Restrictions in the Philippines
<https://www.philippinesvisa.com/travel-restrictions/>

⁷⁶Countries where COVID-19 has spread. [2020].

<https://www.worldometers.info/coronavirus/countries-where-coronavirus-has-spread/>

⁷⁷Force Majeure and COVID-19: Frequently Asked Questions

[2020].<https://www.mwe.com/insights/force-majeure-and-covid-19-frequently-asked-questions/>

⁷⁸Pandemics, public-private partnerships (PPPs) and force majeure/ COVID-19 expectations and implications [2020]

<https://www.tandfonline.com/doi/full/10.1080/01446193.2020.1817516>

⁷⁹Ibid

- b) fire, explosion, or nuclear, biological or chemical contamination (other than caused by the negligence of the Private Partner, its contractors, or any subcontractor, supplier or vendor);
- c) war (whether declared or not), armed conflict (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, act of terrorism, sabotage or piracy [, in each case occurring outside the Country];
- d) civil war, riot rebellion and revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience [in each case occurring outside the Country];
- e) radioactive contamination or ionising radiation [occurring outside the Country]; or
- f) general labour disturbance such as boycotts, strikes and lock-out, go-slow, occupation of factories and premises, excluding similar events which are unique to the PPP Project and specific to the Private Partner or to its sub-contractors [and occurring outside the Country].

*The Event that causes force majeure*⁸⁰

The event that constitute force majeure are; political force majeure, that deals with risk related to the changes in the legal or political environment and the natural force majeure or nonpolitical force majeure, that deals with the physical risks which might impact on a project or business. Iain Elder et al, (2020) viewed these different categories as often provide different remedies like an extension of time (EOT) and increased costs (for cases of political force majeure) or an EOT for completion and relief from termination (for cases of natural force majeure e.g. Covid-19). So many contractual provisions have set out a special list of force majeure events which are deemed to be event of force majeure beyond the control of the parties, such as pandemics, epidemics or disease. However, if the provision does not include language to that effect then it will be necessary to consider whether covid-19, or its impact on the project, is captured by different concepts, such as action by government, act of God and a catch-all provision (Iain Elder et al, 2020).

⁸⁰ Can Covid-19 Considered as Force Majeure Event in the Nigeria Construction Industry?[2020] <http://ijses.com/wp-content/uploads/2020/06/33-IJSES-V4N6.pdf>

*Force Majeure Clause*⁸¹

1. Deciding whether the pandemic is a force majeure event depends solely on the contractual agreement/clause. When a pandemic or disease is not expressly stated or included, it may be referring to as catch-all provision or act of God but, that will require serious consideration.
2. The parties to a contract will consider force majeure event to be an excuse of non- performance if there is a force majeure clause in the contract. Aside from the concept of contract frustration, the English common law has no general concept of force majeure and force majeure cannot be implied into an English law of contract.
3. Either of the parties (precisely the contractor) will notify in writing that, a force majeure event has occurred which is beyond its control, that has delayed, prevented or hindered its performance of the contract and all efforts to avert or mitigate the event or its consequences proved abortive.
4. The contractual clause will decide whether the COVID-19 is a force majeure event. Even if the contract contains a force majeure provision, there is no certainty that a party should rely solely on it to protect him against paying liquidated damages claims for non-performance as a result of the situation caused by the COVID-19 outbreak because of their serious impact on the party's right and obligations. Force majeure clauses are interpreted strictly by the English court so, it is necessary to consider the precise terms of any clause in the contract agreement (Xiang et al., 2020) (Brian Perrott et al, 2020).

COVID-19 as Force Majeure affecting the Aviation Industry

Force Majeure. As with many other industries around the world, supply arrangements in the aviation industry have suffered major disruption as a result of the COVID-19 pandemic. A key issue to look out for is whether an airline's supply contracts (and any other contracts that have been severely affected) have a "force majeure" clause that has been or might be triggered.⁸²

Force majeure clauses in English law contracts does not typically hinder or delay performance but the affected party must show that he has taken all reasonable steps to try to mitigate the

⁸¹ Ibid

⁸² AIRLINES: Options under airline contractual arrangements [2020]
<https://www.shearman.com/perspectives/2020/04/airlines-options-under-airline-contractual-arrangements-covid-19>

event's consequences. If the clause is triggered, the party affected may be entitled to an extension of time to perform, suspend performance for the duration of the event, or, if it continues over an extended period, possibly even to terminate the contract. In relation to airlines, that may be a supplier's inability to supply essential goods or services (e.g., fuel, food and refreshments, etc.) in which case it will be the supplier seeking to invoke the clause. If there is a Government ban on a particular flight route for certain categories of passenger (e.g., the USA's ban on non-U.S. citizens coming from Europe), that may give those passengers a right to invoke force majeure under an airline's contract of carriage. A "hindrance" clause under the English Law contract may cover a payment obligation, but that would likely depend on how much of an impact making the payment would have on the rest of the airline's business, e.g., a payment that risks pushing the airline into cross-default under financing arrangements or even insolvency would more likely be sufficient. The safest clauses to rely on in this context are those that provide for events that render a contract "uneconomic" (although these will be much less common).⁸³

Often the right to relief for force majeure will be conditional upon notice (including evidence of the triggering event) being given to the other party within a specified period. Given such time limits and the dynamic nature of the COVID-19 outbreak, we have seen examples in some quarters of parties issuing "protective" or "rolling" force majeure notices to ensure the right to invoke force majeure is not lost and/or to account for the pandemic's developing impact.⁸⁴

There isn't a standard force majeure clause in operation of airline industry's conditions of carriage so the vast majority triggered in the sense of COVID-19 will be defined event of force majeure, but then again it depends on what circumstances flow from that.

Disquisition

In implementing air travel flight restrictions to control the spread of COVID-19 especially in the Philippines apparently Pros and Cons entails to it.

Pros: Patel (2020) said that "the studies that were reviewed often concluded that travel restrictions, especially when implemented quickly,

⁸³ Ibid

⁸⁴ Ibid

could delay the importation of a virus or the peak of infections by days, weeks or even two months. This can give health authorities time to prepare for an outbreak, for example, by preparing tests and training medical workers. The WHO advised that measures restricting people's movements during the COVID-19 outbreak should be proportionate to the public health risk. They should be short in duration and reviewed regularly as more information about the virus becomes available."⁸⁵

Cons: Patel (2020) states that, according to the WHO, travel restrictions can interrupt the flow of aid, technical support, and goods that people regularly need; Restrictions on movement can contribute to the stigmatization of people in the communities and it can produce a false sense of security in those unaffected areas, it can distract officials from taking other measures; The fear of having limits on trade and travel imposed in an area can lead the government to conceal outbreaks; and lastly, travel restrictions disrupt commerce which affects the economy.⁸⁶

Movement of people by regions has been restricted for the above-stated reasons. Accordingly, airline resulted to flight delays and cancellations. To protect the passenger's rights and privileges from airline flight delays and cancellations, pursuant to the Republic Act No. 776, otherwise known as the Civil Aeronautics Act of the Philippines, the Department of Transportation and Communications (DOTC), through Civil Aeronautics Board (CAB) and Department of Trade and Industry (DTI), is mandated by law to regulate the economic aspect of aviation, and develop and promote the air potential of the Philippines, with due regard to public interest and convenience. The Air Passenger Bill of Rights (Joint DOTC-DTI Admin. Order No. 01 Signed December 10, 2012) was passed.⁸⁷

*Summary of the Rights of Air Passengers:*⁸⁸

Major Rights of an Air Passenger

- A. Right to be provided with accurate information before purchase
- B. Right to receive the full value of the service purchased
- C. Right to compensation
 - C.1 Right to Compensation and Amenities (may include food and drinks, hotel accommodation, etc.) in Case of Cancellation of flight:

⁸⁵ Limit Travel to fight Coronavirus? The Pros and Cons [2020]
https://www.washingtonpost.com/business/limit-travel-to-fight-coronavirus-the-pros-and-cons/2020/03/12/8820bb3a-647f-11ea-8a8e-5c5336b32760_story.html

⁸⁶ Ibid

⁸⁷ DOTC-DTI JAO No. 01 s2012 – Air Passenger Bill of Rights (Signed December 10, 2012).
<https://cab.gov.ph/downloads/air-passenger-bill-of-rights>

⁸⁸ Summary of the Rights of Air Passengers
<https://www.officialgazette.gov.ph/summary-of-the-rights-of-air-passengers/>

C.1.1 Cancellation at least 24 hours before the ETD, attributable to the air carrier. The passenger has the right to be notified beforehand of the fact of cancellation and has the right to rebook or reimburse the passenger, at the option of the latter.

C.1.2 Cancellation less than 24 hours before the ETD, attributable to the air carrier. The passenger has the right to be notified beforehand of the fact of cancellation, has the right to amenities, has the right to be endorsed to another air carrier without paying any fare difference, and has the right to rebook the ticket without additional charge.

C.1.3 Cancellation due to other causes. The passenger has the right to be reimbursed of the full value of the fare.

In case of flight cancellation due to the restriction implemented by the government to slow down the spread of COVID-19, the passenger is not eligible for compensation as stated above because the pandemic is categorized as an extraordinary circumstance; it is beyond the airlines' control. Therefore, they are not obliged to offer compensation to the passengers affected by this kind of cancellation but airlines have more flexible options for the affected passenger.⁸⁹

If the flight is affected by cancellations or travel ban, airlines offer the following options: Refund of ticket amount without penalties; Convert the ticket to a Travel Voucher, in which the value of the unused ticket shall be stored in a voucher to be used in issuing future flight subject to fare rules embraced in the ticket; and Unlimited rebooking (waive rebooking fee) varies per airline policy.⁹⁰

Meanwhile, with the cancellation of flights, several major airlines are facing pending class action lawsuits for their pandemic-era refund policies. Similar to the case of *Daversa-Evdryiadis v. Norwegian Air Shuttle*,⁹¹ wherein, the court rendered its first decision to dismiss a case related to COVID-19 flight cancellation.

⁸⁹ No Compensation when a flight is cancelled due to COVID-19 [2020].

<https://www.njordlaw.com/no-compensation-when-flight-cancelled-due-covid-19>

⁹⁰ Philippine Airlines [2020] <https://www.philippineairlines.com/en/ph/home/covid-19/passengeroptions>

⁹¹ Court Dismisses COVID-19 Flight Cancellation and Refund Class Action Lawsuit Brought Against Norwegian Air [2020]. https://www.pillsburylaw.com/en/news-and-insights/cancellation-refund-class-action-airline-covid-19.html#_ftn1

The plaintiff in *Daversa* case brought a single claim for breach of contract. She claimed that—although she had received a refund for her cancelled flight—the refund came too late. She argued that the delay violated DOT regulations that require a refund within seven days of the cancellation, and that those regulations were incorporated into Norwegian Air’s contract of carriage. The Court rejected this argument. It held “that boilerplate contractual language guaranteeing compliance with international or domestic aviation laws does not incorporate extraneous law into the terms of an airfare contract.” It explained that a contract provision “that identifies an exact regulation or statute and guarantees compliance with it” is generally sufficient to incorporate that law, but that a “contract that broadly vows to abide by all applicable laws” is not.⁹²

In the alternative, the plaintiff argued that Norwegian Air breached its contractual duty to carry customers by cancelling her flight. The Court rejected this argument as well. It found that Norwegian Air’s contractual obligation to provide carriage to passengers “was discharged because performance was rendered impracticable by the [coronavirus] travel ban.” The plaintiff also argued that California Civil Code section 1657 required that Norwegian Air refund her within a reasonable amount of time. The Court disagreed. Norwegian Air’s contract of carriage does not include any provision requiring that it refund passengers within a certain period of time, and the plaintiff’s attempt to add that obligation to the agreement through state law was preempted by the Airline Deregulation Act (ADA).⁹³

The Court therefore granted Norwegian Air’s motion to dismiss and refused to give the plaintiff leave to amend her claims—or add a rescission claim, which would likewise be preempted by the ADA.⁹⁴

While the Court’s decision was based primarily on the specific language in Norwegian Air’s contract of carriage, it nevertheless provides support for other airlines moving to dismiss coronavirus cancellation and refund litigation—as well as broader guidance on the impossibility defense relating to the coronavirus pandemic—and may serve as a guide to other courts as they consider those motions.⁹⁵

In the meantime, there's small claims court. That's where Dafina Sharpe may be headed after Delta refused to refund her canceled flight to Africa. She believes that she's entitled to a full refund under the law. Passengers can sue their airline in small claims court, but there's a limit

⁹² Ibid

⁹³ Ibid

⁹⁴ Ibid

⁹⁵ Ibid

on the damages they can collect. "I think any passenger who can't fly because of COVID-19, who is having difficulty getting a cash refund from their airlines, should certainly sue because the chances of these lawsuits prevailing are high," says Sharpe, an attorney in New York.⁹⁶

Critique and Recommendations

In a prosperous society, health is a very serious issue. It affects the overall well-being of an individual and restrains his or her movements. Poor health slows down one's performance level in a certain work place, company or organization and hampers the person's productivity as well as his income. This is what COVID-19 is causing us today. This virus has locked down economies and created socio-economic disruptions in the Philippines and in different countries across the world. The Government's measure in implementing air travel restrictions and travel bans had helped in mitigating the cases of COVID-19 infections in our country thus, it is one of the effective ways in slackening down the effects of future disease outbreak.

The Airline Industry must cooperate with the Government to amend the Airline Passenger bill in which the coverage will be widened in terms of flight cancellations related to extraordinary circumstances.

The economic status has been constrained from a flourishing and high-flown standing down to a declining and wearying point. In this regard, many of our people, especially the frequent travelers (traveler for business purposes or for employment), were enraged to the government that flights should be normalized despite the pandemic because it greatly affects their livelihood, their need to travel from one place to another or from one country to another is what they depend on in order to survive the recent situation. On the other hand, some people who are in favor of flight restrictions and cancellations are praying for the stability of the mandatory protocols while COVID-19 vaccine is not yet available in our country. People from different regions are anxious in allowing travelers going into their region since they can affect the public health safety of the area unknowingly some of them might be one of the carriers of the virus.

Perceptible, this paper recommends public-private sector to harmonize and come up with an agenda of agreement recovery policy with all the stakeholders in health and trade backed up with scientific evidence concerning the balance in health and economy that makes parallel to a system approach and cost-sharing strategies for re-opening of businesses, without potential revival and spread of the virus. This methodology entails opening of the economy and educational institutions without risking public health where the effect of the pandemic is widespread. Moreover, businesses

⁹⁶ Refund- related lawsuits against airlines are taking off, but will it succeed? USA TODAY.
<https://www.usatoday.com/story/travel/advice/2020/05/15/coronavirus-want-sue-your-airline-get-refund-read-first/5185753002/>

especially aviation industry should try to be innovative and meet these gaps in supply and demand while respecting the regulations implemented in the area.

Conclusion

With fears of economic recession and financial collapse in airline industry, situations like these call for resilient and sturdy leadership in healthcare, trade, government and broader society. Immediate response on the measures of facing the pandemic need to be implemented and adjusted especially for those that may fall through the snaps. From medium to long term planning is barely needed to re-balance and re-motivate the economy following this pandemic.

Moreover, travel restrictions should be frequently implemented with other countermeasures following the standardized protocols with rights protection against travelers.

A broad socioeconomic development plan from the government including sector by sector plans and an environment that encourages private enterprise, may it be small or big entrepreneurs is greatly needed so that those with robust and defensible business models can flourish. It is sensible that governments and financial institutions including private ones constantly re-assess, re-invent and re-evaluate the state of performance and ensure that the principle of “*whatever it takes of the Filipinos*” is truly carried out and met.

Companion Animals: Control and Welfare During the Pandemic

Michelle Llanera

It has been a year and counting since the Corona Virus Disease or popularly called Covid-19 kept people from being together. In a blink of an eye, everyone had his plot twist. There were many deaths to the extent that even burying dead bodies became a problem. To save the remaining humanity and to limit the spread of the virus, health safety protocols mandate wearing facemask, face shield and observing physical distancing. People all over the world experienced quarantine and lockdown measures.

Lockdowns are difficult because certain routines that are “used to” are being disrupted. It is in this time that companion animals and pets can be helpful to humans. Cats and dogs, the common companion animals or pets are a great help during the quarantine measures. At home, they do not only provide comfort but also help their owners keep their minds off stressful matters like the fear of being contacted with the disease. Interactions with them and positive physical contact lead to a variety of physiological and psychological benefits.⁹⁷

For animals with no homes, this pandemic is more stressful. Before CoVid-19 struck, stray cats and dogs managed to survive by rummaging through scraps or getting help from kind-hearted strangers. They rely food found on the streets, leftovers from *carenderias* and most of the time from garbage piles. They endure such routine until they got lucky being adopted or being captured by dog catchers from city pounds.

The Philippine law recognizes the great importance of animals for humans. The animal protection laws are based on the animal welfare concept. It focuses on the protection and promotion of the welfare of animals as objects of trade or household pets.

This article discusses some provisions of Animal Welfare Act and Anti-Rabies Act particularly on how they were observed during this time of the pandemic. Specifically, it focuses on the companion animals and pets like cats and dogs. It also mentions some of the animal welfare groups and what they do as an advocacy and in adherence to the existing laws.

⁹⁷ Unnati G Hunjan and Jayasankara Reddy. Why Companion Animals Are Beneficial During COVID-19 Pandemic, ; available at <https://journals.sagepub.com/doi/full/10.1177/2374373520938904> last accessed on January 25, 2021

Animal Control and Animal Welfare

At this time, there is no evidence that animals play a significant role in spreading the virus that causes COVID-19. Based on the limited information available to date, the risk of animals spreading COVID-19 to people is considered to be low.⁹⁸

Instead, it is the other way around. Animals are getting infected with the virus after contact with people with COVID-19.

The first US case of an animal testing positive for the virus was a tiger at a New York zoo. A small number of pet cats and dogs have been reported to be infected with SARS-CoV-2 in several countries, including the United States. Several animals in zoos have tested positive for SARS-CoV-2, including large cats and great apes. It is suspected that these animals became sick after being exposed to zoo employees with COVID-19, despite the staff following COVID-19 precautions.⁹⁹

With the emerging speculations about viruses coming from animals like bats, animal control and animal welfare here in the Philippines are being enforced all the more. In common parlance, such words are often used without appreciation for their special meanings.

According to Philippine Animal Welfare Society (PAWS), animal control includes strays, abandoned pets, owned pets allowed to roam freely by their owners in the streets and public areas, problems and complaints about pet waste (pee/poo) and bad odors of pets. It has something to do with the regulation of stray animals under the rules set by the government. Animal control operates for the impoundment of animals that are found in the streets or at large, those held due to the violation of an ordinance, and those that are surrendered.¹⁰⁰

On the other hand, animal welfare refers to the well-being of animals, tackles cruelty and neglect concerns (includes an animal not being given proper food, water, shelter, vet care), promotes responsible pet ownership, education campaigns and spay/neuter to prevent the problem of strays.¹⁰¹

Republic Act No. 8485 The Animal Welfare Act as amended by Republic Act No. 10631 states that animal welfare pertains to the physical and psychological well-being of animals. It includes, but not limited to, the

⁹⁸Animals & COVID-19. Retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/animals.html> last accessed on January 25, 2021

⁹⁹ Ibid

¹⁰⁰ Animal Control vs Animal Welfare What is the difference? Retrieved from <http://pawphilippines.weebly.com/animal-control-vs-animal-welfare.html> on January 25, 2021

¹⁰¹ Ibid

avoidance of abuse, maltreatment, cruelty and exploitation of animals by humans by maintaining appropriate standards of accommodation, feeding and general care, the prevention and treatment of disease and the assurance of freedom from fear, distress, harassment, and unnecessary discomfort and pain, and allowing animals to express normal behavior.”¹⁰²

Euthanasia as part of Animal Control

Many cats and dogs become stray because of difficulty in finding food brought about by the lockdowns and quarantines, with some of them get caught and put in the pound waiting in line to be mercy-killed. The pound is not a shelter. It is not meant to care for impounded animals long term. City pounds have limited resources like budget and space to care for them. At times, manpower is also difficult as more and more dogs are being caught. Besides, city pounds are not responsible to temporarily care for an owned pet until the owner finds it convenient to claim it.

When the number of impounded animals gets higher, space and food become a problem. In order to prevent overpopulation, euthanasia is permitted by law. Many would frequently ask about “why city pounds conduct euthanasia or mercy-killing especially to dogs?” People have been questioning if it is legal to kill helpless animals. As far as the law is concern, it is legal to perform euthanasia to impounded animals unclaimed or not adopted after a holding period.

However, animal welfare principles must still be taken into account. It means that all actions toward the animals should be humane and legal. As to mercy-killing of impounded animals, the most humane method of euthanasia is through the use of barbiturates after full sedation, administered by S2 licensed vets. Tambucho-gassing and poisoning are not permitted.¹⁰³

Responsibilities of the Local Government Unit

Republic Act 9482 Anti-Rabies Act of 2007

Pursuant to RA 9482 The Anti Rabies Act¹⁰⁴, the city pound or city vet office is responsible for animal control concerns and for rounding up strays and free-roaming pets in the streets. It is also responsible for impounding them in the interest of public health

¹⁰² An Act Amending Certain Sections of Republic Act No. 8485, Otherwise Known As “The Animal Welfare Act of 1998”. Retrieved from https://lawphil.net/statutes/repacts/ra2013/ra_10631_2013.html on January 25, 2021

¹⁰³ Animal Control vs Animal Welfare What is the difference? Retrieved from <http://pawphilippines.weebly.com/animal-control-vs-animal-welfare.html> on January 25, 2021

¹⁰⁴ Republic Act No. 9482, available at https://lawphil.net/statutes/repacts/ra2007/ra_9482_2007.html last accessed on January 25, 2021

and safety. For purpose of understanding the legality of animal control and *euthanasia*, some sections of the Act are enumerated below.

SEC. 7. Responsibilities of the LGUs. - LGUs, in their respective localities, shall:

- (1) Ensure that all Dogs are properly immunized, registered and issued a corresponding Dog tag for every immunized and registered Dog.
- (2) Strictly enforce Dog Impounding activities and field control to eliminate Stray Dogs.
- (3) Ensure that Dogs are leashed or confined within the premises of the Owner's house or Owner's fenced surroundings.
- (4) Allocate funds to augment the implementation of the National Rabies Prevention and Control Program, particularly on the financing of supplies and human and Dog vaccines needed for immunization.
- (5) Ensure the enforcement of Section 6 of Republic Act No. 8485 or "The Animal Welfare Act of 1998".
- (6) Enact additional local ordinances that will support the National Rabies Prevention and Control Program that should include the regulation of treatment locally known as "tandok."
- (7) Prohibit the trade of Dogs for meat.
- (8) With respect to cities and first class municipalities, establish and maintain a Dog Pound where Impounded Dogs shall be kept, in accordance with Section 9 herein: Provided, That the other municipalities, shall, on their own, establish a Dog Pound or opt to share the expense of establishing and maintaining a Dog Pound with other adjoining municipalities and/or with private animal shelters and control facilities.
- (9) Prohibit the use of electrocution as a euthanasia procedure.
- (10) Appoint a veterinarian and establish a veterinary office in every province, city and first-class municipality: Provided, That the other municipalities shall, on their own, opt to share the expense of having a veterinary office.
- (11) Require pet shops to post information regarding Rabies and responsible pet ownership.
- (12) For purposes of ensuring the administrative feasibility of implementing the provisions of this Act and subject to paragraph 8 of this Section, the LGU shall collect the fines imposed under Section 11 subparagraphs (1), (3), (4), (5) and (6) hereof.

Any and all fines collected pursuant to this Act shall be used for the enhancement of the National Rabies Prevention and Control

Program within the locality concerned, as well as the achievement of the objectives envisioned in this Act.

The DILG shall ensure compliance of these responsibilities by the LGUs.

SEC. 9. Impounding Field Control and Disposition of Unregistered, Stray and Unvaccinated Dogs. - Unregistered, Stray or unvaccinated Dogs shall be put in Dog Pounds and disposed of, taking into consideration the following guidelines:

- (1) Unregistered, Stray or unvaccinated Dogs shall be impounded and kept in the LGU's designated Dog Pound.
- (2) Impounded Dogs not claimed after three days from the Dog Pound shall be placed for adoption to qualified persons, with the assistance of an animal welfare NGO, when feasible, or otherwise disposed of in any manner authorized, subject to the pertinent provisions of Republic Act No. 8485, otherwise known as the "Animal Welfare Act of 1998".
- (3) A fee shall be paid by Owners of Impounded Dogs to the LGU concerned, pursuant to Section 7 hereof.

SEC. 10. Dog Population Control. - In furtherance of the policy of this Act to eradicate Rabies, there is the need to control the Dog population and minimize the number of unwanted Stray Dogs. As such, it is hereby mandated

- (1) That the DA, DOH, DILG, DepEd, LGUs, with the assistance of NGOs and POs shall undertake an educational and promotional campaign on responsible Pet Ownership, including the option of spaying or neutering their Dogs.
- (2) That the LGUs shall provide an incentive system whereby Owners of Dogs which have been spayed or neutered will be given a subsidized or discounted pet registration fee.
- (3) That Dogs which have been impounded three times shall only be released after having been spayed or neutered, at the expense of the Pet's Owner.

Responsible Pet Ownership and Spay/Neuter

Euthanasia is legal but a lot of animal-lovers would least recommend it. Humanity hates killing especially for those who could not defend themselves. Mercy-killing no matter what, is still killing. Two solutions are suggested by most animal welfare groups which could prevent impounded animals like

cats and dogs from being euthanized- **responsible pet ownership and spay/neuter**. Responsible pet ownership means before owning a pet, one should consider if he has the capacity to care responsibly for its entire lifetime. Caring responsibly includes time and money. Veterinary costs should also be considered. If one cannot guarantee to provide all responsibilities of pet ownership for the entire life of a pet, it is more responsible not to acquire in the first place.¹⁰⁵

Having a pet is a lifetime commitment. A knowledgeable and responsible owner knows that he should provide adequate sustenance like food and water. Equally important is proper shelter that is secure, comfortable, and not exposed to heat and rain. A pet owner should address his pet's well-being, whether it is purebred, mixed breed, native or aspin. Updated vaccinations especially for anti-rabies and visits to a vet are part of its medical care. He ensures the cleanliness of his home and will always clean up pet mess such as poo and pee. A responsible pet owner abides by the responsibilities of a pet owner under RA9482 "The Anti Rabies Act" which includes not allowing dogs to roam freely in public or taking them out without using a leash. Most importantly, he will not abandon his pet.¹⁰⁶

Another solution to avoid stray animals from being impounded and eventually euthanized is to **spay/neuter**. Neutering is surgically spaying females and castrating males to prevent their continuous breeding. A couple does family planning, so should a fur parent or pet owner. He should consider the number of pets he could keep and provide for in the future.

The costs of having a litter are often more than the cost of neutering. There are organizations and vet clinics that offer low-cost neutering, one is the CDO Spay and Neuter Campaign. According to them, of the thousands of dogs and cats entering pounds and shelters, 95% are humanely euthanized. Only a few of them end up at rescue centers, foster homes and adoptive families.¹⁰⁷

Through neutering, cats or dogs can live happier, healthier, and longer. Early neutering nearly eliminates breast cancer, and totally prevents uterine infections and uterine and testicular cancer. Spaying eliminates the constant crying of cats during their heating period. Castration stops the mating drive in males, reducing the urge to roam, which in turn, reduces the risk of fights, injury, poisoning, accidents, and contracting diseases. Neutering pets will make them more content and get along better.

Kittens can be spayed as young as 4 months of age or males should be castrated by 6 months. For dogs, 6 months old for both male and female. Cats

¹⁰⁵ Philippine Animal Welfare Society- Frequently Asked Questions. Retrieved from <http://pawphilippines.weebly.com/responsible-pet-ownership.html> on January 25, 2021

¹⁰⁶ Ibid

¹⁰⁷ <https://www.facebook.com/CDOSpayNeuterCampaign>. Retrieved from January 28, 2021

can go into heat and begin reproducing as early as four months, and can have a second heat and pregnancy while still nursing the first litter.¹⁰⁸

Most people would tend to resort rescuing or asking strays to be rescued, attempting to put these strays in a shelter, calling for adopters. As noble as the intentions are, rescuing and sheltering are short-term remedies and it will not solve the cause of the problem. Through education and awareness campaigns about responsible pet ownership and promotion of spay/neuter, overpopulation in the animal pounds will lessen and that many impounded animals would be save from euthanasia. There would be no dogs to catch, impound and euthanize if they were not out on the streets.¹⁰⁹

Republic Act No. 8485 “The Animal Welfare Act of 1998” as amended by Republic Act No. 10631

The definition of animal welfare under Republic Act (RA) 8485 as Amended by RA 10631, otherwise known as the Animal Welfare Act of the Philippines as Amended, was taken from the international standards and principles called the Five Basic Freedoms of Animals: Freedom from hunger and thirst, Freedom from discomfort, Freedom from pain, injury and disease, Freedom to express normal behavior and Freedom from fear and distress. Simply, these five basic freedoms respond to the basic needs of the animals for food, water, shelter, veterinary medical care, play and exercise and most importantly, love, care, and compassion.¹¹⁰

Under our law, animal welfare “pertains to the physical and psychological well-being of animals. It includes, but not limited to, the avoidance of abuse, maltreatment, cruelty, and exploitation of animals by humans by maintaining appropriate standards of accommodation, feeding and general care, the prevention, and treatment of disease and the assurance of freedom from fear, distress, harassment, and unnecessary discomfort and pain, and allowing animals to express normal behavior.”¹¹¹

The definition is taken from Section 1 as amended:

“SECTION 1. It is the purpose of this Act to protect and promote the welfare of all terrestrial, aquatic and marine animals in the Philippines by supervising and regulating the establishment and operations of all facilities utilized for breeding, maintaining, keeping, treating or training of all animals either as objects of trade or as household pets. For this purpose of this Act, pet animal shall include birds.

¹⁰⁸ Ibid

¹⁰⁹ [Animal control vs Animal welfare What is the difference? Retrieved from http://pawphilippines.weebly.com/animal-control-vs-animal-welfare.html](http://pawphilippines.weebly.com/animal-control-vs-animal-welfare.html) on January 25, 2021

¹¹⁰ Quimpo and Marquez (January 11, 2020). That thing called animal welfare. Retrieved from <https://manilastandard.net/mobile/article/314613> on January 25, 2021

¹¹¹ Ibid

For purposes of this Act, animal welfare pertains to the physical and psychological well-being of animals. It includes, but not limited to, the avoidance of abuse, maltreatment, cruelty and exploitation of animals by humans by maintaining appropriate standards of accommodation, feeding and general care, the prevention and treatment of disease and the assurance of freedom from fear, distress, harassment, and unnecessary discomfort and pain, and allowing animals to express normal behavior.”¹¹²

It is clear under Section 1 that the Animal Welfare Act is created to protect and promote welfare covering all animals not just those specifically mentioned in the succeeding sections of the Act.

In the old Section 6 of the Act¹¹³, it reads as:

“The killing of any animal other than cattle, pigs, goats, sheep, poultry, rabbits, carabaos, horses, deer and crocodiles is likewise hereby declared unlawful except ...”

In the new Section 6 as amended by Republic Act 10631¹¹⁴, it reads as:

“The killing of any animal other than cattle, pigs, goats, sheep, poultry, rabbits, carabaos, horses, is likewise hereby declared unlawful except ...”

It means that deer and crocodiles are excluded from the list of animals declared lawful to be killed within the given instances enumerated in the old section 6. It only implies that the law is not compromising in demanding adherence that deer and crocodiles are prohibited to be killed for any reason.

Abandonment

The new Section 7 of the Animal Welfare Act (as amended by R.A. No 10631) states that “it shall be unlawful for any person who has custody of an animal to abandon the animal.”

“If any person being the owner or having charge or control of any animal shall without reasonable cause or excuse abandon it,

¹¹² Republic act no. 10631 An Act Amending Certain Sections Of Republic Act No. 8485, Otherwise Known As "The Animal Welfare Act Of 1998". Retrieved from

https://lawphil.net/statutes/repacts/ra2013/ra_10631_2013.html on January 28, 2021

¹¹³ Republic Act No. 8485 An Act To Promote Animal Welfare In The Philippines, Otherwise Known As "The Animal Welfare Act Of 1998". Retrieved from

https://lawphil.net/statutes/repacts/ra1998/ra_8485_1998.html on January 28, 2021

¹¹⁴ Republic Act No. 10631 An Act Amending Certain Sections Of Republic Act No. 8485, Otherwise Known As "The Animal Welfare Act Of 1998". Retrieved From

https://lawphil.net/statutes/repacts/ra2013/ra_10631_2013.html On January 28, 2021

whether permanently or not, without providing for the care of that animal, such act shall constitute maltreatment under Section 9.

“If the animal is left in circumstances likely to cause the animal any unnecessary suffering, or if this abandonment results in the death of the animal, the person liable shall suffer the maximum penalty.

“Abandonment means the relinquishment of all right, title, claim, or possession of the animal with the intention of not reclaiming it or resuming its ownership or possession.”¹¹⁵

In Section 9 (formerly Section 8) of R.A 8485 as amended, the maximum penalty is imprisonment of one (1) year and six (6) months and one (1) day to two (2) years and/or a fine not exceeding One hundred thousand pesos (P100,000.00) if the animal subjected to cruelty, maltreatment or neglect dies.

Penalties

Section 9¹¹⁶ (Section 8 of R.A. 8485) enumerates the penalty for those convicted with animal cruelty, maltreatment or neglect. It says:

“Any person who subjects any animal to cruelty, maltreatment or neglect shall, upon conviction by final judgment, be punished by imprisonment and/ or fine, as indicated in the following graduated scale:

“(1) Imprisonment of one (1) year and six (6) months and one (1) day to two (2) years and/or a fine not exceeding One hundred thousand pesos (P100,000.00) if the animal subjected to cruelty, maltreatment or neglect dies;

“(2) Imprisonment of one (1) year and one (1) day to one (1) year and six (6) months and/or a fine not exceeding Fifty thousand pesos (P50,000.00) if the animal subjected to cruelty, maltreatment or neglect survives but is severely injured with loss of its natural faculty to survive on its own and needing human intervention to sustain its life; and

“(3) Imprisonment of six (6) months to one (1) year and/or a fine not exceeding Thirty thousand pesos (P30,000.00) for subjecting any animal to cruelty, maltreatment or neglect but without causing its death or incapacitating it to survive on its own.

“If the violation is committed by a juridical person, the officer responsible thereof shall serve the imprisonment. If the

¹¹⁵ Ibid

¹¹⁶ Ibid

violation is committed by an alien, he or she shall be immediately deported after the service of sentence without any further proceeding.

“The foregoing penalties shall also apply for any other violation of this Act, depending upon the effect or result of the act or omission as defined in the immediately preceding sections.

“However, regardless of the resulting condition to the animal/s, the penalty of two (2) years and one (1) day to three (3) years and/or a fine not exceeding Two hundred fifty thousand pesos (P250,000.00) shall be imposed if the offense is committed by any of the following: (1) a syndicate; (2) an offender who makes business out of cruelty to an animal; (3) a public officer or employee; or (4) where at least three (3) animals are involved.

“In any of the foregoing situations, the offender shall suffer subsidiary imprisonment in case of insolvency and the inability to pay the fine.”

What the Animal Welfare Groups Do

Animal Rescue During the pandemic

Animal welfare groups have been voicing out their concerns about animals. Even in the most difficult time of this pandemic, they carried activities that promote their advocacy like stray feeding, putting up shelters, keeping a list of rehomed puppies and conducting follow up visits. Others are posting information to educate people on how to become responsible pet owners.

Just like any other non-profit organizations, animal welfare groups rely on the kindness of donors and volunteers to keep strays healthy and well-fed. Few are able to convince big companies to donate for the maintenance of shelters. To invite supporters, others add creativity by selling or giving tokens as a way of appreciation and promoting their advocacy.

In this time of crisis, everybody is required to stay at home in order to stop the spread of COVID-19. When the lockdown was imposed, many animal welfare groups were wondering what is going to happen to their campaigns especially to the animals in the shelter. More stray animals are becoming hungry. Scraps have been harder to find because restaurants have closed. There are no more generous strangers freely passing by the streets where strays roam for food.

When talking about animal rescue, it does not refer only to strays on the streets but also to the animals who suffer from abusers, traders and even

from their owners physically, emotionally, and psychologically. A number of reports show increased cases of animal cruelty when the quarantine started.

This is where the animal welfare groups stepped up and took the initiative to reach out to those animals. The following are some of the groups here in Mindanao which have started their advocacy in helping and rescuing years ago even before the Covid-19 pandemic started.

*Bantay Hayop Davao*¹¹⁷

Bantay Hayop Davao is a volunteer group that does animal rescue and public talks on responsible pet ownership. This is a SEC registered non-governmental organization. A coalition by various animal welfare advocates aiming for zero-rabies and zero animal cruelty in Davao City.

Their rescued animals are up for adoption once they have assessed that the interested individual or family is responsible and capable enough. To invite adopters, the organization offers discounted payment for spay and neuter for their adopted pets. They are only looking for responsible pet owners. Adopters are screened thoroughly and will be asked to sign a notarized adoption paper. The organization also makes follow up on their adopted cats and dogs. They also orient and educate their volunteers through online about animal welfare.

In Davao City there had been a number of reported cases of animal cruelty in the form of poisoning, hitting that resulted in severe wounds and abandonment. In one interview with Bantay Hayop Davao on December 16, 2020, Animal Watch President Rovie Bullina said animal cruelty can be attributed to how Filipinos view Aspin (Asong Pinoy) in comparison to dogs with breeds. Instead of adopting the dogs as they are, others choose the breed. The adopters look for specific breeds. As they continue to spread awareness that animals need compassion from humans, Bullina said homeowners and guards in exclusive subdivisions can also be given training on proper handling of stray animals coming into the compound.¹¹⁸

*MEOW CDO*¹¹⁹

As posted in their FB page on July 12, 2018, MEOW CDO used to be a cat restaurant in the city. They operated online for caterings, cattery, and cat adoptions. Just like other animal welfare groups, their FB page became their

¹¹⁷ Bantay Hayop Davao <https://www.facebook.com/Bantay-Hayop-Davao-120555259334086>

¹¹⁸ Arado (January 10, 2021). Animal rescue during a pandemic. Retrieved from <https://www.sunstar.com.ph/article/1882422/Davao/Local-News/Animal-rescue-during-a-pandemic> on January 31, 2021

¹¹⁹ MEOW CDO <https://www.facebook.com/MEOW-CDO-1783968338555051/>

means of reaching out to gather funds for their advocacy. Their advocacy called Project Juicy promotes foster, adoption and spay/neuter of puspins (Pusang Pinoy). They also support adoption of aspins (Asong Pinoy).

This year, they are sponsoring one ligation every month available for those animals adopted from them. For every donation of at least P500, they giveaway either mugs or tote bags as a way of appreciation. They also sell products for which every purchase benefits their advocacy. Same as Bantay Hayop Davao, they also post animals for adoption they rescue for foster or temporary home until somebody will be willing to adopt. Apart from rescuing and raising funds for stray animals, they attend to strays with medical needs. During this pandemic, they have already rescued several stray cats and dogs and were able to rehome them.

PART (Pet Adoption and Rescue Team) - Iligan¹²⁰

PART-Iligan is a SEC registered, non-profit organization, based in Iligan City. Its rescue team was founded and created by Sir Luther Ford Nudabara in December 2017. PART-Iligan was officially organized with its pioneering set of admin last January 2018.

The organization envisions to see each dog and cat belonging to a family where they are provided with utmost care that they deserve. It was created to help homeless and abandoned cats and dogs to be rescued and adopted. It aids in the animal population control through awareness on spay and neuter as well as promoting responsible pet ownership.

Last year, the organization was able to build a hut they call “payag” which serves as a temporary shelter for stray animals the members rescued. However, the “payag” has only limited space and cannot accommodate any longer. The rescued animals still need to be rehomed and fostered.

Conclusion

Animals, especially pets, play important roles in people’s lives. They provide companionship and are living therapists. Because of this, laws are created to protect and promote their welfare. However, the dissemination of Philippine laws about animal welfare and control still needs to be intensified. An informed, responsible and capable pet owner still needs to be promoted.

As observed in social media, a lot of netizens are becoming aware of animal protection. Tips on responsible pet ownership and spaying or neutering are encouraged by animal welfare groups in their Facebook pages.

¹²⁰ PART- Iligan (PET ADOPTION and RESCUE TEAM- Iligan), Inc. <https://www.facebook.com/groups/2077966912432711/>

Whenever an animal needs financial assistance, kind strangers would send donations. Some shared pieces of advice on what to do with ailing animals.

While it is easy to say that there are people willing to support the cause, animal welfare groups find it hard to receive the specific support they need. For instance, when money is a necessity for medicine and operation but only supportive comments are received. In addition, people often believe they are animal shelters. Strays seen on the road are not personally rescued and just left with their volunteers. It must be noted that they do the rescuing voluntarily without compensation. Everyday, there are animals to feed as well as cages to clean. Yet, they only rely on their enthusiasm, donations and in most cases, their own money.

The situation of the strays in the country has gotten worse with the time of the pandemic. Dogs have always been the focus of impounding because they are the ones obviously seen roaming in the streets. Republic Act 9482 or Anti-Rabies Act of 2007 under Section 9 paragraph 2 encourages adoption among impounded animals to qualified persons before disposing them. Sadly, many prefer to adopt and help specific breeds. The breedist mentality of some Filipinos adds up to more aspins (asong pinoy) being neglected on the streets. That is why it is important that if people cannot donate or adopt strays, at least they could lessen their number by observing responsible pet ownership. One way to do it is accepting spay and neuter operations.

The LGUs being the frontliners in this task have to reinforce more on what Republic Act No. 8485 “The Animal Welfare Act of 1998” and Republic Act No. 9482 “Anti-Rabies Act of 2007”. They could design incentive system to motivate people to observe guidelines. For instance, they may give subsidized or discounted pet registration fees to owners of dogs which have been spayed or neutered. They could also invite animal welfare groups during their activities. With the collaboration, many problems will be addressed and given appropriate prescription.

Lastly, as mentioned above, abandonment of animals is punishable by law. Responsible pet ownership requires time and money. A pet owner who cannot sustain the obligations for the entire life of a pet should not acquire it in the first place.

Comity Among Nations In Times of Pandemic

Eza E. Paguya

The world is lurching from the onslaught of the coronavirus outbreak. Vis-à-vis some of the most acrimonious international sentiments since the Cold War.¹²¹ The novel corona virus COVID-19 has become a worldwide public health pandemic that has induced anomic conditions impacting daily routines.¹²² An airborne virus, it spreads easily through human contact and has triggered exponential growth in cases, hospitalizations, and deaths around the globe. The actual extent of the virus can only be estimated as the affected can be contagious during lengthy asymptomatic incubation periods with only mild flu symptoms.¹²³ Governments, parliaments, international institutions and the global public have come to recognize that COVID-19 is the most severe disruption the world has faced in recent memory. It is likely to profoundly alter economic, social and political conditions, though the full extent is still difficult to foresee.¹²⁴

The word comity derives from the Latin noun *comitas*, meaning “courtesy,” “friendliness,” and “civility,” but also “humanity.” In the English language, the term indicates courtesy and considerate behaviour towards others, or “a loose widespread community based on common social institutions.”¹²⁵ In *Hilton v Guyot*, a decision of immeasurable influence, Justice Gray defined comity as “the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience and to the rights of its own citizens or of other under the protection of its laws.”¹²⁶ We understand comity as a judicial tool which, pursuant to an accepted paradigm on the allocation of regulatory authority (such as sovereignty), directs courts to engage in acts of restraint or recognition. This concretely translates into the following actions taken by courts: fine-tuning the reach of domestic substantive law; resorting to discretionary abstention in case of actual or foreseen jurisdictional conflicts; granting respect and recognition to the judgments of their foreign counterparts or presuming that foreign law and acts are valid; or otherwise respecting an expression of coequal authority that does not infringe its external limits.¹²⁷

¹²¹ Cindy Lin, “The Geopolitical Comity in the Fight Against COVID-19: The hostility between global powers must end”, August 2020

¹²² J. Mitchell Miller & Alfred Blumstein, “Crime, Justice & the COVID-19 Pandemic: Toward a National Research Agenda”, *American Journal of Criminal Justice The Journal of the Southern Criminal Justice Association*, ISSN 1066-2316 Volume 45 Number 4

¹²³ *Id*

¹²⁴ Jan Beagle, “A RULE OF LAW BASED RESPONSE TO THE COVID-19 PANDEMIC”, *International Development Law Organization*, March 2020

¹²⁵ Schultz, Thomas and Ridi, Niccolo (2017) “Comity and International Courts and Tribunals,” *Cornell International Law Journal*: Vol. 50 : No. 3 , Article 5.

¹²⁶ *Id*

¹²⁷ *Id*

Comity has long been recognized as a fundamental principle in private international law. It is widely assumed that the advent of globalization, which has resulted in the expanded movement of persons, goods, services, and capital, has increased the need for international comity in general and respect for decisions of foreign courts in particular.¹²⁸ Thus, it is hardly surprising that, although U.S. courts continue to insist that “the principle of comity has never meant categorical deference to foreign proceedings” and that “it is implicit in the concept that deference should be withheld where appropriate to avoid the violation of the laws, public policies, or rights of the citizens of the United States,” there is evidence of increased use of the doctrine by U.S. courts in recent years. Indeed, it has been claimed that, in the “tension between respecting fair foreign proceedings and shielding U.S. citizens from foreign laws,” the pendulum has swung toward recognition of foreign decisions.¹²⁹

This Pandemic has brought, Four American citizens and a company filed the class-action against Chinese government for damages suffered as the result of the COVID-19 pandemic. None of the named plaintiffs were infected by the COVID-19 but they suffered financial loss due to the outbreak. The defendants include the People’s Republic of China, National Health Commission of PRC, Ministry of Emergency Management of PRC, Ministry of Civil Affairs of PRC, Government of Hubei Province and Government of the City of Wuhan.¹³⁰

The Defendant is a sovereign state and enjoys immunity from jurisdiction of other countries. Most countries, like the U.S., adopt the restrictive immunity approach, and apply exception to the immunity of a state when the disputed state’s act, for example, relates to commercial activities or commercial assets, or constitutes tort. The Foreign Sovereign Immunities Act (FSIA) of 1976 provides the sole basis for obtaining jurisdiction on an action against a foreign state.¹³¹

This is not the first time for China to be sued in the US court under (a)(5) of the FSIA but given the impact of COVID-19 this case probably is the most influential one. The purpose of this provision is to provide the victim the right to claim damages against a foreign state for tortious activities that may be legalised by the foreign law. The U.S. court thus will apply the local law to interpret this provision.¹³²

Some crucial concepts, such as “tortious act” and “discretionary function”, are interpreted by the relevant US law. However, since the FSIA is a unilateral domestic statute with clear impact in the foreign sovereign and

¹²⁸ Rhona Schuz, *The Doctrine of Comity in the Age of Globalization: Between International Child Abduction and Cross-Border Insolvency*, 40 *Brook. J. Int’l L.* (2014). Available at: <https://brooklynworks.brooklaw.edu/bjil/vol40/iss1/2>

¹²⁹ *Id*

¹³⁰ Sophia Tang, “State immunity in global COVID-19 pandemic”, March 21, 2020

¹³¹ *Id*

¹³² *Id*

international comity, it is inappropriate to apply the U.S. law, as the national law of a state of equal status, to determine if the foreign state has committed tort. This approach impliedly grants the U.S. and U.S. law the superior position over foreign states and foreign law. If the FSIA aims to protect humanity and basic rights of individuals that are universally recognised and protected, an international law standard instead of U.S. one should be more appropriate.¹³³

The International Health Regulation 2005 provides the state parties international obligations to prevent spreading of disease, such as the duty to notify WHO of all events which may constitute a public health emergency of international concern within its territory within 24 hours of assessment of public health information (Art 6(1)) and sharing information (Art 8), but these obligations are not directly owed to individuals and cannot be directly enforced by individuals in ordinary courts. It is thus hard to argue Chinese government owes the plaintiff a duty of care.¹³⁴

Even if the plaintiffs seek damages for personal injury. It is difficult to prove China has breached the duty and the breach “caused” the COVID-19 outbreak in the US or other part of the world. Since COVID-19 is a new virus with many details remaining unknown, it takes time to truly understand the virus and be able to contain the spread of the disease. ¹³⁵

Since this is not the first case that China was sued before an American court; therefore, the likely response from China can be predicted. A general judgment is that the Chinese government will reiterate its position in case of need that it will accept no suit against it at a domestic American court, and China will not enter into appearance before the American court. In this light, it can be predicted that China will argue that it enjoys immunity from jurisdiction of domestic American court.

The current Coronavirus Cases has ballooned to 116,312,031 wherein United States is on top of the list and with death over 2 million around the world. ¹³⁶ In the Philippines a total of 587, 704 cases since the outbreak.¹³⁷ Notwithstanding that there is another threat lurking on the side, as another corona virus variant which Scientists have identified 16 cases in the UK. Public Health England has designated it as a 'variant under investigation' (VUI), meaning it is on their watch list, but not one they are immediately concerned about. It has a mutation in common with the South Africa and Brazil variants. That change, E484K, may help the virus evade some immunity from vaccination or prior infection, experts believe. The cases were first identified on 15 February by the UK's variant surveillance system. Experts suspect it originated in the UK. All 16 individuals who tested

¹³³ Id

¹³⁴ Id

¹³⁵ Id

¹³⁶ <https://www.worldometers.info/coronavirus/#countries>

¹³⁷ Id

positive, and their contacts, have been traced and advised to isolate.¹³⁸ The existence of these mutations has again added fear to people around the world.

The continuous exercise of President Rodrigo Duterte's "independent foreign policy," of finding a "geopolitical nonaligned position" or a "middle ground" between the US and China; where the Philippines remains a friend of the former but at the same time deepens its friendship with China on the economic front; maximizing the country's national and security interests.¹³⁹ Despite the current stand of the administration between PH-China relationship, China has still donated Sinovac Vaccines to Philippines. The 600,000 doses of Sinovac-made vaccines finally arrived in Manila on Sunday as part of China's commitment to supporting the Philippines' vaccination rollout.¹⁴⁰

China will remain America's foremost geopolitical adversary, and containing its rise will be a primary focus of Biden's administration. This situation will trigger a more difficult balancing act for countries like the Philippines given its blossoming friendship with China and its historical relations with the US as a traditional ally and friend.¹⁴¹

Desperate times calls for desperate measures. The world is waging war against unseen forces. It is in these trying times that comity among nations would be tested for the betterment, benefit and healing of mankind. May the super power nations not forget their role in nation building and support countries who needed their help despite international conflicts. May these pandemic be a lesson to each nation that we cannot live without relationship, in order for change to happen, nations should be one, to heal as one.

¹³⁸ **Michelle Roberts**, "Covid-19: Another new variant added to UK watch list", March 2021, Available at <https://www.bbc.com/news/health-56284155>

¹³⁹ Anna Malindog-Uy, "Biden And US-China-Philippines Relations", November 2020, Available at: <https://theasianpost.com/article/biden-and-us-china-philippines-relations>

¹⁴⁰ Joyce Ann L. Rocamora, "China-donated Sinovac vaccines arrive in PH" February 2021, Available at:

<https://www.pna.gov.ph/articles/1132107>

¹⁴¹ Id

Philippine Environmental Law in Relation to Climate Crisis

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Abstract

In this paper, we examine the structural reform agenda and how the policy makers addressed the issues of global climate change and the sustainability of the Philippines being the 3rd in rank among countries which are exposed to natural disasters according to the World Risk Report 2018, with index value of 25.14% (World Economic Forum, 2018).¹⁴² Amid the ongoing public health crisis, people across the countries are still concerned by the threat brought about by the enduring climate crisis particularly the Filipinos who are from the marginalized and vulnerable sectors which will probably be suffering the most. The global devastating impact provides fear to the people as it could lead not only to extreme poverty but also to the inclination of illness and death rates.¹⁴³

The article will discuss the disastrous encounters of the Philippines with climate change as well as national and international collective efforts and initiatives from its respective government and non-government sectors in order to enhance and further strengthen the disaster risk preparedness and build a more resilient and greener society. Furthermore, it would demonstrate how the disruptions brought by the virus outbreak has not slowed the work of the international, national, and non-governmental organizations keeping an eye on and in battling climate change if measured by the number of reports issued in just the first half of year 2020.¹⁴⁴ Given this, the national and international government still needs to assure that the laws and policies formulated are well-implemented.

Keywords: *climate change, natural disasters, laws, policies, climate crisis*

¹⁴² UN Office for Disaster Risk Reduction, *Disaster Risk Reduction in the Philippines*, Status Report 2019, https://www.unisdr.org/files/68265_682308philippinesdrmsstatusreport.pdf Last Access (January 20, 2021)

¹⁴³ Ludwig O. Federigan, *We are almost out of time on climate change*, 22 August 2020, <https://www.manilatimes.net/2020/08/22/business/green-business/we-are-almost-out-of-time-on-climate-change/758282> Last Access (January 20, 2021)

¹⁴⁴ Michael Svoboda Ph.D., *13 major climate change reports released so far in 2020*, 19 August 2020, <https://yaleclimateconnections.org/2020/08/13-major-climate-change-reports-released-so-far-in-2020/> Last Access (January 20, 2021)

Introduction

The world is warming in an unprecedented rate and the impacts of climate change are not equally felt throughout the world. Scientists have expressed high confidence that global temperature will continue to rise for the next few decades and beyond which is largely attributable to the emission of greenhouse gases of human activities. A forewarn by The Intergovernmental Panel on Climate Change (IPCC) which consists of more than 1,300 scientists from the United States and other countries, forecasts a temperature rise of 2.5 to 10 degrees Fahrenheit over the next century.¹⁴⁵

As the world stands at a threshold of an important point in the history of the planet and the international community holds for a lasting global remedy to the climate crisis, in the form of treaties and conventions, the threats to nature and humans have become unprecedented.¹⁴⁶

Consequently, it makes climate change an urgent matter plaguing not only the Philippines but as well as the humanity and our planet today. It is seen as a threat to particular regions and different countries. A pro-active adaptation planning and implementation need to be considered to these wide array of challenges nations have faced. Should the global community fail to act towards effectively reducing greenhouse gas emissions, the growing number of people will continue to be at risk.

Increasing resilience with climate change will be an important, yet crucial task in the 21st century as the Philippines' vulnerability to natural hazards (cyclones, landslides, floods, droughts) remains the biggest challenge to achieve a robust governance and economic system. As the impacts of climate crisis worsen, these brought concern to many Filipinos despite its low level of public awareness. In a research published by Harvard Humanitarian Initiative on 20 October 2020, it demonstrated that 71% of Filipinos nationwide show concern about being affected by climate change and among them, 46% believed that in all probability get injured, harmed or ill.¹⁴⁷

Nevertheless, the Government is strongly committed in addressing the threats concerning climate change and managing the risk profile of the Philippines as manifested by the environmental laws and policies both national and international. The country expects to maintain strong growth

¹⁴⁵ NASA Global Climate Change, *The Effects of Climate Change*, <https://climate.nasa.gov/effects/?Print=Yes> Last Access (January 20, 2021)

¹⁴⁶ Climate Change Commission, *National Framework Strategy on Climate Change 2010-2022*, https://www.neda.gov.ph/wp-content/uploads/2013/10/nfsc_sgd.pdf Last Access (January 20, 2021)

¹⁴⁷ Harvard University, *Filipinos fear getting harmed, ill due to climate change*, 28 October 2020, <https://reliefweb.int/report/philippines/filipinos-fear-getting-harmed-ill-due-climate-change> Last Access (January 20, 2021)

rates, shared prosperity and alleviating poverty despite the devastation and difficult global environment unleashed by the disastrous events and calamities.

Environmental Challenges in Philippine Communities

The geographic setting of the Philippines is one of the main and contributing factors which makes the country to be highly prone from natural hazards. It is situated along the Pacific Ring of Fire, where most of the volcanoes can be found and earthquakes occur. Also, an average of 20 tropical cyclones make landfall in the Philippines every year.¹⁴⁸ With the increasing greenhouse gas emissions from people burning fossil fuels, the globe gets warmer and is expected to increase in frequency of El Niño and La Niña weather events in the Pacific, thus, resulting in stronger typhoons hitting the Philippines.

Impacts of climate change in the Philippines are immense, including annual losses in GDP, frequency of extreme weather events, earthquakes tsunamis and volcanic eruptions, ecosystem degradation, coral loss, agricultural production loss, higher sea level rise, water scarcity, public health emergencies, among many others.¹⁴⁹

A. Annual Losses in Gross Domestic Product

According to the study conducted by the Asian Development Bank, it is estimated that by 2100 the average cost of climate change in the Philippines will be more than twice the global average loss in which the average cost of it would equal losing 6% of its gross domestic product (GDP) each year if it disregards climate change risk.¹⁵⁰

Sustaining agricultural production growth to sustain growth, food security of the growing population and poverty reduction are key goals to promote long-term economic growth inasmuch as the Philippines is predominantly an agriculture-dependent country with a contribution of 20% of the country's GDP. Additionally, one-third of the country's land area of 30 million hectares is classified as agricultural land.

¹⁴⁸ Rappler, BY THE NUMBER: Economic Impact of typhoons, 21 Nov 2020, <https://www.rappler.com/business/by-the-numbers-show-episode-two-typhoons-economy-impact> Last Access (January 21, 2020)

¹⁴⁹ National Integrated Climate Change Database and Information Exchange System, *Climate Change Effects*, <https://niccdies.climate.gov.ph/> Last Access (January 20, 2021)

¹⁵⁰ National Integrated Climate Change Database and Information Exchange System, *Climate Change Effects*, <https://niccdies.climate.gov.ph/> Last Access (January 20, 2021)

Moreover, climate crisis could stimulate changes in a nation's commodity prices and in the long run having negative effects on overall economic growth and structural reformation.

B. Frequency of Extreme Weather Events

As an archipelagic nation located in the western Pacific Ocean, it is surrounded by naturally warm waters that are likely to get much warmer as average sea-surface temperatures continue to increase, allowing more and more heat to be released into the atmosphere, which could lead to stronger and more intense storms.¹⁵¹ Also, it is susceptible to the ill-effects of weather-related hazards such as floods and landslides. Tropical cyclones, monsoon rains, dry spells and other natural factors, regional wind patterns and currents, stirred up and contributed to the frequency of extreme weather events.

Located along the typhoon belt in the Pacific, the Philippines is approximately visited by an average of 20 storms and typhoons per year, five of which are destructive. However, the strongest and deadliest storm on record in the Philippines is Typhoon Haiyan, locally known as Typhoon Yolanda, which was responsible for more than 6,300 lost lives, over four million displaced citizens, and \$2 billion in damages in 2013.¹⁵²

The most recent typhoon that has slammed the Philippines was typhoon Ulysses (Vamco) on November 11-12, 2020. The typhoon unleashed destructive winds and heavy rainfall that destroyed thousands of homes in low-lying suburbs, killed dozens of people and flooded large swathes of the island having a total of 1,245,841 families or 5,138,561 persons were affected in 7,236 barangays in Regions NCR, I, II, III, CALABARZON, MIMAROPA, V and CAR.¹⁵³

¹⁵¹ The Climate Reality Project, *How is climate change affecting the Philippines?* 19 January 2016

<https://climateralityproject.org/blog/how-climate-change-affecting-philippines>

Last Access (January 20, 2021)

¹⁵² The Climate Reality Project, *How is climate change affecting the Philippines?* 19 January 2016

<https://climateralityproject.org/blog/how-climate-change-affecting-philippines>

Last Access (January 20, 2021)

¹⁵³ Government Philippines, *DSWD DROMIC Report #50 on Typhoon "ULYSSES" as of 12 December 2020*, 12 December 2020

<https://reliefweb.int/report/philippines/dswd-dromic-report-50-typhoon-ulysses-12-december-2020-6pm>

Last Access (January 22, 2021)

C. Earthquakes, Tsunamis and Volcanic Eruptions

*“We should be aware of all the earthquake hazards that could affect us, and prepare for it, not only the ground shaking caused by large earthquakes, but also other hazards like tsunami.”*¹⁵⁴

- Undersecretary Renato Solidum, Jr.,
Officer-In-Charge of PHIVOLCS.

Tsunami and earthquakes can happen anytime due to the presence of offshore faults and trenches such as Manila Trench, Negros Trench, Sulu Trench, Cotabato Trench, Philippine Trench, and East Luzon Trough.¹⁵⁵ Moreover, the last significantly destructive earthquake to happen in Philippine history occurred on 15th October 2013, beneath the West Coast of Bohol Island. The Bohol earthquake was measured as magnitude 7.2 causing substantial destruction across the island which affected more than 3 million families and cited as the cause of 222 fatalities. Damages were apparent to buildings and mostly century-old churches.

The Taal Volcano eruption is by far the deadliest volcanic eruption in the 21st century with heavy ash and lava which happened on 12 January 2020 after 43 years of its last eruption in 1977.¹⁵⁶ Thankfully, there have been no major damages and casualties recorded. However, in anticipation of another eruption, more than 30,000 individuals have been evacuated from areas surrounding the volcano, with more evacuating every hour. The residents were only afraid of the debris created by the eruption that could produce tsunamis in the volcano-surrounding lake.

D. Threats to Natural Ecosystem

Natural ecosystems serve as one of the most precious resources and incredibly critical in sustaining life on the planet. Among the natural ecosystem are forest, grassland, coral reefs, desert, soil, plants, and animals in which it comprises of all the living species

¹⁵⁴ DOST PHIVOLCS, “*Prepare for Tsunami,*” *urges Usec. Solidum* <https://www.phivolcs.dost.gov.ph/index.php/news/7643-prepare-for-tsunami-urges-usec-solidum> Last access (January 23, 2021)

¹⁵⁵ Philippine Institute of Volcanology and Seismology, *Prepare for Tsunami, Philippine Institute of Volcanology and Seismology* <https://www.phivolcs.dost.gov.ph/index.php/news/7643-prepare-for-tsunami-urges-usec-solidum> Last Access (January 22, 2021)

¹⁵⁶ Willem Roper, *Deadliest Volcanic Eruptions of the 21st Century*, 14 January 2020. <https://www.statista.com/chart/20482/philippines-volcano-eruption/> Last Access (January 21, 2021)

and non-living elements. Thus, they could survive without the intervention of human beings and occurs freely in nature.

However, climate change greatly influences ecosystem productivity and may pose serious and significant long-term undesirable consequences, thereby, it demands the people's collective efforts to ensure that natural resources are available for future generations.

a. Coral Loss

The country's marine ecosystem is continuously under threat due to climate change such that there have been global bleaching events in the country occurring in 1998, 2010, and 2016 as noted by Erina Pauline Molina, Philippine Coral Bleaching Watch social administrator (PCBW), in one of the webinars organized by the Department of Environment and Natural Resources.¹⁵⁷ (Manila Bulletin, 2020)

Since the 1970s, local human activities such as overfishing and destructive fishing, coastal development, watershed-based pollution and marine-based solutions have placed coral reefs in a state of decline.¹⁵⁸ As the world is in a state of climate crisis, now more than ever, do we need to restore our reefs into a healthy state. Coral reef restoration is slow and time intensive. The impact of saving dying coral may not be felt immediately but it is a task of great urgency and a legacy we will be passing on to future generations.¹⁵⁹

b. Agriculture Production Loss

Agriculture in the Philippines could be seriously affected by temperature changes coupled with changes in rain patterns and distributions in view of its climate-dependent nature. Acceleration of global warming could put temperatures to go beyond its certain acceptable threshold values and could result in increased events of floods and droughts which could severely reduce crop yields, as in the case of rice. Additionally, in the absence of effective and efficient interventions, unprecedented hike in temperature could exacerbate and

¹⁵⁷ Manila Bulletin, *Marine experts ramp up efforts to save coral reefs from bleaching*, 22 January 2020 <https://mb.com.ph/2020/06/22/marine-experts-ramp-up-efforts-to-save-coral-reefs-from-bleaching/> Last access (January 22, 2021)

¹⁵⁸ Diovanie De Jesus, *Importance of Coral Reefs to Fisheries*, 18 November 2020 <https://ph.oceana.org/blog/importance-coral-reefs-fisheries> Last Access (January 22, 2021)

¹⁵⁹ Diovanie De Jesus, *Importance of Coral Reefs to Fisheries*, 18 November 2020 <https://ph.oceana.org/blog/importance-coral-reefs-fisheries> Last Access (January 22, 2021)

trigger pest and disease attraction for agricultural crops which could aggravate and exert shortfalls in its production.

c. Higher Sea Level Rise

There is a major risk to low-lying countries with an abundance of coastlines from rising sea levels resulting from global warming. Water levels around the Philippines are increasing at a rate nearly three times the global average, according to data from the World Meteorological Organization, partly because of trade winds driving ocean currents.¹⁶⁰

As a result of a study conducted by Climate Central on 29 October 2015, a prediction of major cities in the National Capital Region will probably be submerged as coastal flooding is seen to become widespread globally by 2050 due to climate change and the ongoing increase in sea level leading to higher tides will probably eliminate some of the coastal cities of the world. In the Philippines, Metropolitan Manila is one of the few cities to be vulnerable to sea level rise as it lies partly beneath sea level and due to its intense groundwater pumping.¹⁶¹ Worse yet, majority of the city's drainage systems are sub-par and cannot evacuate water from heavy rainfall fast enough to avoid flooding.¹⁶²

Unless significant action is being taken, rising sea levels could worsen the population displacement situation and material damage with the city's present flooding. Losing jobs, access to healthcare and other benefits are few of the negative impacts alongside with it being that 3 million in estimation of Manila citizens are informal settlers. (Earth.org, 2020)

d. Water Scarcity

Water crisis seems inevitable because of climate change, which brings about major global challenges. These include water depletion due to deforestation and agricultural expansion; conflicts over essential resources such as water and food that worsen water scarcity and increase food prices and food shortages; lack of water as a major threat to habitability in

¹⁶⁰ International Development Research Centre (IDRC), *Parts of Philippines may submerge due to global warming*, 21 October 2015, <https://www.sciencedaily.com/releases/2015/10/151021104913.htm#:~:text=According%20to%20data%20by%20the,3.1%20centime tres%20every%20ten%20years> Last Access (January 22, 2021)

¹⁶¹ Inquirer.net, *Rising sea levels likely to sink Metro Manila cities by 2050*, 17 November 2019 <https://technology.inquirer.net/92179/rising-sea-levels-likely-to-sink-metro-manila-cities-by-2050-study> Last access (January 22, 2021)

¹⁶² Owen Mulhern, *Sea Level Rise Projection Map – Manila*, 30 June 2020 https://earth.org/data_visualization/sea-level-rise-by-the-end-of-the-century-ho-chi-minh-2/ Last access (January 22, 2021)

many places this century; drought-sparked conflicts over the supply of water as downriver inhabitants defend their share of water.¹⁶³

Be that as it may, environment-related water legislation and policies abound in many jurisdictions. In the Philippines, for example, a rainwater collection law (the 1989 Rainwater Collection Facilities and Spring Water Protection Law) mandates the construction of wells, rainwater collectors, development of springs, rehabilitation of existing water wells in all barangays in the country. The law remains in the books, barely implemented.¹⁶⁴

e. Public Health Emergencies

Climate change induces “a potential for disease” by increasing the conditions suitable for disease transmission. Although, there is no direct evidence for climate change to be influencing the spread and transmission of the infectious disease, coronavirus, however, the fact that climate change could alter the interactions among species and how humans relate to them, matters to one’s health and risk for infections.

The possibility of pandemics is also augmented by many of the root causes of climate change. The main cause of habitat destruction worldwide is deforestation, which happens mainly for agricultural purposes. Habitat loss forces animals to migrate and likely contact other animals or individuals and to exchange germs.

Large livestock farms may also act as a source of spillovers from animal to human infections. Less demand for animal meat and more sustainable livestock farming could reduce the risk of emerging infectious diseases and lower emissions of greenhouse gases.¹⁶⁵

¹⁶³ Amado S. Tolentino, JR., *Health crisis and the looming water crisis*, 26 September 2020 <https://www.manilatimes.net/2020/09/26/opinion/columnists/health-crisis-and-the-looming-water-crisis/772130/> Last access (January 22, 2021)

¹⁶⁴ Amado S. Tolentino, Jr., *Health crisis and the looming water crisis*, 26 September 2020 <https://www.manilatimes.net/2020/09/26/opinion/columnists/health-crisis-and-the-looming-water-crisis/772130/> Last Access (January 22, 2021)

¹⁶⁵ Dr. Aaron Bernstein, *Coronavirus, Climate Change, and the Environment*, <https://www.hsph.harvard.edu/c-change/subtopics/coronavirus-and-climatechange/#:~:text=We%20don't%20have%20direct,and%20our%20risk%20of%20infections.&text=Many%20of%20the%20root%20causes,increase%20the%20risk%20of%20pandemics> Last access (January 22, 2021)

An unending cycle of public health problems would likely happen if smart investments in science are not given serious attention. Immediate and effective climate action is needed to prevent the next pandemic.

International Environmental Protection Laws and Policies

Environmental law is a foundation for environmental sustainability and the full realization of its objectives is ever more urgent vis-à-vis growing environmental pressures. Violations of environmental law undermine the achievement of all dimensions of sustainable development and environmental sustainability.¹⁶⁶

Today, 140 countries incorporate environmental protections in their constitutions, including in some cases, the rights of future generations. In legal systems where a specific environmental right does not exist, general constitutional rights such as the right to life have been interpreted by some courts to include environmental rights.¹⁶⁷

The Paris Agreement is a landmark international agreement implemented in 2015 by almost every country to combat climate change and its negative impacts. In an attempt to restrict the global temperature increase to 2 degrees Celsius above pre-industrial levels this century, the agreement seeks to significantly reduce global greenhouse gas emissions, while seeking means to limit the increase to 1.5 degree Celsius. The agreement involves commitments from all major emitting countries with a view to reducing their climate emissions and strengthening those commitments over time. Since 2015, the Paris Agreement has been ratified by 197 nations, almost every country on earth, with the last signatory being war-torn Syria. Of those, 189, not counting the eventual re-entry of the United States under the Biden administration, solidified their support with formal approval. Iran, Turkey, and Iraq are the other major emitting countries that have yet to officially sign the agreement.¹⁶⁸

Massachusetts v. EPA is the most important environmental law ruling in the United States of America because the Supreme Court not only took the case and then decided in favor of the environmentalists, but also because the rule itself had immense sweep and effect. We have the 2015 Paris Agreement because of *Massachusetts v. EPA*, where 195 nations came together to seek to curb greenhouse-gas emissions. That would not have existed without the

¹⁶⁶ United Nations, *Environmental Law*, <https://www.un.org/ruleoflaw/thematic-areas/land-property-environment/environmental-law/> Last access (January 22, 2021)

¹⁶⁷ Andrew Long (2012), *Constitutional Environmental Law and Other Legal Protections for Sustainable Development*, Background Paper for the UNDP Workshop on Legal Empowerment and the Environment, November 2012, Hofburg Palace, Vienna, 4.

¹⁶⁸ Melissa Denchak, *Paris Climate Agreement: Everything You Need to Know*, January 15, 2021. <https://www.nrdc.org/stories/paris-climate-agreement-everything-you-need-know>

Massachusetts situation. When it came down to it, the decision itself was important, and its implications, in lawmaking, were enormous.¹⁶⁹

On 8 March 2017, in the case of *Earthlife Africa, Johannesburg v The Minister of Environmental Affairs and others*, the North Gauteng High Court in South Africa handed down a judgment. Hailed as the first climate change court case in South Africa, the judgment highlights the relevance, location and principled approach to climate change impact assessment in the environmental law framework developed and constitutionally based in the region. The judgment makes it clear that climate change poses a substantial risk to sustainable development in South Africa, the ideal that lies at the heart of the right to environment in Section 24 of the Constitution.¹⁷⁰

In *Subhash Kumar v State of Bihar*, the Supreme Court observed that “the right to live is a fundamental right under Article 21 of the Constitution, and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life.”¹⁷¹ This landmark interpretation by the Supreme Court set the foundation for the expansion of rights-based approaches to challenging environmental impacts of growth. This was followed by a series of citizen and NGO lawsuits where the Courts upheld citizens’ rights to clean air and clean water.¹⁷²

In Chile, the Supreme Court affirmed the right to a healthy environment in the case of *Pedro Flores v. Corporación del Cobre, Codelco*, related to challenges of copper mine contamination.¹⁷³

In Mexico, a 2012 General Law on Climate Change now stands as one among a handful of climate laws in the developing world which addresses climate change from the perspective of the poor. It establishes a comprehensive, cross-sectoral legal framework to coordinate national, state and local initiatives to address climate change, while also setting forth in Article 2, the law’s principal objective “to guarantee the right to a healthy environment.”¹⁷⁴

¹⁶⁹ The Harvard Gazette, *How and why the Supreme Court made climate-change history*, Liz Mineo, 22 April 2020, <https://news.harvard.edu/gazette/story/2020/04/massachusetts-v-epa-opened-the-door-to-environmental-lawsuits/#:~:text=of%20constitutional%20law.-,Massachusetts%20v.,had%20huge%20sweep%20and%20impact> Last access (January 20, 2021)

¹⁷⁰ Wits School of Law Professor of Environmental Law Tracy-lynn Humby, *A landmark case on climate change in SA* <https://www.wits.ac.za/gci/media/a-landmark-case-on-climate-change-insa/#:~:text=On%208%20March%202017%20the,of%20Environmental%20Affairs%20and%20others>. Last Access (January 20, 2021)

¹⁷¹ *Subhash Kumar v State of Bihar*, AIR SC 420 (1991)

¹⁷² UNDP, Environmental Justice, Comparative Experiences in Legal Empowerment, June 2014

¹⁷³ *Pedro Flores v. Corporación del Cobre, Codelco*, Supreme Court Of Chile Rol.12.753.Fs. 641 (1988) https://www.gmu.edu/programs/icar/ijps/Vol17_2/DalyConstitutionalProtection.pdf Last Access (January 22, 2020)

¹⁷⁴ MacLennan and Perch, *Environmental justice in Latin America and the Caribbean: Legal empowerment of the poor in the context of climate change*, January 2012

The international law for the environment and sustainable development has remained substantially at a standstill, on the plane of principles and laws of a general nature, at the framework shaped in the last decade of the last century. Ultimately, in spite of the (apparently) profuse commitments at international level, the effectiveness of the law and policies continues to appear to be modest.¹⁷⁵

Philippine Environmental Protection Laws and Policies

The Philippines has a long list of environmental laws. Justice Agcaoili sets out the purpose of these laws – that is, to maintain or create conditions that are conducive to a harmonious relationship between man and nature. Justice Agcaoili maintains that the environment has continued to degrade and several environmental problems remain deeply imbedded in the socio-economic fabric of nations. Thus, environmental laws protect nature and the environment from degradation while taking into account people's needs and general welfare.¹⁷⁶

In an article published by World Bank, the Philippines is considered to be one of the most dynamic economies in the East Asia Pacific region. With its increasing urbanization, a growing middle class, and a large and young population, the World Bank has identified that the Philippines' economic dynamism is rooted in strong consumer demand supported by a vibrant labor market and robust remittances.¹⁷⁷

In light of this development, it is vital to know where do Philippine environmental laws stand amidst these changes. Has the economic growth and development for the past years hampered environmental security, thus, aggravates environmental problems or has it progressively strengthened environmental laws?

To provide us an overview of how Philippine environmental laws have thrived over the years in relation to economic growth and development, this paper explores and studies some of the Philippine environmental jurisprudence:

<https://www.semanticscholar.org/paper/Environmental-justice-in-Latin-America-and-the-of-MacLennan-Perch/737acba3345af7e9a130fba0942fc68d32469da3> Last Access (January 22, 2020)

¹⁷⁵Gianfranco Tamburelli, *International cooperation for the protection of the environment and sustainable development: real or supposed innovations?*, *di*, 2016, iucn.org/sites/dev/files/international_cooperation_tamburelli.pdf Last Access (January 22, 2020)

¹⁷⁶ Agcaoili, *Law on Natural Resources and Rules of Procedure for Environmental Cases*. Manila, Philippines: Rex Book Store, 2016

¹⁷⁷ The World Bank, *The World Bank in the Philippines*, 2020 <https://www.worldbank.org/en/country/philippines/overview> Last Access (January 22, 2020)

A. *Oposa v. Factoran (G.R. No. 101083)*¹⁷⁸

Decided in July 1993, the petitioners in this case upheld the right of the Filipinos to a balanced and healthful ecology which was associated with the twin concepts of “inter-generational responsibility” and “inter-generational justice.”

What is noteworthy of this case is that the plaintiffs are all minors, who averred that they represent their generation as well as the generations yet unborn, duly represented and joined by their respective parents. The complaint was instituted as a taxpayers’ class suit asserting the plaintiffs’ right to the full benefit, use and enjoyment of the natural resource treasure that is the country’s virgin tropical forests. The plaintiff prayed for the cancellation of all existing timber license agreements in the country and for the defendant to cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements.

As previously cited, several environment problems remain deeply imbedded in the socio-economic fabric of nations. This landmark case best explains the relation between economic growth and the increasing need to support a growing population, and the prominence of environmental protection in the midst of a growing and commercializing economy. The facts of the case revealed that timber license agreements have been granted to various corporations to cut the aggregate area of 3.89 million hectares for commercial logging purposes. At that present rate of deforestation, the plaintiffs argued that the Philippines will be bereft of forest resources.

The Court decided in favor of the plaintiffs. It has emphasized that although the right to a balanced and healthful ecology which concerns nothing less than self-preservation and self-perpetuation is to be found under the Declaration of Principles and State Policies, it is as important as the civil and political rights enumerated in the Bill of Rights. Of note in this Court’s decision is the fact that environmental safeguards are still in place despite the growing need for development and industrialization.

B. *MMDA v. Concerned Residents of Manila Bay (G.R. Nos. 171947-48)*¹⁷⁹

More recent is this case decided by the Supreme Court in December 2008 which highlights the various government agencies’

¹⁷⁸ *Oposa v. Factoran*, G.R. No. 101083, July 30, 1993

¹⁷⁹ *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay* G.R. Nos. 171947-48, 18 December 2008

task, by nature of their respective offices or by direct statutory command, to protect and preserve the state's internal waters, rivers, shores, and seas polluted by human activities.

The case concerns the Manila Bay, once brimming with marine life and, for so many decades in the past, a spot for different contact recreation activities, now a dirty and slowly dying expanse mainly because of the abject official indifference of people and institutions that could have otherwise made a difference. The plaintiffs sought for the cleanup, rehabilitation, and protection of the Manila Bay.

Averred in the case is the allegation that the continued neglect of petitioners in abating the pollution of the Manila Bay constitutes a violation of the constitutional right to life, health, and a balance ecology as well as to numerous environmental laws.

In its decision, the Court emphasizes the extreme necessity for all executive departments and agencies to immediately act and discharge their respective official duties and obligations taking into account the ongoing environmental degradation.

C. *Resident Marine Mammals v. Reyes (G.R. No. 180771)*¹⁸⁰

One significant issue of this case is whether or not petitioners resident marine mammals, through the Stewards, have legal standing to file this action since they stand to be benefited or injured by the judgment in this suit.

Animal rights advocates and environmentalists have suggested that not only natural and juridical persons should be given legal standing because of difficulty for persons, who cannot show that they by themselves are real parties-in-interests, to bring actions in representation of these animals or inanimate objects. As a consequence, many environmental cases have been dismissed for failure of the petitioner to show that he or she would be directly injured or affected by the outcome of the case.

However, the Court's decision underscores the recent development in the Rules of Procedure for Environmental Cases wherein locus standi in such cases has been given a more liberalized approach. By passing the landmark Rules of Procedure for Environmental Cases, citizen suit has been allowed, thus permitting any Filipino citizen to file an action before the court for violations of environmental laws.

¹⁸⁰ Resident Marine Mammals v. Secretary Angelo Reyes, G.R. No. 180771, 21 April 2015

This development has been welcomed by many environmentalists as this encourage the protection of the environment by enabling litigants enforcing environmental rights to file their case as citizen suits. In explaining the rationale for this rule, the Court stresses that this provision liberalizes standing for all cases filed enforcing environmental laws and collapses the traditional rule on personal and direct interest on the principle that humans are stewards of nature.

Enforcement of Environmental Laws

The Philippines is said to have the best environmental protection laws in the world yet its enforcement remains to be a continuing challenge. As cited by Asia Pacific Perspectives, “Human activities contribute significantly in waste management. Recognizing the effects of improper management, garbage crisis can be prevented by practicing waste characterization and segregation at source, proper collection and transfer, recycling, and composting as mandated by the law.”¹⁸¹

The call for proper waste management resulted to the passage of the Republic Act (RA) 9003 or the Ecological Solid Waste Management Act of 2000, a landmark environmental legislation in the Philippines. In an article posted by Food and Fertilizer Technology for the Asian and Pacific Region, “the law was crafted in response to the looming garbage problems in the country. RA 9003 declares the policy of the state in adopting a systematic, comprehensive and ecological solid waste management program that ensures the protection of public health and the environment and the proper segregation, collection, transport, storage, treatment and disposal of solid waste through the formulation and adoption of best environmental practices.”¹⁸²

In one case study published in 2013, it was held that “solid waste management is considered to be one of the most serious environmental issues in the Philippines. The annual waste generation was estimated at 10 million tons in 2010 and this is expected to rise by 40% in 2020.”¹⁸³

With the passage of RA 9003 in 2001, there was a hope in addressing this problem. However, according to Sarmiento (2018), despite the fact that

¹⁸¹ Avanceña, *The Philippine Environment: Epicenter of Wealth, Beauty and Destruction*, 2018 https://www.usfca.edu/sites/default/files/arts_and_sciences/center_for_asia_pacific_studies/4-avancena-philippine-environment.pdf Last Access (January 22, 2020)

¹⁸² FFTC-AP, *Ecological Solid Waste Management Act: Environmental Protection Through Proper Solid Waste Practice*, 2013 https://ap.fttc.org.tw/article/588#_ftnref1. Last Access (January 22, 2020)

¹⁸³ Premakumara, Canete, and Nagaishi, *Policy Implementation of the Republic Act (RA) 9003 in the Philippines: A Case Study of Cebu City*, 2013 https://www.iges.or.jp/en/publication_documents/pub/workingpaper/en/3308/6-5.pdf Last Access (January 22, 2020)

the Philippines has quite a strong law addressing solid waste, the implementation is weak. RA 9003 mandates that “all open dumpsites must be converted into sanitary landfills by 2004. But fourteen years after that deadline, government figures are gloomy with only 139 operation sanitary landfills servicing just 308 of the country’s 1,634 LGUs, and at least 425 illegal dumpsites still operate across the country.”¹⁸⁴

Sarmiento (2018) further expound on the failure of the government to comply with the law’s mandate that every village or cluster of villages must set up a Materials Recovery Facility (MRF) where biodegradable waste is converted into fertilizer, recyclable material is recycled or sold to junk shops, and residual waste is collected for transport to sanitary landfills. But as of 2017, data reveals that only 24% of the country’s 42,036 villages had operational MRFs.

Said failure to meet those targets and comply with RA 9003 arises from a lack of political will on the part of the local leaders as well as lack of discipline regarding proper garbage disposal on the part of the public. Furthermore, according to a study published in 2013, “these national policies will only be effective if they are accompanied by strong political commitment at the local government level in establishing supportive institutional framework as well as ensuring political will to implement innovative, strategic programs by allocating financial and organizational resources.”

A. Government Programs and Initiatives

The Department of Environment and Natural Resources (DENR) is the primary agency responsible for the conservation, management, development, and proper use of the country’s environment and natural resources. With the goal to promote human well-being and ensure environmental equality and sustainability, the Department has envisioned a nation enjoying and sustaining its natural resources and a clean and healthy environment.

As the primary agency responsible for achieving these goals, the Department has set up priority programs. Some of these programs are as follows¹⁸⁵:

a. Manila Bay Clean-up Program

The program aims to restore the water quality of Manila Bay in accordance with the Writ of Continuing Mandamus of the

¹⁸⁴ Sarmiento, Philippines central government on solving plastic trash problem: ‘We’ve done all we can.’ 2018 <https://www.eco-business.com/news/philippines-central-government-on-solving-plastic-trash-problem-weve-done-all-we-can/> Last Access (January 22, 2020)

¹⁸⁵ DENR, *Priority Activity is the implementation of operational plan for the Manila Bay coastal strategy 2017-2022*, <https://www.denr.gov.ph/index.php/25-priority-programs?layout=blog&start=5> Last Access (January 22, 2020)

Supreme Court. The rehabilitation consists of three phases – clean-up/water quality improvement, rehabilitation and resettlement, and education and sustainment.

b. Solid Waste Management Program

DENR Secretary Cimatú's main priority is to improve the quality of our environment, particularly our air, water, and address solid waste problems. To achieve this, the priority activities of the Department are the (1) closure of dumpsites; and (2) establishment of material recovery facilities.

c. Clean Water Program

This program aims to improve water quality of Priority Rivers and other critical water bodies including lakes and bays through continuous massive clean-up, monitoring of industries and rehabilitation of esteros/rivers through partnership agreements such as the Adopt-an-Estero program. The Adopt-an-Estero/Waterbody program is “a collaborative undertaking between and among the Estero Community, Donot-Partner, Local Government Unit/s, other government agencies and the DENR.”¹⁸⁶

B. Paris Agreement

Worth mentioning at this point is the Philippines' implementation of the Paris Agreement after it reaffirmed its commitment in meeting the goals of the said Agreement. “As a landmark agreement to combat climate change and accelerate and intensify actions and investments needed for a sustainable low carbon future, the Paris Agreement brought developed and developing nations for the first time into a common cause—to undertake ambitious efforts to reduce greenhouse gas emissions, mostly in the form of carbon dioxide, and adapt to its effects.”¹⁸⁷

According to Climate Change Commission, “when the Philippines ratified the Paris Agreement, the Government set forth a country-defined timeline to submit the first Nationally Determined Contribution (NDC) before 2020.”¹⁸⁸

¹⁸⁶ Environmental Management Bureau, DENR, *Adopt-an-Estero/Waterbody Program*, http://water.emb.gov.ph/?page_id=45#:~:text=What%20is%20Adopt%20an%20Estero.government%20agencies%20and%20the%20DENR Last Access (January 22, 2020)

¹⁸⁷ Climate Change Commission, Office of the President (2020). *CCC on 5th Paris Agreement Anniversary: Keep Climate Ambition Alive* <https://climate.gov.ph/news/390> Last Access (January 22, 2020)

¹⁸⁸ Climate Change Commission, Office of the President, *Programs: Nationally Determined Contributions*. <https://climate.gov.ph/our-programs/nationally-determined-contributions> Last Access (January 22, 2020)

The Instrument of Accession signed by the President was accompanied by a Declaration of State that the “accession to and implementation of the Paris Agreement by the Republic of the Philippines is for the purpose of supporting the country’s national development objectives and priorities,” which include:

1. Sustainable industrial development;
2. Eradication of poverty and provision of basic needs;
3. Securing social and climate justice; and
4. Energy security.¹⁸⁹

Furthermore, “the Philippine NDC will transition our economy as fast as technologically feasible and practicable into a low-carbon and sustainable development and shall not, in any way, detrimentally affect the country’s economic development objectives and priorities, including its industrialization potential. According to the Commission, it will be country-driven with the ultimate goal of a climate-smart and climate-resilient Philippines.”¹⁹⁰

At present, when the Philippines is faced with several typhoons and COVID-19, economic rescue becomes the national priority, proposing only few green recovery measures. Nonetheless, the ongoing review of Philippine Energy Plan is said to provide a change for the government to accelerate decarbonization.

According to Climate Action Tracker (CAT), other developments indicate that renewables may gain space in the electricity mix in the near future. In November 2020, the Department of Energy announced it will not endorse new coal plants and push “for the transition from fossil fuel-based technology utilization to cleaner energy sources to ensure more sustainable growth for the country.”

Additionally, according to CAT, the draft ‘Philippine Energy Plan’ (PEP) forecasts a much higher uptake of solar energy, in comparison to the ‘National Energy Renewable Programme.’ A series of reforms are underway to create a more competitive electricity market that favours renewable energy.¹⁹¹

¹⁸⁹ Climate Change Commission, Office of the President, *Programs: Nationally Determined Contributions*, <https://climate.gov.ph/our-programs/nationally-determined-contributions> Last Access (January 22, 2020)

¹⁹⁰ Climate Change Commission, Office of the President. *Programs: Nationally Determined Contributions*, <https://climate.gov.ph/our-programs/nationally-determined-contributions> Last Access (January 22, 2020)

¹⁹¹ Climate Action Tracker (2020), *Philippines: Country Summary*, <https://climateactiontracker.org/countries/philippines/#:~:text=We%20rate%20the%20Philippines%20conditional,this%20target%2C%20as%20emissions%20increase.&text=The%20CAT%20expects%20the%20Philippines,in%202020%20compared%20to%202019> Last Access (January 22, 2020)

C. Non-profit organizations and private institutions' programs and movements towards environments

The role of Non-Government Organizations (NGOs) in tackling environmental issues is crucial. In an article posted in the Middle East Institute, “having a strong NGO community with a clear mandate to engage in civil society, business, and the public sector can help countries tackle these issues more successfully. Environmental NGOs can play a crucial role in helping to plug gaps by conducting research to facilitate policy development, building institutional capacity, and facilitating independent dialogue with civil society to help people live more sustainable lifestyles.”¹⁹²

In the Philippines, particularly in Cebu City, local NGOs actively participate in government initiatives in relation to RA 9003. A local NGO called Lihok Filipina “implemented information campaigns and education program in Cebu City related to Solid Waste Management (SWM) program at the household level. They organized housewives to participate in a “Cash from Trash” program that produced homemade crafts that are sold in the market. Another NGO called Alyansa sa mga Lumulupyong Kabus Alang sa Pagpalambo (ALCAP) or Alliance of the Urban Poor for Development, a people’s organization participated in by the wives of the Cebu port workers also engaged their free time into producing and selling paper products to generate additional income for the family.”¹⁹³

NGOs are not the only actors in achieving environmental security. Even private institutions take an active role in environmental protection. In the same case study conducted in Cebu City, it was shown that government initiatives can be more effective with the help of “a strong environmental linkage and networking among different groups and institutions from both local and international. Local universities such as the Southwestern University, University of Cebu and St. Theresa College have implemented initiatives on having in-house solid waste management program that includes IECs among its students. St. Theresa College implemented a school-wide SWM program particularly in integrating environmental concerns in its curriculum and instruction.”¹⁹⁴

¹⁹² Middle East Institute, *The Role of NGOs in Tackling Environmental Issues*, <https://www.mei.edu/publications/role-ngos-tackling-environmental-issues> Last Access (January 22, 2020)

¹⁹³ Premakumara, Canete, and Nagaishi (2013). Policy Implementation of the Republic Act (RA) 9003 in the Philippines: A Case Study of Cebu City, https://www.iges.or.jp/en/publication_documents/pub/workingpaper/en/3308/6-5.pdf Last Access (January 22, 2020)

¹⁹⁴ Premakumara, Canete, and Nagaishi, *Policy Implementation of the Republic Act (RA) 9003 in the Philippines: A Case Study of Cebu City*, 2013, https://www.iges.or.jp/en/publication_documents/pub/workingpaper/en/3308/6-5.pdf Last Access (January 22, 2020)

To add, even private shopping malls in the city has also given support to the citizen initiatives in implementing recycling programs.

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The Future of the Environment

Climate change has greatly affected our well-being, our economic growth as well as peace, stability and security. It has become the major world crisis and the subject of numerous summits. As a matter of fact, governments, international organizations, the private sector, civil society, and powerful young voices now come together to find more sustainable ways of running our societies.¹⁹⁶

Collaborative efforts are necessary to address the environmental issues that threaten the environment. In the Philippines, there must be a joint effort of the Judiciary, Legislature, and the Executive in order to secure the future of the environmental law.¹⁹⁷

Conclusion and Recommendation

The Philippines has made significant initiatives and legal foundations in responding to the climate crisis given its high vulnerability to the impacts of environmental hazards. Laws and policies have been formulated in enhancing and strengthening the green growth path of the country. Both national and international governments have taken greater strides in the development of national laws and policies to gradually attain green recovery and sustainable development in the community.

Nonetheless, the gradual frequency and intensity of climate events denote that a more effective response is called for. Much has been done in the government and other concerned sectors, but a strong commitment and sense of urgency are essential for the rapid recovery of the deteriorating environmental conditions. Despite the collective efforts from the national and international governments, the sound environmental laws and policies still suffer from weak implementation.

Climate change is not an isolated case, but a global and growing issue. Therefore, a strong coordination and commitment between the national and

¹⁹⁵ Premakumara, Canete, and Nagaishi, *Policy Implementation of the Republic Act (RA) 9003 in the Philippines: A Case Study of Cebu City*, 2013 https://www.iges.or.jp/en/publication_documents/pub/workingpaper/en/3308/6-5.pdf Last Access (January 22, 2020)

¹⁹⁶ UN Environment Program. Our Planet. Our Future, <https://www.unenvironment.org/news-and-stories/speech/our-planet-our-future>

¹⁹⁷ La Viña, *After More Than 100 Years of Environmental Law, What's Next for the Philippines?*, 2014 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/philplj88&div=13&id=&page=>

international level is worthy of attention in the implementation process of its environmental reform agenda. Plans and strategic priorities formulated should be implemented on a full, consistent and sustained manner.

Silent Calls: Inaccessibility of Mental Health Services in the Philippines

Ma. Jessa D. Monteras

It is the duty of the State to promote the right to health of the people and instill health consciousness among them.¹⁹⁸ The World Health Organization defines health as a “state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.”¹⁹⁹ Hence, the mental well-being (or mental health) of a person should be given just as much importance as the physical well-being of a person.

Mental Health is the state of well-being in which the individual realizes one’s own abilities and potentials, copes adequately with normal stresses of life, displays, resilience in the face of extreme life events, works productively and fruitfully, and is able to make a positive contribution to the community.²⁰⁰ The World Health Organization stated that Mental health Care should contain basic principles which are:

- Promotion of mental health & prevention of mental health disorders
- Access to basic mental health
- Mental health assessment (diagnosis, choice of treatment, determination of competence)
- Provision of lesser restrictive type of mental health care
- Self determination
- Right to be assisted
- Availability of review procedures
- Automatic periodic review
- Qualified decision maker
- Right of the rule of law. ²⁰¹

Like other health disorders, mental health disorders come in a variety of forms. Common mental health disorders are Anxiety Disorders (e.g. Generalized Anxiety Disorder (GAD), Post-traumatic stress disorder (PTSD), Obsessive-compulsive disorder (OCD), etc.), Mood Disorders (Major depression, Dysthymia, Bipolar disorder, Substance-induced mood disorder), Psychotic Disorders (Schizophrenia, Brief psychotic disorder, Delusional Disorder, Substance-induced disorder, etc.), Dementia (Parkinson’s disease, Huntington’s Disease, Frontotemporal Dementia, etc.), and Eating Disorders

¹⁹⁸ Article II, Section 15 of the 1987 Philippine Constitution

¹⁹⁹ Preamble to the Constitution of WHO as adopted by the International Health Conference, New York, 19 June - 22 July 1946

²⁰⁰ “AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES”, Republic Act No. 11036, Section 4 (m)

²⁰¹ Department of Health, “Health Policy Notes”, Volume 3 Issue 5 (November 2008)

(Anorexia nervosa, Bulimia nervosa, Pica eating disorder, Rumination disorder)²⁰²

According to the World Health Organization ten to twenty percent (10%-20%) of children and adolescents worldwide experience mental health disorders with most of them being untreated.²⁰³ In the Philippines, 14% of 1.4 Million Filipinos with disabilities were identified to have mental illness.²⁰⁴ Even though mental illness is found to be the third most prevalent form of disability, only 88 cases of mental health problems are reported for every 100,000 of the population²⁰⁵.

Notably, steps have been taken to aid people with mental health problems such as the passage of the recent Mental Health Act (Republic Act No. 11036). Before the passage of this law last 2017, the Philippines was one of the few countries with no mental health legislation. However, mental health remains poorly resourced. Only 3-5% of health care expenses by the government health department are spent on mental health with 70% of this is spent on hospital care.²⁰⁶ Additionally, the ratio of mental health workers is as low as 2-3 per 100,000 population according to the WHO-AIMS Report.²⁰⁷ This is lower than the WHO standard which is 10 psychiatrists per 100 000 population.²⁰⁸ The shortage is more apparent considering that there are only 412 psychiatrists in the Philippines with more than half of them practicing in the NCR.²⁰⁹

Even with the implementation of the Mental Health Act, there is still a long way to go in implementing better services for mental health.

The State of Mental Health in The Philippines

Based on the study conducted by Tolentino, it was found that an estimate of 1% of the population suffers from severe psychiatric disorders or neurological conditions. Even though manmade and natural disasters are common in the country, mental health is still not given much attention by health agencies. It was found that mental health disorders were estimated to be 36 per 10000 adults and children. 17% of adults and 16% of children who

²⁰² Davis Behavioral Health, “5 Most Common Mental Disorders” (January 2020), available at: <https://www.dbh.utah.org/the-5-most-common-mental-disorders/>

²⁰³ World Health Organization, “Adolescent Mental Health”, September 2020, available at: <https://www.who.int/news-room/fact-sheets/detail/adolescent-mental-health>

²⁰⁴ Philippines Statistics Authority (2010). Highlights of the Philippine Population 2010 Census of Population. Philippines Statistics Authority.

²⁰⁵ Lally, et. al., “Mental Health Services in the Philippines” (August 2019), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6646843/>

²⁰⁶ Lally, J. et. al., “Mental Health Services in the Philippines” (August 2019), *BJPsych International Journal*, v. 16(3), pp. 62-64

²⁰⁷ World Health Organization (WHO) and Department of Health (2006) WHO-AIMS Report on Mental Health System in The Philippines. World Health Organization.

²⁰⁸ *Id.*

²⁰⁹ Tolentino, U., “The State of Mental Health in the Philippines”,

consulted at three health centers in Manila had mental health disorders. The national budget only allocated 2-3% of its entire budget towards health care with only 0.02% of the total health budget allocated for mental health. The challenges that the country have when it comes to mental health, according to this study are:

- The increased incidence and prevalence of mental health disorders
- The low priority given to mental health programs and services
- Separation of mental health from general health programs
- Neglect of psychological needs of people living with chronic diseases
- Stigma and discrimination against people with mental illness and substance misuse or dependence, and their families
- Limited capacity for research into mental health and evaluation of mental health services
- Coping with the effects of social factors negatively affecting mental health
- Weakening of the informal support given to people in need of social cohesion in general
- Poor community awareness of the nature and determinants of mental health and mental illness
- Limited coordination between the DOH, the Philippine Psychiatric Association, Academia, and other agencies providing prevention, rehabilitation, treatment, disability support, and social services
- Serious shortages of professional workers trained in mental health
- Lack of medicines and other resources
- Insufficient attention to demand-reduction and harm-reduction strategies for alcohol and substance misuse²¹⁰

Mental Health System in the Philippines (WHO-AIMS Report)

According to this report, most of the budget allocated for health is spent on the operation and maintenance of mental hospitals. It was found that although insurance covers mental disorders, it is limited to acute inpatient care. It was also found that forty-six (46) facilities for outpatients treat about 124.3 users per 100,000 populations. Mental hospitals treat 8.97 patients per 100,000 general population and the occupancy rate is 92% majority of which have schizophrenia.

At the time of this study, there has been no increase in the number of mental hospital beds in the last five years. There are 400 forensic beds, all of which are in the National Center for Mental Health. Involuntary admissions and the use of restraints or seclusions are common.

²¹⁰ Tolentino, U., "The State of Mental Health in the Philippines", Bulletin of the Board of International Affairs of the Royal College of Psychiatrists, Issue 6, October 2004

According to the report, 3.47 human resources are working in mental health facilities for 100,000 general population. More than fifty percent (50%) of them work for profit-oriented mental health facilities and private practice. Most of which, are in big cities.

Although the Philippines have a National Health Policy like most countries in the Western Pacific region, by comparison it was only put into operation recently. Although community care is present, it is very limited.²¹¹

Filipino Help-Seeking for Mental Health Problems, Associated Barriers and Facilitators: A Systematic Review

In this study, it was found that the topmost barrier towards help-seeking among Filipinos are the stigmatized attitude towards mental health and illness. The notion that mental illness is a sign of personal weakness or failure of character contributes to the aversion of people towards seeking help. Generally, Filipinos are found to be reluctant to seek help because of the fear of being judged negatively by their peers and family. For Filipinos working abroad, they are found to be reluctant due to the fear that mental illness would affect their jobs and immigration status.

All in all, even though the rate of mental health problems is high among overseas and local Filipinos, help-seeking attitudes were found to be low. Most Filipinos only seek professional help as a last resort and opt for informal help instead (e.g. asking family members and friends). The research also identifies the lack of awareness of available services as a significant barrier for help-seeking Filipinos.

Lastly, the study found that the presence of social support plays both helpful and unhelpful roles in help-seeking attitudes. Social support from friends and family can serve as a buffer for someone's distress and consequently, discourages a person from seeking professional help. However, other studies found that the presence of friends and family who promote help-seeking behavior and have sought formal help for themselves are likely to encourage help-seeking behavior.

Hence, the positive influence of friends and family towards mental health and seeking professional help can not only serve as a buffer for stress but also positively influence the decision of a person to seek formal help.²¹²

²¹¹ World Health Organization (WHO) and Department of Health (2006), WHO-AIMS Report on Mental Health System in the Philippines

²¹² Martinez, A., et. al. "Filipino help-seeking for mental health problems and associated barriers and facilitators: a systematic review" (August 2020)

Mental Health Services

The country still has a long way to go in terms of Mental Health Services. The Philippines recently passed its first Mental Health legislation (RA No. 11036). This aims to establish a National Mental Health policy to enhance the accessibility of comprehensive and integrated Mental Health services, and to promote the protection of the rights of persons with mental health disorders.²¹³ Even so, mental health remains to be underfunded.²¹⁴

With mental health staff severely lacking, the ratio of the Philippines' mental health workers per population is at 2-3 per 100,000 population.²¹⁵ As of 2018, the country has 0.52 psychiatrists per 100,000 of the population.²¹⁶ Comparing this to World Health Organization (WHO)- recommended global target of 10 psychiatrists per 100,000 of the population, the country is severely understaffed.²¹⁷

Consequently, the lack of proper mental health workers takes a toll on the citizens as the country sees a "significant increase" in mental health cause in light of the COVID-19 pandemic.²¹⁸ According to the Department of Health (DOH), the National Center for Mental Health (NCMH) noted that the monthly hotline calls in regard to depression went from 80 calls from before the lockdown to almost 400 during the lockdown²¹⁹. In a recent study, it was discovered that about 16.9% of the 1879 respondents had moderate to severe depressive symptoms; 28.8% had moderate to severe anxiety levels; and 13.4% had moderate to severe stress levels during the outbreak.²²⁰

Living with Mental Health Disorders in The Philippines

The third most common disability in the Philippines is mental illness. Around 6 million of Filipinos are estimated to have anxiety and/or depression²²¹. Philippines has the third highest mental health issues in the Western Pacific Region. WHO World Health Survey (2005) identified that in

²¹³ AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES", Republic Act No. 11036

²¹⁴ World Health Organization (WHO) and Department of Health (2006), WHO-AIMS Report on Mental Health System in the Philippines.

²¹⁵ *Id.*

²¹⁶ Isaac M., Ahmed H., et, al, "Postgraduate Training in Psychiatry in Asia" Current Opinion in Psychiatry Vol. 31, pp. 396-402

²¹⁷ World Health Organization (WHO) and Department of Health (2006), WHO-AIMS Report on Mental Health System in the Philippines.

²¹⁸ Xinhua, "Philippines Sees "Significant Surge in Mental Health Calls in time of COVID-19" (Sept. 2020), quoting Philippine Department of Health (DOH) available in http://www.xinhuanet.com/english/2020-09/10/c_139358578.htm

²¹⁹ *Id.*

²²⁰ Tee, M., et. al., "Psychological Impact of Covid-19 Pandemic in the Philippines" (2020), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7444468/>

²²¹ Department of Behavioral Sciences, College of Arts and Sciences, University of the Philippines Manila, Manila, Philippines

the Philippines, out of 10,075 participants, 14.5% were diagnosed with depression, and 0.4% had diagnosis of schizophrenia²²².

As of 2016, it was identified that an overall suicide rate of 3.2/100,000, men had a higher rate (4.3/100,000) than women (2.0/100,000). Suicide rates are placed at 3.2 per 100,000 population, and it could be possibly higher because of underreporting or miscategorizing of suicide cases as “undetermined deaths”.²²³ Despite these disturbing numbers, mental health problems remain stigmatized and a taboo topic which affect seeking help and reporting of these cases to the right authorities.²²⁴

Not only are facilities and services found to be severely lacking, seeking help is also a problem.²²⁵ In a 2020 systemic review, the most common barriers from seeking psychological help were: 1) financial constraints because of the high cost of receiving service, lack of health insurance, or unstable employment condition; 2) stigma associated with the fear of being negatively judged,²²⁶ feeling of shame, and being a disgrace, fear of being labeled as ‘crazy’; and 3) stigma that puts the family’s reputation at risk or one’s community being placed in bad light.

Access to Treatment

Precarious economic conditions and inaccessibility to mental health services hinder access to mental healthcare in the Philippines. In addition, stigma has been shown as a barrier to help-seeking practice among Filipinos. There is a sense of ‘saving face’ when there is a threat to one’s social standing, and Filipinos might have trouble in recognizing mental health problems which limits them from asking for help²²⁷. There is also a problem of having a strong sense of family—when problems are thought to be socially threatening, Filipinos will turn to family and peers before seeking medical help.²²⁸ In any case, this isn’t a problem unique to Filipinos. According to a national survey in the US, only 1 out of 3 patients with mental illness seek medical help.²²⁹ Additionally, evidence suggest that the stigma and distrust to psychiatric treatment affects the probability of a person seeking treatment.²³⁰

²²² World Health Organization (WHO) & Department of Health (2005) WHO-AIMS Report on Mental Health System in The Philippines. World Health Organization.

²²³ World Health Organization (WHO) (2018) Global Health Estimates 2016: Deaths by Cause, Age, Sex, by Country and by Region, 2000-2016. World Health Organization

²²⁴ Department of Psychology, Institute of Psychiatry, Psychology and Neuroscience, King’s College London, London, England

²²⁵ Filipino help-seeking for mental health problems and associated barriers and facilitators: a systematic review Andrea B. Martinez^{1,2} · Melissa Co³ · Jennifer Lau² · June S. L. Brown² Received: 3 January 2020 / Accepted: 7 August 2020 / Published online: 20 August 2020

²²⁶ *Id.*

²²⁷ Tuliao A. P. & Velasquez P. A. (2014) Revisiting the general help seeking questionnaire: adaptation, exploratory factor analysis, and further validation in a Filipino College Student sample. *Philippine Journal of Psychology*, 47, 117.

²²⁸ Tuliao A. P. (2014) Mental health help seeking among Filipinos: a review of the literature. *Asia Pacific Journal of Counselling and Psychotherapy*, 5, 124–136.

²²⁹ Andelkovic, I., Mihai, A., Pirlog, M., et. Al. “Factors that affect Mental Health Patients’ access to Mental Health Services”, Article in *European Neuropsychopharmacology* (October 2016)

²³⁰ Alonso J, Codony M, Kovess V, et al. Population level of unmet need for mental healthcare in Europe. *Br J Psychiatry*. 2007;190:299–306.

Another problem Filipinos face when seeking treatment is the cost of getting treatment. The cost of antipsychotic medication is 0.46% of the minimum wage while antidepressant medication is 11.14% of the minimum wage.²³¹ To put things into perspective, the highest minimum wage in the Philippines is about 440 PHP per day²³². The percentage of people who receive free access to mental health services and medication is unknown.²³³ Moreover, majority of psychiatrists work in private services or practices for profit and are mostly based in urban areas.²³⁴ Apart from the medical expenses, people from the province (particularly those with no mental health services available within the area) will have to spend for travelling as well. A lot of Filipinos are living in poverty and would not even be able to afford these costs. The Official Poverty Statistics noted that by 2018, 16.7% of the population are Filipinos whose per capita income is insufficient to meet their basic food and non-food needs. In other words, around 17.7 million Filipinos were living in poverty in 2018.²³⁵

Even though mental health is just as important to the overall well-being of Filipinos, mental health and mental health disorders are not given the same significance as physical health. As a result, the burden of mental disorders is increasing and there is a widening “treatment gap”.²³⁶

Even though a National mental health policy was signed in 2001, no mental health legislation was done until recently with the Mental Health Act or R.A. 11036.²³⁷ Nevertheless, the Mental Health Act is already a step forward when it comes to accessibility to mental health services for Filipinos.

Importance of Providing Accessible Mental Health Facilities

Making mental health facilities more available would encourage more people to seek help and, as a result, would be able to give people the opportunity to not only be physically healthy but also mentally healthy.²³⁸ Accessibility does not only mean providing for a cheaper means or making mental health facilities financially accessible. This also means doing away or

²³¹ Department of Health, “Health Policy Notes”, Volume 3 Issue 5 (November 2008)

²³² Department of Labor and Employment (DOLE), National Wages and Productivity Commission, “Current Real Minimum Wage Rates” (November 2020), available at: <https://nwpc.dole.gov.ph/stats/current-real-minimum-wage-rates/>

²³³ *Id.*

²³⁴ Lally, et. al., “Mental Health Services in the Philippines”, *BJPsych Int*, Volume 16(3), pp. 62-64 (August, 2019)

²³⁵ PSA (06 December 2019). Press Release – 2018 Full Year Official Poverty Statistics. <https://psa.gov.ph/content/proportion-poor-filipinos-was-estimated-166-percent-2018>

²³⁶ Department of Health, “Health Policy Notes”, Volume 3 Issue 5 (November 2008)

²³⁷ Department of Health, “Health Policy Notes”, Volume 3 Issue 5 (November 2008); AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES”, Republic Act No. 11036

²³⁸ Filipino help-seeking for mental health problems and associated barriers and facilitators: a systematic review Andrea B. Martinez^{1,2} · Melissa Co³ · Jennifer Lau² · June S. L. Brown² Received: 3 January 2020 / Accepted: 7 August 2020 / Published online: 20 August 2020

fighting the stigma against seeking psychiatric help.²³⁹ This is embodied in the Mental Health Act (R.A. No. 11036).²⁴⁰

The Mental Health Act (R.A. No. 11036)

The Mental Health Act or RA 11036 was signed last June 2018, effectively providing for much needed services and resources that can help people who suffer mental illness. It provides a comprehensive framework for the implementation of mental healthcare in the Philippines. Before the implementation of this law, the Philippines was one of the few countries that had no mental health legislation.

Before the passage of this law, patients' rights were not clearly defined. Those clinicians who worked in the mental health field did not have proper guidance on the ethical and legal aspects of the patients' rights.²⁴¹ The law provides a right-based mental health legislation. Chapter II, Section 5 of the law provides the rights of service users. Examples of these rights are:

1. Freedom from discrimination and stigmatization (whether from private or public Sectors);
2. Freedom to exercise all inherent civil, political, economic, social, religious, and cultural rights respecting individual qualities, abilities, and diversity of background without discrimination;
3. Access to evidence-based treatment of the same standard and quality, regardless of age, sex, socioeconomic status, race, ethnicity, or sexual orientation;
4. Access to mental health services at all levels of the national health care system;
5. Access to comprehensive and coordinated treatment
6. Access to psychosocial care and clinical treatment in the least restrictive environment and manner;
7. Freedom from humane treatment free from solitary confinement, torture, and other forms of cruel treatment and invasive procedures not backed by scientific evidence
8. Access to aftercare and rehabilitation when possible in the community for the purpose of social reintegration and inclusion
9. Access to adequate information regarding available multidisciplinary mental health services
10. Right to participate in mental health advocacy, policy planning legislation, service provision, monitoring, research and evaluation;

²³⁹ Alonso J, Codony M, Kovess V, et al. Population level of unmet need for mental healthcare in Europe. *Br J Psychiatry*. 2007;190:299–306.

²⁴⁰ AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES", Republic Act No. 11036

²⁴¹ Lally, et. al., "Mental Health Services in the Philippines" (August 2019), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6646843/>

11. And Confidentiality of information.²⁴²

The law also provides for the rights of Family Members, Carers, and Legal Representatives (Section 6) such as the right to:

1. Receive appropriate psychosocial support from relevant government agencies
2. Participate in the formulation, development, and implementation of the service user's individualized treatment plan
3. Apply for release and transfer of the service user to an appropriate mental health facility
4. Participate in mental health advocacy,

The rights of Mental Health Professionals (Section 7) are covered as well such as the right to:

1. A safe and supportive work environment
2. Participate in a continuous professional development program
3. Participate in the planning, development, and management of health services
4. Contribute to the development and regular view of standards for evaluating mental health services provided to service users
5. Participate in the development, and management of mental health services
6. Contribute to the development and regular review of standards for evaluating mental health services provided to service users
7. Participate in the development of mental health policy and service delivery guidelines
8. Except in emergency situations, manage and control all aspects of his or her practice, including whether to accept or decline a service user for treatment
9. Advocate for the rights of a service user, in cases where the service user's wishes are at odds with those of his or her family or legal representative²⁴³

The Act includes the "Informed Consent to Treatment" which refers to the informed consent in writing provided by the service user. This must be given prior to the implementation by mental health professionals, workers, and other service providers of any plan or program of service such as therapy, treatment, including physical or chemical restraint. 'All persons, service

²⁴² AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES", Republic Act No. 11036

²⁴³ AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES", Republic Act No. 11036

users, persons with disabilities, and minors alike, will be presumed to possess any legal capacity for the purposes of this Act or any other applicable law, irrespective of the nature or effects of their mental health condition or disability.’

The act provides exceptions to Informed Consent: ‘during psychiatric or neurologic emergencies, or when there is an impairment or temporary loss of decision-making capacity on the part of the service user’. In cases like these, ‘treatment, restraint or confinement, whether physical or chemical, may be administered or implemented pursuant to the following safeguards and conditions:

1. Service user’s advance directives;
2. Only to the extent that such treatment or restraint is necessary, and only while a psychiatric or neurologic emergency, or impairment or temporary loss of capacity, exists or persists;
3. Order of the service user’s attending mental health professional;
4. Involuntary treatment or restraint shall be in strict accordance with guidelines approved by the appropriate authorities.

Under this Act, a service user subject to the Act may designate a person of legal age to act as his or her legal representative through a notarized document. The legal representative of a service user shall:

1. ‘Provide the service user with support and help; represent his or her interests; receive medical information about the service user in accordance to this Act;
2. Act as substitute decision maker when the service user has been assessed by a mental health professional to have temporary impairment of decision-making capacity
3. Assist the service user vis-à-vis the exercise of any right provided under this Act; and
4. Be consulted with respect to any treatment or therapy received by the service user’

If a legal representative is not appointed, other persons shall act as the service user’s legal representative such as the spouse, non-minor children, either parent by mutual consent, if the service user is a minor. A chief, administrator, or medical director of a mental health care facility or a person appointed by the court may also act as a legal representative.²⁴⁴

This Act also includes Mental Health Services. The quality of these services shall be based on medical and scientific research findings, appropriate age, responsive to the needs of the individuals being served, and provided by mental health professionals and workers to ensure accountability. Every local government unit and academic institution are

²⁴⁴ An Act Establishing A National Mental Health Policy For The Purpose Of Enhancing The Delivery Of Persons Utilizing Psychiatric, Neurologic And Psychosocial Health Services, Appropriating Funds Therefor, And For Other Purposes”, Republic Act No. 1103

expected to create their own program in congruence with the guidelines provided by the Philippine Council for Mental Health in coordination with other stakeholders. For the implementation of the program, the LGUs and academic institution shall work with concerned government agencies and private sectors.

For the establishment of community-based mental health care facilities, the national government, through the DOH, shall fund the formation and assist in the operation of said facilities in the provinces, cities, and municipalities in the entire country according to the needs of the population. The national government shall also provide and improve the rights-based approach to mental health care.

Other than adequate room, office or clinic, each community-based mental health care facility shall have a supplemental support from mental health and allied professionals, support staff, trained barangay health workers (BHWs), and volunteer family members of patients or service users. There shall also be basic equipment of supplies and adequate stock of medicines suitable at that level.

RA 11036 requires all regional, provincial, and tertiary hospitals, including private hospitals, to provide the following psychiatric, psychosocial, and neurologic services:

- a. Short-term, in-patient hospital care in a small psychiatric or neurologic symptoms ward for users exhibiting acute psychiatric or neurologic symptoms;
- b. Partial hospital support for those showing psychiatric symptoms or experiencing difficulties vis-à-vis their personal and family situations;
- c. Out-patient services with the help of existing mental health programs at primary health care centers in the same area;
- d. Home care services for users with individuals with special needs as a result, among others, long-term hospitalization, noncompliance with or the lack of treatment, and absence of immediate family;
- e. Coordination with drug rehabilitation centers concerning the care, treatment, and rehabilitation of persons suffering from addiction and substance-induced mental health conditions; and
- f. A referral system involving public and private health and social welfare service providers, for the purpose of improving access to proactive mental health programs.²⁴⁵

Effects of Culture in the Implementation of the Mental Health Act

Culture is the shared behavior and beliefs of a particular social, ethnic, or age group.²⁴⁶ There are different ways in which culture might influence

²⁴⁵ *Id.* 242

one's view on mental health, and in turn, how the Mental Health Act can be implemented. The US National Institute of Mental Health noted that culture affects whether people seek help in the first place, what types of help they seek, what types of coping styles, and social supports they have, and how much stigma they attach to mental illness²⁴⁷. For example, in a study by Lin and Cheung, it was found that Asian patients are more likely to report somatic symptoms like dizziness but are unlikely to report emotional symptoms.²⁴⁸

Filipinos are known to be prideful of their heritage and are also known to be very particular with how others view them. A study by Martinez found that Filipinos generally show a reluctance towards seeking professional help because of fear of being judged negatively or even fear of fueling negative perceptions from the Filipino community.²⁴⁹ An interview with a nurse talking about a depressed patient stated that the latter's family could not accept that he has depression because Filipino culture views mental illness as a "family affair"²⁵⁰ In a study by Nicdao *et. al.*, it was found that US-born Filipinos were more likely to seek help than those who just immigrated to the US. ²⁵¹It is speculated that this could be because US-born Filipinos do not adhere strongly to the Filipino cultural norms which, as previously discussed, discourages help-seeking behavior.

Consequently, the stigma against mental health which is inherent in the culture of Filipinos affect the likelihood of seeking help. Thus, despite the comprehensive programs, benefits, and rights enumerated in the Mental Health Act, its goal cannot be fully realized if the people themselves do not choose to seek help in the first place.

Fostering Awareness towards the Mental Health Act

The Philippine Council for Health Research and Development provides 6 Principles for an Effective Mental Health Program, namely:²⁵²

²⁴⁶ Cultural Anthropology, "What is Culture?", Chapter 1: What is Anthropology, available at: <https://courses.lumenlearning.com/culturalanthropology/chapter/what-is-culture/>

²⁴⁷ Rockville, "Mental Health: Culture, Race, and Ethnicity: A supplement to Mental Health: A Report of the Surgeon General" Chapter 2 (Aug 2001), available at: <https://www.ncbi.nlm.nih.gov/books/NBK44249/>

²⁴⁸ Lin, K. M., & Cheung, F. Mental health issues for Asian Americans. 50, *Psychiatric Services* . (1999):774–780

²⁴⁹ Martinez, A., et. al. "Filipino help-seeking for mental health problems and associated barriers and facilitators: a systematic review" (August 2020)

²⁵⁰ Tanaka, C., Tuliao, M.T.R., Tanaka, E. *et al.* A qualitative study on the stigma experienced by people with mental health problems and epilepsy in the Philippines. *BMC Psychiatry* **18**, 325 (2018).

²⁵¹ Ethel G. Nicdao Aileen A. Duldulao David T. Takeuchi . "Psychological Distress, Nativity, and Help-Seeking among Filipino Americans" *In* Education, Social Factors, and Health Beliefs in Health and Health Care Services. Published online: 21 Sep 2015; 107-120.

²⁵² Philippine Council for Health Research and Development, "6 Principles of Effective Mental Health Program" (2019), available at: <http://pchr.dost.gov.ph/index.php/events/6292-6-principles-of-effective-mental-health-program>

1. Addressing the Stigma. – As discussed, Mental health is stigmatized within Filipino culture. The behavioral impact that arises from public stigma takes in the form of withholding help, avoidance, coercive treatment, and segregated institutions²⁵³. The World Health Organization also stated that stigma deteriorates self-esteem, disrupts family relationships, and limits patient’s ability to socialize in a secure housing and jobs.²⁵⁴

Not only does this discourages help-seeking behavior, but this also causes a person to isolate themselves and, therefore, affects how they function in their everyday life. Addressing the stigma and making the people aware of it either through government planned seminars and events or even in the school setting would help people evaluate and reflect on why it is important to get rid of these stigmas.

2. Create relationship with the stakeholders of Mental Health - It is important that the LGUs integrate a mental health program in the community by bringing services from health and non-health sectors together.²⁵⁵ By devoting some expenses towards programs involving mental health, they can lessen the burden of the implementation of the act from the national government.
3. Experience a process of sharing, validation, and problem-solving – Seminars and school programs about mental health are good for educating people about why mental illness exists. Furthermore, building support groups where people can share difficulties, identify common reactions, validate good stories for coping, and facilitating plans of action is also good in encouraging help-seeking behavior. ²⁵⁶ The Mental Health Act mandates the construction of community-based mental health programs to give better services for and awareness of mental health problems.²⁵⁷
4. Involve the family in the program – The problem with mental illness is not only unique to the person with the mental illness. It also heavily involves the family. One of the factors that deter Filipinos from help-seeking behavior is the reaction of the family towards

²⁵³ Corrigan and Watson, “Understanding the Impact of Stigma on People with Mental Illness” (2002), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1489832/>

²⁵⁴ Philippine Council for Health Research and Development, “6 Principles of Effective Mental Health Program” (2019), available at: <http://pchr.dost.gov.ph/index.php/events/6292-6-principles-of-effective-mental-health-program>

²⁵⁵ *Id.*

²⁵⁶ Philippine Council for Health Research and Development, “6 Principles of Effective Mental Health Program” (2019), available at: <http://pchr.dost.gov.ph/index.php/events/6292-6-principles-of-effective-mental-health-program>

²⁵⁷ AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE PURPOSE OF ENHANCING THE DELIVERY OF PERSONS UTILIZING PSYCHIATRIC, NEUROLOGIC AND PSYCHOSOCIAL HEALTH SERVICES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES”, Republic Act No. 11036

mental health.²⁵⁸ When the family is not supportive in the treatment of the mental health patient, they go through the pressure in taking care of the patient which is why services such as family education, training, support, and counseling on mental health should be available to them.²⁵⁹

5. Harness Community Resilience on Mental Health - Building on the success of the mental health programs in the community will encourage people to join these programs more. The people must be shown light on the social and cultural practices on how people in communities overcome stress and deal with the challenges of life.²⁶⁰
6. Grab opportunities from crisis and disasters – Disasters are also a factor that contributes to mental health problems.²⁶¹ This is especially true during the time of the pandemic where the rate of people with mental health problems are increasing²⁶². There are opportunities for mental health programs to highlight emotional and social needs since disasters create context of shared grief and recovery.²⁶³

Putting Importance to Mental Health and The Rights of People Suffering with Mental Illness

According to the founder of the Mental Health Bar, Bruce Ennis, “if persons are involuntarily confined because of mental illness, the standards and procedures for confinement should guarantee no fewer rights than those afforded to criminal defendants”.²⁶⁴ This principle was upheld in the case of Jackson v. Indiana where the United States Supreme Court recognized equal protection and substantive due process of law for Theon Jackson, an incompetent who was labeled as “insane”. The justices later concluded that he was unlikely to have met the criteria to be “mentally ill”.²⁶⁵ Similarly, this was also applied in the case of Wyatt v. Stickney, the court established the

²⁵⁸Ethel G. Nicdao Aileen A. Duldulao David T. Takeuchi . "Psychological Distress, Nativity, and Help-Seeking among Filipino Americans" *In* Education, Social Factors, and Health Beliefs in Health and Health Care Services.

²⁵⁹ Philippine Council for Health Research and Development, “6 Principles of Effective Mental Health Program” (2019), available at: <http://pchr.dost.gov.ph/index.php/events/6292-6-principles-of-effective-mental-health-program>

²⁶⁰ *Id.*

²⁶¹ Ethel G. Nicdao Aileen A. Duldulao David T. Takeuchi . "Psychological Distress, Nativity, and Help-Seeking among Filipino Americans" *In* Education, Social Factors, and Health Beliefs in Health and Health Care Services.

²⁶² Tee, et. al., “Psychological Impact of COVID-19 pandemic in the Philippines” (December 2020), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7444468/>

²⁶³ Philippine Council for Health Research and Development, “6 Principles of Effective Mental Health Program” (2019), available at: <http://pchr.dost.gov.ph/index.php/events/6292-6-principles-of-effective-mental-health-program>

²⁶⁴ Wexler, D., “Therapeutic Jurisprudence as a New Approach to Mental Health Law Policy Analysis and Research” *University of Miami Law Review*, Volume 45 Number 5 (May 1991)

²⁶⁵ Jackson vs. Indiana, 406 US 715 (1972), United States Jurisprudence

right of an individual to receive treatment as it will give them a realistic opportunity to be cured or to improve his or her mental condition.²⁶⁶

***Jackson v. Indiana* (406 US 715 (1972))**

The case of *Jackson v. Indiana* is a landmark case from the United States. Theon Jackson was a deaf-mute who could neither read nor write. He could not communicate in any other ways. After being charged with two counts of petty theft, the State of Indiana committed him to a psychiatric hospital for treatment until he becomes “sane”. Doctors evaluated and testified that Jackson’s intelligence was too low for him to understand the nature of his crime, and that even if he was able to communicate in some other way he would never reach the criteria for a “sane” person. Despite the testimony that there are no facilities in the state that could treat Jackson’s problems, Jackson was committed to a psychiatric hospital for treatment. Frank Spencer, counsel to petitioner Jackson, argued that Jackson’s commitment would be the equivalent to a “life sentence” even though he (Jackson) had not been convicted of a crime yet.

The court ruled that the commitment of Jackson solely because he does not have the capacity to stand trial violates due process.

“Such defendant cannot be held more than the reasonable period of time necessary to determine whether there is substantial probability that he will attain competency in the foreseeable future. If it is determined that he will not, the State must either institute civil proceedings applicable to the commitment of those not charged with a crime, or released the defendant”

The court did not rule on the issue of the pending charges themselves because the criminal responsibility of Jackson during the time of the alleged offenses was not adjudicated yet. It would be premature for the Court to dismiss the charges against petitioner.²⁶⁷

Before the case of *Jackson v. Indiana*, a pre-trial involuntary commitment of people who are incompetent like Jackson would often mean a lengthy or lifetime confinement in an institution for treatment. Putting limits on the length of time an incompetent person may be confined helps avoid that situation.²⁶⁸

²⁶⁶ Wyatt v. Stickney 503 F United States Jurisprudence

²⁶⁷ Ibid. 263

²⁶⁸ Olsen, John R., "Jackson v. Indiana" (1972). New Dimensions in Legislation. Paper 4 available at:https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1003&context=new_dimensions_legislation

However, this is only a general guideline. Even by 1994 or twenty (20) years after the case, 32 States still did not enact periodic judicial review of incompetent detainees.²⁶⁹

The case of *Jackson v. Indiana* highlights the importance of giving light to the rights of those with mental illness. Though set in America, the effects of undermining the rights of such people is universal.

Critique and Recommendations

Steps to increase the accessibility of mental health facilities and aid for people with mental illness have already been taken by the State through the Mental Health Act, and the Magna Carta for Disabled Persons. However, implementation is still a problem.

For instance, in Ozamiz City, Misamis Occidental, there are no Psychiatrists listed in the Philippine Psychiatric Association website.²⁷⁰ The Psychiatrists who do work here have their main clinics in other cities. As for the Mental Health facilities, the closest facilities are *It Works! Chemical Dependency Treatment Center* in Ozamiz City and *Misamis Occidental Drug Treatment & Rehabilitation Center* in Oroquieta City.²⁷¹ Both are rehabilitation centers for people who suffer from drug addiction. For custodial psychiatric care facilities, people from Ozamiz will have to travel a little farther in The House of Hope Foundation in Cagayan de Oro City.²⁷² However this facility only has 2 wards (male and female) which can accommodate a maximum of 30 patients each.²⁷³ The same can be said for other urban and rural areas. Despite these services and facilities supported by both public and private institutions, not everyone has access to it as it is uneven throughout the country. Most mental health care services are in Northern Capital Region (NCR) which favors individuals who are living near these more urban areas.²⁷⁴

To improve the mental health services here in the Philippines, it is recommended that we employ means beyond passing legislation, as this is only the first step. A study by Power recommends:

1. Disease prevention and health promotion; Mental illness prevents the risk factors and promotion improves one's ability to reach a positive sense of self-esteem, mastery, well-being, and social

²⁶⁹ Melton, Gary (1997). *Psychological Evaluations for the Courts: A Handbook for Mental Health Professionals and Lawyers* (2nd ed.). New York: The Guilford Press. pp. 130–131

²⁷⁰ Philippine Psychiatric Association Master List, available at: <https://philippinepsychiatricassociation.org/>

²⁷¹ List of Mental Health Care Facilities in the Philippines, Masterlist, available at: <https://www.webblines.com/mental-health/>

²⁷² *Id.* ;

²⁷³ The House of Hope Foundation, Inc. Website, available at: <http://houseofhopecdo.com/>

²⁷⁴ "WHO–AIMS Report on Mental Health System in the Philippines" (PDF). World Health Organization. 2006.

inclusion. These two are equally important as it enhances one's ability to cope with different struggles. However, the promotion of mental health is more than just focusing on the individual.²⁷⁵ The government and businesses should make decisions to improve instead of compromising the population's health, so people can make educated choices about their behavior.²⁷⁶ Mental health promotion means that legislators must make considerations for mental health implications for a holistic public policy.²⁷⁷

2. A public health approach: Interventions for the improvement of mental health will also promote the physical state of an individual and vice versa. This approach must be embedded in existing health promotion programs. Examples such as providing support to families to ameliorate nurturing of children, thus reducing the chances of abuse and neglect of children; addressing physical health, the impact of bullying and other violent experiences in schools; supporting and caring of older adults.²⁷⁸
3. Activities to promote mental health such as targeted interventions by improving their resilience. There are individual strengths that can act as protection against onset of mental health problems. These are strengths such as courage, hope, optimism, interpersonal skills and perseverance, among others. These will act as a buffer against struggles and psychological illnesses, being a key to resilience²⁷⁹. However, one cannot be nurtured in a vacuum. The improvement of families because strong, healthy families promote resilient, mentally healthy persons. Improved family functions and parenting act as mediators of positive results and can lessen poverty-related risks²⁸⁰. We must also improve the communities in which we live, we must address the personal, social, economic, and environmental determinants of health. We must focus on such issues like poverty, unemployment, and inequitable spread of health care resources.²⁸¹

²⁷⁵ Power, A.K., "Transforming the Nation's Health: Next Steps in Mental Health Promotion" (December 2010), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978180/?fbclid=IwAR3btkrjcDUXma_BK D-j_RN3ElilzUHDL64r_WPdA2q3rP594nz4L7WQ6wo#bib11

²⁷⁶ Hermann H, Jané-Llopis E. Mental health promotion in public health. *Promot Educ.* 2005;12:42-47

²⁷⁷ World Health Organization Mental Health Action Plan for Europe: Facing the Challenges, Building Solutions. Helsinki, Finland: World Health Organization; 2005

²⁷⁸ Power, A.K., "Transforming the Nation's Health: Next Steps in Mental Health Promotion" (December 2010), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978180/?fbclid=IwAR3btkrjcDUXma_BK D-j_RN3ElilzUHDL64r_WPdA2q3rP594nz4L7WQ6wo#bib11

²⁷⁹ The promotion of mental health and the prevention of mental and behavioral disorders: surely the time is right. *Davis NJ Int J Emerg Ment Health.* 2002 Winter; 4(1):3-29. Mrazek PJ, Haggerty RJ, Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research. Washington, DC: National Academies Press; 1994

²⁸⁰ Power, A.K., "Transforming the Nation's Health: Next Steps in Mental Health Promotion" (December 2010), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978180/?fbclid=IwAR3btkrjcDUXma_BK D-j_RN3ElilzUHDL64r_WPdA2q3rP594nz4L7WQ6wo#bib11

²⁸¹ Power, A.K., "Transforming the Nation's Health: Next Steps in Mental Health Promotion" (December 2010), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978180/?fbclid=IwAR3btkrjcDUXma_BK D-j_RN3ElilzUHDL64r_WPdA2q3rP594nz4L7WQ6wo#bib11

Applying changes in policies in the society that reduce poverty-related problems are at least as important as other interventions for preventing physical, mental, emotional and behavioral problems in young people.

Conclusion

There are still challenges in the implementation of Mental Healthcare in the country such as the underinvestment of mental healthcare, lack of mental health professionals, and the underdeveloped community mental health services.²⁸² The passing of the Philippine Mental Health Act of 2017 is a major step towards mental health accessibility in the Philippines and a milestone achieved for psychiatry in the country²⁸³. But this legislation has yet to be successfully implemented from the national to the local level. It is essential that the State, and professionals in the mental health and public health work together. ²⁸⁴ Action must be done to combat not only financial inaccessibility of Mental Health services but also the stigma around help-seeking attitude.²⁸⁵

Nevertheless, mental healthcare in the country, though still needing a long way to go, is already improving. The best thing to do now, more than ever, is to keep moving forward.

²⁸² Lally, et. al., “Mental Health Services in the Philippines” (August 2019), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6646843/>

²⁸³ *Id.*

²⁸⁴ Power, A.K., “Transforming the Nation’s Health: Next Steps in Mental Health Promotion” (December 2010), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978180/?fbclid=IwAR3btkrjcDUXma_BK D-j_RN3ElilzUHDL64r_WPdA2q3rP594nz4L7WQ6wo#bib11

²⁸⁵ Martinez, A., et. al. “Filipino help-seeking for mental health problems and associated barriers and facilitators: a systematic review” (August 2020)

The Anti-Terrorism Law: Viewpoints of Those In Favor and Those Against It

Genevieve Jore and Nikka Doria

Over the years, the long-standing problem of terrorism had its bloody evolution, which is manifested with the increased crime rates, instability and underdeveloped economic and social dimension. It had reached its high points in 1970s, mid-1980s and early 1990s and is now again on an upturn.²⁸⁶

Terrorist groups in the Philippines are mostly concentrated in the southern part of the country. These groups involve the Abu Sayyaf Group (ASG) and the Communist Party of the Philippines (CPP).²⁸⁷ The Abu Sayyaf is an Islamic Organization founded by Abdurajak Abubakar Janjalani in 1991.²⁸⁸ The Abu Sayyaf Group (ASG) made its major attacks in including the grenade attack in Zamboanga City, attack in the Christian town of Ipil which happened in the year 1991 and 1995 respectively. In the year 2001, this group kidnapped tourists in Palawan. Further, a bombing happened in the main terminal building of the Davao International Airport in the year 2003. The deadliest terrorist attack at sea was also initiated by this group in the year 2004. In the later year, there were several attacks in the City of General Santos and Marawi and even outside the Philippine House of Representatives. These terrorist attacks all left human casualties.²⁸⁹

The Communist Party or the Philippines or the CPP was formed by Jose Maria Sison in 1968. Nowadays, they are referred to as the CCP-NPA or the New People's Army. NPA is CCP's armed wing, but since they are closely intertwined, they are mostly referred to as the CCP-NPA.²⁹⁰ The group is not yet officially declared as terrorist, but they are linked to series of attacks and ambushes which made them being considered a national terrorist. In an article wrote by the Philippine Inquirer posted on their online news center, it mentioned that the group made 532 attacks in total base on the record from the AFP. But such allegation was denied by them. The group even expressed their disappointment through their information officer, Mark Valbuena.²⁹¹

The insurgencies heightened up to date, which is manifested in the recent notable incidents which include the dual explosions, suicide attack on a military base and bomb attacks at a Roman Catholic in Jolo Island in Sulu Province.²⁹²

²⁸⁶David Tucker, 2010. Responding to Terrorism. The Washington Quarterly, Vol. 21.

²⁸⁷ Bhattacharji, 2009. Terrorism Havens: Philippines. Council on Foreign Relations.

²⁸⁸ <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/abu-sayyaf-group>

²⁸⁹2018. Abu Sayyaf Group, Major Attacks. Center for International Security and Cooperation.

²⁹⁰ <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/communist-party-philippines-new-peoples-army>

²⁹¹ Consuelo Marquez, AFP record of 532 NPA property attacks 'highly dubious' – CPP, available at <https://newsinfo.inquirer.net/1381641/highly-dubious-cpp-disputes-afp-records-of-532-rebel-attacks>

²⁹² Philippine Terrorism. Government of United Kingdom.

With these notable insurgencies, the Philippines is labeled as “terrorism haven”. If terrorism is the resorted solution for some citizens, what problems may trigger their insurgency to transgress or go against the advocacies of the existing government? What messages are they trying to convey with their acts?

As defined, terrorism is any kind of act done by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system.²⁹³ This does not occur in a vacuum. Insurgency has been in existence for a long time. But what are the factors that gave an impulse to the emergence of terrorism?

The Arellano Law and Policy Review presented some of the factors affecting radical groups which in effect urges them to resort to terrorism. These include ethnicity, poverty and economic factors. In the context of ethnic nationalism, the nation or the community exists prior to the creation of a state.²⁹⁴ This kind of nationalism develops a sense of identity which in effect will start to define its geographical region as encompassed to their identity. Conceptually, ethnic nationalism seeks to achieve independence and self-determination. These aims encompass the desire in the engagement of political, economic or cultural system of the state, the impulse to practice and promote their respective culture, language and religion and the guarantee on the right to a claimed territory.²⁹⁵ On the poverty and economic factors, these are considered persistent challenge of the country. As provided by Philippine Statistics Authority, Philippines poverty rate for 2006 was 63.70%, a 0.6% increase from 2003.²⁹⁶ Fifty-four percent of Filipino families considered themselves poor during the last quarter of 2019, the highest self-rated poverty recorded by the Social Weather Stations in five years.²⁹⁷ In addition, the 2018 poverty incidence among the population is now estimated at 16.7 percent from 16.6 percent which indicates that 17.7 million Filipinos are living in poverty in 2018.²⁹⁸ Among the Southeast Asian countries, Philippines has the highest poverty incidence. These statistical data are a manifestation that poverty remains a difficult challenge to be addressed.

Leftists in the Middle East interprets the militant Islamic resurgence as "a sign of pessimism because people are desperate, they are resorting to the supernatural. Moreover, Hooshang Amirahmadi, an academic of Iranian origins, argues that "the roots of Islamic radicalism must be looked for outside the religion, in the real world of cultural despair, economic decline, political oppression, and spiritual turmoil in which most Muslims find

²⁹³ Law to Fight Terrorism. Anti-terror Law

²⁹⁴ Christopher Muscato. Tenets of Ethnic Nationalism.

²⁹⁵ Buendia. Looking into the Future of Moro Self-Determination in the Philippines.

²⁹⁶ Philippines Poverty Rate. Philippines Poverty Rate 2000-2020.

²⁹⁷ Philippines Statistics Press Release. Updated 2015 and 2018 Full Year Official Poverty Statistics.

²⁹⁸ Id.

themselves today.²⁹⁹ The driving factors attributing to the persistent poverty includes inequality among regions. As noted by the World Bank, the insufficiency of the delivery of basic services to the Muslim areas is one of the root causes of the emergence of Mindanao conflict. Another aggravating stimulus is the minimal share of Mindanao in the national budget. The development efforts have been largely concentrated and confined in Luzon at the expense of some regions in Visayas and Mindanao. This proposition is evident with the records based on the data generated by the Philippine Statistics Authority which shows that on the aspect of services, NCR registered the biggest share followed by CALABARZON, as to the industry, CALABARZON constituted the largest share followed by NCR and Central Luzon. With regard to the agriculture, Central Luzon topped the share.³⁰⁰ This condition presupposes that Mindanao areas of the country receive a lower portion of benefits as to sustain the needs of their respective population. These drive terrorist groups to raise their respective banners and cry their struggles and grievances.

The government of the Philippines has taken its milestone and adapted its military and law enforcement efforts to combat the persistent threats of terrorism in the country. These efforts include the killing of alleged members of Abu Sayyaf in 2007, sentenced fourteen members of ASG to life imprisonment. Moreover, the country decreed its counter-terrorism legislation which is the Human Security Act (2007), an act to secure the state and protect our people from terrorism . Before the Anti-terrorism Law, the Human Security Act of 2007 is the primary Anti-Terror Law that made the country in line with the neighboring Asian countries in battling Islamist Militants. This law allows wiretapping of members of the terrorist organizations that are judicially recognized and also encompasses the financial investigation on individuals proved to be connected to the recognized terrorist organizations.³⁰¹ Further, the government raised its continuous investments in the Philippine National Police Special Action Force and other law enforcement entities of the government. All of the aforementioned efforts aim for the same end which is to prosecute terrorists and to uphold peace and order throughout the country. However, these efforts seem to be inefficient as the terrorist activities still endure in the country. This failure can still be trace back on the factors affecting the emergence of terrorism which includes inadequate access of financial resources, graft and corruption and problems in law enforcement purview.

Terrorism, as considered a controversial issue and its effect on the undeveloped economy, disrupted peace and order and deprived civilian cannot be overlooked, President Rodrigo Roa Duterte marked the urgency of the approval of the Anti-terrorism Act, which aims to prevent, prohibit and

²⁹⁹Daniel Pipes. Does Poverty Cause Militant Islam? Middle East Forum.

³⁰⁰ CNN Philippines, 2020. Highest in 5 years: 13.1 million families considered themselves poor in Q4. Retrieved 12 December 2020 from <https://cnnphilippines.com/news/2020/1/23/sws-self-rated-poverty-december-2019.html>

³⁰¹Bhattacharji, 2009. Terrorism Havens: Philippines. Council on Foreign Relations.

penalize terrorism. This law is also known as “The Anti-Terrorism Act of 2020”.

The Anti-Terrorism Law was signed by the President Rodrigo Roa Duterte on 3 July 2020. This law repealed the old anti-terrorism law which is the Human Security Act of 2007.³⁰² This law is anchored on the enshrined State policy in the 1987 Philippine Constitution to maintain peace and order, protection of life, liberty and property, and the promotion of the general welfare.³⁰³ This aims to protect the people from the insurgents of terrorist groups as this is a threat to the national security of the country. The law further provides that the State shall uphold the basic rights and fundamental liberties of the people in the implementation of the aforementioned state policy.³⁰⁴

This law provides for the punishable acts. These include terrorism, conspiracy to commit terrorism, recruitment to a terrorist organization, membership in a terrorist organization, planning, training, preparing, and facilitating the commission of terrorism, threat to commit terrorism and proposal or inciting to commit terrorism. The term terrorism encompasses the engagement in acts intended to cause death or serious bodily injury to any person or endangers a person’s life; engagement in acts intended to cause extensive damage or destruction to a government or public facility, public place, or private property; engagement in acts intended to cause extensive interference with, damage, or destruction to critical infrastructure; those who develops, manufactures, possesses, acquires, transports, supplies, or uses weapons explosive or of biological nuclear, radiological or chemical weapons; and the release of dangerous substances, or causing fire, floods or explosions. All of these acts are punishable under this law when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere of fear, to provoke or influence by intimidation the government or any international organization, or seriously destroy the fundamental, political, social or economic structures of the country or seriously impair public safety.³⁰⁵

However, prior to the enactment of the law, protests had been simulated amidst strict community quarantine protocols due to the outbreak of coronavirus. This law was being opposed by various sectors including the human rights defenders, some of the Senators, Faculty members of the University of the Philippines and business associations. The viewpoint of the Commission on Human Rights is the broadness of the definition of terrorism which may pave the road for possible abuse. According to the International Service for Human Rights, the Anti-Terrorism law threatens the safety of human rights defenders. Further argues that under the law, people may be apprehended without a warrant and can be detained for weeks before the

³⁰² Felix Sy. Philippine Anti-terrosim law enacted.

³⁰³ Declaration of Principles and State Policies. The Constitution of the Republic of the Philippines

³⁰⁴ R.A No. 11479. The Anti-Terrorism Act of 2020.

³⁰⁵ Felix Sy. Philippine Anti-Terrorism law enacted.

appearance before the Judge.³⁰⁶ The Programme Manager of ISHR said that advocacy on the passage of laws for the protection of human rights defenders are now vulnerable due to the passage of said law. Legal Counsel Tess McEvoy, further contends that the law severely restricts due process and the rule of law in the country. The human rights defender contends that criminalizing those who incite in the commission of treason through speeches, proclamations, writings, emblems or banners, restricts freedom of expression and the media.³⁰⁷

Moreover, prior to the enactment of this Act, some senators expressed their propositions including Senator Hontiveros. She asserted that the bill is fundamentally flawed and is something that should not be passed across administrations and was hoping for a Presidential veto. She added that the bill is prone to abuse by law enforcers.³⁰⁸ Aside from the aforementioned individual and sector who are both in opposition, the faculty members of University of the Philippines of Political Science, during the passage of the bill, also published their vehement objection to the contents and the nature of the bill. They presented some issues that they have evaluated from its contents which include: (1) Ambiguity and abuse of Authority; (2) Rights of the Accused to be informed; (3) Surveillance and Detention; and (4) Role of the Commission on Human Rights. According to them, the term “terrorism” can be subject to a variety of interpretations. With the expansion of the composition of the Anti-Terrorism Council and the reduction of penalties for abusive interpretation of the law, the right of an individual to due process can be violated. Moreover, the law imposed restrictions and limitations in the access of records and logs, which may be used by the accused to file cases against those who conducted malicious investigations. They also contend that the law violates the constitutionally-guaranteed rights of an accused to be informed of the nature and cause of the accusation against him. In effect of the limited information to be utilized by the accused, the accused will suffer difficulties in responding properly to the accusation against him.³⁰⁹

Several business associations jointly raised their strong opposition to this Act. This is manifested in the Joint Statement on Anti-Terrorism Act of 2020 signed by the 16 members of Makati Business Club. Emphasized in their Joint Statement is the need of national unity amid the COVID-19 outbreak to overcome the challenges faced and be a stronger and more resilient nation.³¹⁰

³⁰⁶ CLIFF VENZON. The Philippines' Anti-Terrorism Act of 2020: Five things to know. Available at <https://asia.nikkei.com/Politics/The-Philippines-Anti-Terrorism-Act-of-2020-Five-things-to-know>

³⁰⁷ Tess McEvoy, 2020. Philippines Anti-Terrorism Law further threatens the safety of human rights defenders.

³⁰⁸ Anti-Terrorism Bill Problematic even under the best gov't leaders.

³⁰⁹ Position Paper on the Anti-Terror Bill by Faculty Members of the UP Department of Political Science.

³¹⁰ The Philippines: Several business associations jointly voice strong opposition to anti-terrorism Act

All these sectors and individuals are immensely concern with the timing of the passage of the bill. Every entity of the country shall extensively focus on matters that may develop policies to address various socio-economic breakdown resulting from the crisis brought by the emergence of the virus and shall uphold and strengthen the country's health mechanisms. However, there are a few who find it necessary to pass the bill even in this time of pandemic.

Terrorists don't take breaks. So, at some point, they might take advantage of the situation while the leaders are focused on the addressing the problems brought by the COVID-19.

Congress' Stand on the Anti-Terrorism Law

The constitutionality of the Anti-terror law has been challenged, even before it was passed into law. Many citizens have expressed their concerns on the possibility of it being abused or being against Human Rights. Notwithstanding the negative responses of most political organizations, the bill was approved and signed into law by President Rodrigo Duterte on July 3, 2020. Most people in the Congress believed that it could help the nation after what had happened in the past years when the country was invaded by a group of armed men who were believed to be terrorists and tried to claim some part of Mindanao. But just like any other bill, the anti-terror bill was carefully deliberated by the lawmakers of the two houses of the Congress.

The Senate

Voting 19-2, senators approved Senate Bill 1083 or the Anti-Terrorism Act of 2020 seeking to amend the Human Security Act of 2007. Senators Risa Hontiveros, and Francis Pangilinan, however, voted against the measure. Under the measure, there are provisions introduced on penalizing those who will propose, incite, conspire, participate in the planning, training, preparation, and facilitation of a terrorist act; as well as those who will provide material support to terrorists, and recruit members in a terrorist organization.³¹¹ The 2 senators believed that it gives the law enforcers or the military to make an arrest without warrant or compel Tele Communication Companies to disclose information such us calls, messages and could place individuals under surveillance. Hence, deprived the person of their privacy.

The senators on the affirmative said that the proposed Anti-Terrorism Act of 2020 would provide a strong legal backbone to support the country's criminal justice response to terrorism, provide the law

³¹¹ Christia Marie Ramos. Anti-terror bill gets final Senate nod; 2 senators vote against measure. Retrieved February 26, 2020 from <https://newsinfo.inquirer.net/1233672/anti-terror-bill-gets-final-senate-nod-2-senators-vote-against-measure>

enforcers the much-needed tools to protect the people from the threat of terrorism and, at the same time, safeguard the rights of those accused of the crime.³¹² The senators who voted for the Bill were Senators Sonny Angara, Nancy Binay, Pia Cayetano, Ronald "Bato" dela Rosa, Grace Poe, Imee Marcos, Manuel "Lito" Lapid, Joel Villanueva, Cynthia Villar, Emmanuel "Manny" Pacquiao, Win Gatchalian, Christopher Lawrence "Bong" Go, Richard Gordon, Panfilo "Ping" Lacson, Bong Revilla, Francis "Tol" Tolentino, Minority Leader Franklin Drilon, Majority Leader Migz Zubiri and Senate President Vicente C. Sotto III.

The House of Representatives

The Philippine Star on June 3, 2020 said that a total of 173 Congressmen voted to pass the measure, outnumbering 31 who voted negative and 29 others who abstained.³¹³ While most of the representatives who voted no or abstained claimed that they were not really against the bill, but positions of it were somehow off. The process was expedited, and it was said that some representatives were not given the chance to express their opinions during the debate or during the interpellation.

Muntinlupa representative Rufino Biazon voted no. Biazon, an advocate of anti-terrorism, is principal author of the bill and defended it "wholeheartedly" as one of the sponsors during the interpellation. The lawmaker said he had a change of heart because the House Bill was a mere adoption of the Senate version and that not all of his colleagues had been given a chance to present their arguments and proposed amendments.³¹⁴

Albay Rep. Edcel Lagman, who voted no, and Lanao Del Norte Rep. Khalid Dimaporo, who abstained, lamented the swift passage as they were not able to interpellate.³¹⁵ The two lawmakers believed that since they were deprived to express their opinion during the interpellation, they cannot expect for the anti-terror law to respect human rights and civil liberties, according to Lagman. Dimaporo said that since he was not given the chance to ask for clarifications about the bill, then he could not vote "Yes".

³¹² Press Release. The Senate of the Philippines.

http://legacy.senate.gov.ph/press_release/2020/0226_prib5.asp

³¹³ Ratzel San Juan. House approves anti-terror bill on final reading despite backlash.

(Philstar.com. Retrieved June 3, 2020

from) <https://www.philstar.com/headlines/2020/06/03/2018491/house-approves-anti-terror-bill-final-reading-despite-backlash>

³¹⁴ Divina Nova Joy Dela Cruz. Author of House anti-terror bill withdraws, votes 'no'. Retrieved June 3, 2020 from <https://www.msn.com/en-ph/news/other/author-of-house-anti-terror-bill-withdraws-votes-e2-80-98no-e2-80-99/ar-BB14ZowK>

³¹⁵ *Id.*

The Congress of the Philippines has tried to be more careful when it comes to creating laws. During the long process of deliberation, they discussed it with each other to make sure they won't miss a thing. It should be in line with the fundamental law of the land. Moreover, it must be beneficial both for the people and the nation.

But despite the best efforts of our lawmakers to make sure everything is well-organized, laws may still have their positive and negative impact. We must remember that all laws can be abused. So, it is not a matter of what law should be passed. While laws must be clear, the people who will execute them must also be very careful not to go against the fundamental law. Thus, the law enforcers must make sure they don't step into human rights or the citizens' civil rights.

The Petitions

There are 37 recorded petitions filed before the Supreme Court by a group of lawyers, law students, and different organizations questioning the constitutionality of the Anti-Terrorism Act of 2020 or Republic Act No. 11479. In the article by Manila Bulletin Online, they mentioned that 36 of the petitions are officially docketed and one hasn't docketed yet because it did not meet certain requirements like the payment of docket fees. The SC then decided to consolidate the cases. The Office of the Solicitor General requested for the cases to be dismissed or the cancellation of the Oral Argument because of the COVID-19 pandemic.³¹⁶

The Oral Argument is likewise opposed by the retired Supreme Court Justice Noel Tijam. He said that there is still no actual case or controversy. The petitioners need to instead provide proof that similar Anti-terrorism Law may lead to human rights violations.³¹⁷

The OSG defended the constitutionality of the Anti-Terrorism Law. It said that the petition filed relies on baseless allegations of the vagueness of the law, unjustified fears of abuse, and imagined conjectures. They wanted to send a message to the society that the government should not be considered as the enemy, but rather as a guardian and aim to protect the Filipinos and ensuring the enjoyment of all our constitutional freedom. The OSG also stressed that the Anti-Terrorism Act incarnates the State's policy to protect life, liberty, and property from terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and the Law of Nations. The office of OSG Calida also added that

³¹⁶ Rey Panaligan, 37 petitions filed with SC against Anti-Terrorism Act. Available at <https://mb.com.ph/2020/10/08/37-petitions-filed-with-sc-against-anti-terrorism-act/>

³¹⁷ Jomar Canlas, TMT. Oral arguments on anti-terror law opposed. Available at <https://www.manilatimes.net/2020/09/02/news/top-stories/oral-arguments-on-anti-terror-law-opposed/762419/>

we need the Anti-terrorism Law to fight the continuous and aggressive security threats brought by the terrorists.³¹⁸

It has been clear to every Filipino that certain terrorist groups already exist in the country. We have witnessed different incidents of bombing in different parts of the country. We saw how the people of Marawi City, for example, were forced to evacuate when the war in that area struck. Whether or not it is unconstitutional, we have to consider the fact that we need a law to protect the Filipino people. We need something that will urge us to act before it happens. As the old saying goes, “prevention is better than cure.” This new law will somehow send a message to every Filipino that in case they see or suspect something that can be a subject for terrorism, they need to act. As for the contention that it can lead to abuses and human rights violations, that is something controllable through the help of our leaders especially in the area of law enforcement.

³¹⁸ OSG defends constitutionality of Anti-Terrorism Law. Available at <https://newpost.com.ph/osg-defends->

The Mind and Ideology of a Terrorist: Modern Approach

Frances Dave L. Paculanang

Bombings, kidnappings, publication of atrocious acts such as beheadings, glorifying the destruction of religious symbols and inciting war are just some of the acts committed by what we call terrorists. It is important that we look into what is terrorism and what pushes someone to become a terrorist to truly understand why one chooses this extreme.

The League of Nations Convention Definition of Terrorism (1937): terrorist acts are “all criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public.³¹⁹” Terrorism is an ageless scourge. But the ferocity of the 9/11 assaults and the upsurge in unrestrained activities by al-Qaeda and other groups have elicited heightened interest in unraveling the underpinnings of terrorism. Accompanying this brand of audacious intimidation is a new tactic for studying it--and perhaps curtailing it.³²⁰ Its key elements as used by Emile Bruneau in his pursuit to understand the terrorist mind includes two key factors which are “it involves a group ideology and the use of violence in the service of the group’s ideology and particularly violence that indiscriminately targets members of a group”.

Terrorist refers to any natural person who: (1) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully; (2) participates, as a principal or as an accomplice, in terrorist acts; (3) organizes or directs others to commit terrorist acts; or (4) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.³²¹

One of the reasons for someone to become a terrorist which most of us give credence to is one’s ideology or belief. Ideologies provide a narrative structure with which to interpret new information and past events. Since terror groups are composed of an aggrieved minority, their ideology is often centered on a narrative of victimhood.³²² In addition RA 11479 also known as

³¹⁹ League Convention, Convention for the Prevention and Punishment of Terrorism, Article 1(2), 1937, (available at <https://www.unodc.org/e4j/en/terrorism/module-1/key-issues/UN-designated-terrorist-groups.html>), (last accessed on January 20, 2021)

³²⁰ Anette Schaefer, Inside the Terrorist Mind, Scientific American (available at <https://www.scientificamerican.com/article/inside-the-terrorist-mind/>), (last accessed on January 17, 2021)

³²¹ Republic Act No. 10168 (i) , June 20, 2012

³²² Emilie Bruneau, Understanding the Terrorist Mind, November 21, 2016, (available at https://www.dana.org/article/understandingtheterroristmind/?fbclid=IwAR14Iie_3gZfdJnuffyKoadkG_RPDipOAMYvMYGlxZpEe_cTNm8qqHBs2Y), (last accessed on January 20, 2021)

The Anti-Terrorism Act of 2020 defines terrorism as an engagement in acts intended to cause death, serious bodily injury to any person, extensive damage to government facility, public place or private property and extensive interference with damage to critical infrastructure. Furthermore, the act also includes the developing, manufacturing, possessing, acquiring, transporting, supplying, or using weapons; and releasing dangerous substances or causing fire, floods or explosions when the purpose is to intimidate the general public, create an atmosphere to spread a message of fear, provoke or influence by intimidation the government or any international organization, seriously destabilize or destroy the fundamental political, economic, or social structures in the country, or create a public emergency or seriously undermine public safety.³²³In a report made by the National Research Council in Washington D.C. the factors influencing contemporary terrorism are a blend of historical, economic, political, cultural, motivational, and technological factors, to name only the most obvious; and to search for a single or even a few causes is misguided. Causes differ qualitatively in their generality as determinants. Some are remote background conditions, others are facilitating circumstances, others are precipitating factors, and still others are inhibitory factors. The most appropriate way to organize these factors is in a nesting or combinatorial way. Each adds its value at a different level and significance to work toward more complete accounts and explanations.³²⁴

Thus, the reason for terrorism is not chained to one thought, ideology or motivation. It is simply a myriad of justifications, usually about a belief of being oppressed, people who resent these oppressions and willing to commit acts that are unlawful and willful to get what they want. There is a need for the terrorist to make a call for attention to their ideology or motivation by committing atrocious acts to strike fear, panic and anxiety to force outside forces such as the government or a nation to make a decision whether to fight them head on or to give in to their ransom for a mirage of peace.

In a case study conducted by Rommel C. Banlaoi on the Pull of Terrorism of the Filipino youth, the pull factors can be ideational and material that are mutually reinforcing. These pull factors are best utilized with an effective recruitment strategy by a terrorist group to increase its membership and to keep the organization alive³²⁵.

Regular citizens are preyed upon through various vulnerabilities, sometimes they are deceived or forced into committing terrorist activities. These activities are masked into other crimes that doesn't seem to connect

³²³ AN ACT TO PREVENT, PROHIBIT AND PENALIZE TERRORISM, THEREBY REPEALING REPUBLIC ACT NO. 9372, OTHERWISE KNOWN AS THE "HUMAN SECURITY ACT OF 2007" (Anti-Terrorism Act of 2020), Republic Act No. 11479, § 4 (2020)

³²⁴ National Research Council (2002) *Terrorism: Perspectives from the Behavioral and Social Sciences*. Panel on Behavioral, Social, and Institutional Issues, Committee on Science and Technology for Countering Terrorism. Neil J. Smelser and Faith Mitchell, editors. Division of Behavioral and Social Sciences and Education. Washington, DC: National Academies Press.

³²⁵ *The Pull of Terrorism: A Philippine Case Study*, RC Banlaoi - Youth and Terrorism: A Selection of Articles, 2011

with terrorism but upon introspection it is. Funding crime, large scale events and organized acts are the categories of which terrorism can manifest. Funding crimes are intertwined to the more insidious crimes that terrorist employ to achieve their goals. Large scale events such as the Marawi Siege of 2017 which was perpetrated by Maute Group which pledge allegiance to a much larger ISIS, is more or less the most common thing that you hear in the news, add to that kidnappings, murder of individuals and even massacre is an act of terrorism that causes panic and fear and anxiety to the general public and has put so much fear to affect the tourism industry. Howbeit, not all murder or kidnappings can be associated with terrorism. Another very common example of a large scale event that could be connected to terrorism is fraud. When more and more transactions are made online, the societal vulnerabilities are easily taken advantage of. Taking the bombing that transpired in Jolo Solu on August 24, 2020 that took the lives of 15 and wounded 75 which was claimed to have been perpetrated by the Islamic State which was just recently formed in the Country³²⁶, defrauds their members through their beliefs that in dying for the cause of the group will ensure their place in heaven, a vivid example that indeed fraud is employed in carrying out their attacks toward the populace. It affects hundreds upon thousands of people especially now with the help of social media in recruiting, training and communicating with other terror groups. This led to a more organized and dangerous terror cells operating within the country. Then we have organized acts, acts that sometimes could seem like an unfortunate incident but is tightly connected and intertwined in terrorism. Some examples to name a few organized acts can be drug dealing, hijacking, big scale robberies and even suicide bombings. ³²⁷ In the Philippines some of the more known and active terrorist groups are known in the names like new People's Army (NPA), residual armed factions of the Moro National Liberation Front (MNLF), lawless elements of the Moro Islamic Liberation Front (MILF), militant members of the Bangsamoro Islamic Freedom Fighters (BIFF), the Al-Qaeda inspired followers of the Abu Sayyaf Group (ASG), and the shadowy Moro Army Committee (MAC) and the Khilafa Islamiya (KI) ³²⁸The motivation of an individual to remain and continue to commit terrorist activities can be looked upon through a psychological microscope. However, looking into the psychology of terrorism is not only unpredictable but also dangerous. In that context, the psychology of terrorism may be divided into (a) human variation is such that there is no single, "typical" terrorist psychology; (b) many terrorists are psychologically inaccessible and when accessible often secretive and nonyielding; and (c) Western psychological concepts and assessments

³²⁶ Enrico Dela Cruz, Twin Bombings Kills 15, Wound Scores in Philippine South, usnews.com, (available at <https://www.usnews.com/news/world/articles/2020-08-24/town-bombing-kills-9-wounds-dozens-in-philippine-south>), (last accessed on March 01, 2021)

³²⁷ R. V. G. Clarke, Graeme R. Newman, Outsmarting the Terrorists(2006)

³²⁸ Banlaoi, Rommel C. "Current terrorist groups and emerging extremist movements in the southern Philippines." *National Security Review* (2013): 175 last accessed on March 1, 2021 available at http://119.92.187.196/wp-content/uploads/publications/BANLAOI_Current%20Terrorist%20Groups%20and%20Emerging%20Extremist%20Armed%20Movement%20in%20the%20Southern%20Philippines%20Threats%20to%20Philippine%20National%20Security.pdf

often are not readily exportable and applicable to cultures very different from their own³²⁹.

The latest research suggests, that the vast majority of terrorists are not mentally ill but are essentially rational people who weigh the costs and benefits of terrorist acts, concluding that terrorism is profitable. The advantages accrued, however, have value only in a particular social context. Group dynamics, often driven by charismatic leadership, play a powerful role in convincing individuals to embrace expansive goals and use violence to attain them. Personal factors also draw people toward terror. Terrorist groups provide their members with a feeling of belonging and empowerment and, in some cases, a means of avenging past wrongs.³³⁰ As studies have documented, terrorism is not just about violence it is about fear, as the maxim “kill one and frighten a thousand.” is but a way for them to get what they want in the shortest time possible.

Terrorist activities can have drastic repercussions to a single person and even more so to the state. Conventional crimes that are very common in funding crimes can cripple the economy. It’s a ripple effect that starts small but could become a big wave that is capable of washing away everything in its path. Unfortunately, with terrorist activities it doesn’t choose its victims it grabs unto anything that would help them reach their goal in the fastest way possible. Funding crimes may come in form of conventional crimes but since this can graduate to large scale event to even organized acts addressing these activities and targeting its roots is one of the most effective way to suppress and eliminate terrorism in the nation. Counter-terrorism officials favors the identification and apprehension of suspected terrorist as a preventive strategy. Identification of their practices also helps to cut off their life blood as the national leaders can find circumvention on how to suppress terrorist activities.³³¹

As citizens it is important to take part in actively helping the government to suppress terrorism. Understanding the nuances as well as the interrelationships of the crimes committed and different terrorist groups can help to address the challenge they pose. Terrorist groups can justify their actions as much as they want however the fact still remains the same, they are a threat to the national security and they won’t care who they will run-over for their goals.

³²⁹ National Research Council (2002) *Terrorism: Perspectives from the Behavioral and Social Sciences*. Panel on Behavioral, Social, and Institutional Issues, Committee on Science and Technology for Countering Terrorism. Neil J. Smelser and Faith Mitchell, editors. Division of Behavioral and Social Sciences and Education. Washington, DC: National Academies Press.

³³⁰ Anette Schaefer, *Inside the Terrorist Mind*, *Scientific American* (available at <https://www.scientificamerican.com/article/inside-the-terrorist-mind/>), (last accessed on January 17, 2021)

³³¹ R. V. G. Clarke, Graeme R. Newman, *Outsmarting the Terrorists*(2006)

The Complexity of Authoritarianism In Southeast Asia

Jihan G. Banding

Southeast Asia is a geographically expansive and populous region characterized by fascinating social and cultural variation.³³² People from outside the region often notice the remarkable cultural and religious diversity of the countries belonging to the same. Southeast Asia was influenced culturally and historically by outside forces that in its continental part, it is being dominated by Buddhism whereas its maritime part is molded by Islam and Catholicism. Due to its diversity, some of the countries in Southeast Asia have the highest rate of violent cultural conflicts.

Given the number of countries and the size of their populations, Southeast Asia is indeed encumbered to an above-average extent by cultural conflicts. The stronger propensity for Southeast Asian identity conflicts to escalate can be seen particularly in Indonesia, Myanmar and Thailand. Malaysia and Singapore are contrasting cases where identity conflicts tend largely to be communicated in a peaceful vein.³³³

Southeast Asia as a Region

Diverse social identities coexisting within the same society are often viewed as problematic for economic and political development. Moreover, diversity is said to provide a focal point for conflict, poor governance, low social capital and poor economic performance.³³⁴ Accordingly, social divisions are never impassable, and a good deal of work has been devoted to identifying institutional arrangements that might heal, or at least mitigate, the destructive impact of cleavages grounded in ethnic, linguistic and religious identities.³³⁵ Due to the ethnic conflicts, state leaders favored authoritarian regime as an effective means of preventing further ethnic wars in their territory. Southeast Asia is known to be diverse because of the major impact that the colonization in the past has brought to the region. Most of the countries in Southeast Asia are authoritarian or at least had experienced being authoritarian in the past.³³⁶

³³² Peletz (n/d). Diversity and Unity. Retrieved on January 13, 2021 from <https://asiasociety.org/education/diversity-and-unity>

³³³ Croissant and Trinn (n/d). Culture, Identity and Conflict in Asia and Southeast Asia. Retrieved on January 13, 2021 from https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Presse/imported/downloads/xcms_bst_dms_26529_26530_2.pdf

³³⁴ , Alesina and LaFerrara (2005). Ethnic Diversity and Economic Performance. *Journal of Economic Literature* 63 (September):762–800.

³³⁵ Lijphart, Arend 2004; “Constitutional Design for Divided Societies.” *Journal of Democracy* 15 (2), 96–109.

³³⁶ Ibid

But even though some Southeast Asian countries are authoritarian, this kind of regime might not be the best option in holding an ethnically and culturally divided society together. There are democratic states which were able to pacify their diverse societies by implementing policies that will create homogeneity within different ethnic groups and the dominant sectors of society. Authoritarian regimes, at some point, are not actually uniting the diverse society of one's country but instead, it increases the tensions between different strata in societies.

As a result, conflicts between ethnic minority groups and major groups have been a problem for the governments for a long time and still are. For example, harassment of ethnic, mainly Christian, minorities in the highland of Vietnam led to a flow of refugees to Cambodia and the Marawi siege that happened in Southern Philippines. The majority of ethnic Lao live in Thailand, and there are Burmese refugee camps in Thailand. However, there are also countries in Southeast Asia, which are authoritarian but were able to unite, if not totally pacify, their respective ethnic societies.

Authoritarianism Towards the Minorities

Authoritarianism denotes any political system that concentrates power in the hands of a leader or a small elite that is not constitutionally responsible to the body of the people.³³⁷ Oftentimes, national leaders of authoritarian states exercise power arbitrarily and without reverence to existing bodies of laws. The major characteristics of an authoritarian regime are self-appointment of a leader or even if elected, such election is a mere tool to legitimize his power, non-existence of potential political parties, citizens have little to no civil liberties, and indeterminate political tenure of the ruler. The best examples of authoritarian Southeast Asian countries that were able to provide peace to their ethnic societies are Malaysia and Singapore. According to Bertrand, the regime in Malaysia is not democratic but its brand of authoritarianism is much softer than many other forms in the Southeast Asia. Malaysia's post-independence politics have been remarkably stable. The state has kept control over simmering ethnic tensions, resentment at persistent inequalities and other forms of discontent through a sophisticated institutional structure that has outlived moments of crisis. But UMNO has maintained its dominance in part through its ability to exploit ethnic divisions between the Malay and the Chinese. Policies favored the Malays while assuring the Chinese that they still have some advantage to take. In the aftermath of the 1969 riots, UMNO consolidated its power over the upper echelons of the government, and reinforced its hierarchical predominance over coalition partners. It more strongly curtailed opposition and civil liberties.³³⁸

³³⁷ Authoritarianism. Retrieved on January 28, 2021 from <https://www.britannica.com/topic/authoritarianism>

³³⁸ Bertrand (2013). Political Science in Southeast Asia. United States of America: Cambridge University Press, pp. 108- 120

On the one hand, Bertrand also asserted that Singapore is also distinct among authoritarian regime. It has been able to deny individual rights by claiming the primacy of group rights, for instance by denying individual's political expression and channeling it instead through representatives of their racial group. At the same time, the government upholds racial harmony. By appealing to multiracialism and racial harmony, the government justifies its intervention to prevent ethnic clashes such as riots in the 1960s.³³⁹ Though it might be hard to point out if this was government's main purpose, it cannot be denied that multiracialism became an effective medium of controlling their population.

Multiracialism later justified the creation of a new type of electoral division. Singapore government found a way to mitigate the ethnic tensions and give an opportunity to minorities to choose their representatives. They created the Group Representation Constituencies (GRCs) along with Single Member Constituencies (SMCs). In GRCs, the interests of the citizens in the electoral division are represented by a group of Members of the Parliament (MPs). The registered electorate of the GRCs will vote for a group of individuals to be their MPs during a general election or by – election in the GRC.

At least one of the MPs in the group representing a GRC must belong to a minority racial community, either the Malay community or the Indian and other minority communities. By law, the President designates the GRCs for which at least one of the MPs in the electoral division must belong to one of these minority racial communities. However, the number of GRCs that can be designated as those belonging to the Malay community cannot be more than three-fifths the total number of GRCs, rounded to the next higher whole number. The GRC system was established in 1988 to ensure that the minority racial communities in Singapore will always be represented in Parliament. To ensure this, the Parliamentary Elections Act requires that at least one-quarter of the total number of MPs must be representatives of GRCs.³⁴⁰

Tolerance across ethnic groups is also fostered by spatial segregation. In rural areas, and even within cities, ethnic groups usually inhabit different territories. As such, practices that one group engages in do not directly impinge upon the practices of another. Likewise, spatial segregation means that devolution of power from the center to the periphery may resolve ethnic claims for autonomy without threatening the integrity of the state or the viability of a democratic form of rule – a solution for which India is a well-known case.³⁴¹

³³⁹ Ibid

³⁴⁰ Elections Department Singapore. Types of Electoral Divisions. Retrieved on January 20, 2021 from https://www.eld.gov.sg/elections_type_electoral.html

³⁴¹ Hardgrave, R. (1993). 'India: Dilemmas of Diversity', *Journal of Democracy*, Vol. 4, No. 4, pp. 71–85.

The case of India may help illustrate the divergent impact of religious and ethnic diversity on regime type and the quality of democracy. India's success at maintaining a democratic form of rule since independence in 1947 is sometimes regarded as surprising in light of the country's extreme diversity.

Others see the matter differently. Hardgrave writes, 'democracy is sustained because there is no single, monolithic, and permanent majority, but rather a shifting series of ruling coalitions made up of minorities'. For our purposes, it is significant that India's ethnic diversity far outstrips its religious diversity.³⁴²

India's consociational system has largely managed to preserve democratic stability since its establishment. Indeed, a democratic framework is virtually required if a federal arrangement is to function effectively. In an example of how religious and ethnic values differ on the issue of local versus universal concerns, McCauley (2014) finds that ethnic primes induce respondents to prioritize local concerns because ethnicity is typically a geographically local phenomenon. Religion, which usually consists of a transnational identity group, instead induces respondents to prioritize universal concerns such as morality and proper living.³⁴³

Cambodia is increasingly dictatorial, one-party rule is underpinned by generals in the security forces who are responsible for serious and systematic human rights violations. In a report issued by the Human Rights Watch entitled "*Cambodia's Dirty Dozen: A Long History of Rights Abuses by Hun Sen's Generals*", the report spotlights 12 senior security officers who form the backbone of an abusive and authoritarian political regime. Since 2018, three of the 12 have been promoted and one has died. Each of these officers owes his high-ranking and lucrative position to political and personal connections with Hun Sen dating back two decades or more. Each has demonstrated a willingness to commit rights abuses on behalf of Hun Sen.³⁴⁴

Ethnic Vietnamese are often targeted for harassment and communal violence in Cambodia.³⁴⁵ Due to the fact that they are different from most of the Cambodian citizens, the government limits their freedom and only grants political and civil rights as well as social liberties to Khmer citizens. Being born foreign is their weakness. Unless they have the documents necessary to prove their Cambodian citizenship, Cambodian authorities consider ethnic Vietnamese as immigrants or foreign residents. The problem is most of them

³⁴² Ibid

³⁴³ McCauley (2014). The Political Mobilization of Ethnic and Religious Identities in Africa. *American Political Science Review* 108 (4):801-16.

³⁴⁴ Human Rights Watch (October 22, 2020). *Cambodia: Hun Sen and His Abusive Generals*. Retrieved on January 4, 2021 from <https://www.hrw.org/news/2020/10/22/cambodia-hun-sen-and-his-abusive-generals>

³⁴⁵ Retrieved on January 4, 2021 from <https://asiafoundation.org/wp-content/uploads/2017/10/Cambodia-StatofConflictandViolence.pdf>

do not have the necessary documents to prove their identity. Those who were able to secure documentation were done through bribing officials.

The Minority Rights Organization (MIRO) reports that some ethnic Vietnamese are stateless, as they do not hold either Cambodian or Vietnamese identity cards. They are often trapped in poverty and face widespread discrimination and exploitation, including a lack of access to education, healthcare, the justice system, social security, housing, land ownership, and voting. The issue of Vietnamese marginalization is often ignored by the domestic and international communities.³⁴⁶

Authoritarianism in Southeast Asia Today

Accordingly, the year 2018 marked the start of a period in which outright authoritarianism and illiberal quasi-democracy are likely to be Southeast Asia's prevailing norms. With few exceptions, liberal values and fundamental freedoms and rights will be manipulated and curtailed, even where elections continue to take place. Where authoritarianism holds sway, rights and freedoms will be suppressed altogether.³⁴⁷

As can be seen in recent years, there have been minor changes to the approach used by Southeast Asian countries in handling authoritarianism in their territories. For instance, after 5 years of holding power through military dictatorship, Thai junta felt the need to hold an election to legitimize their power. Unfortunately, the Thai junta was able to dominate the 2019 election and even take it as a tool to fulfill his purpose, that is, legitimacy. Embellishing authoritarianism has made Thai conservatives favor strong leadership of the military in order to attain peace in their country.

The so-called Thai-style democracy draws upon traditional values, so-called *Thai-ness*, demanding loyalty to three core institutions, including nation, religion and monarchy. Arguably, the Thai junta cannot be seen as a democratic regime, no matter how hard it pretends to be one. Thai society has paid a high cost for the authoritarian regime in terms of the loss of civil liberties and political rights.³⁴⁸

Myanmar is no less controversial. Its promising reforms in 2011 culminated with elections four years later and a power-sharing agreement between generals and civilians, the latter led by Aung San Suu Kyi. Economic development immediately surged, albeit from a low base, but fatigue and

³⁴⁶ Ibid

³⁴⁷ Pongsudhirak (January 1, 2018). Authoritarianism is accelerating in Southeast Asia. Retrieved on January 4, 2021 from <https://asia.nikkei.com/Editor-s-Picks/Looking-ahead-2018/Authoritarianism-is-accelerating-in-Southeast-Asia>

³⁴⁸ Focus on the Global South (June 18, 2019). The Rise of the Democratic Dictatorship in Thailand. Retrieved on January 4, 2021 from <https://focusweb.org/the-rise-of-the-democratic-dictatorship-in-thailand/>

disillusion have beset democratization.³⁴⁹ Due to the drawbacks of Aung San Suu Kyi as a leader and his military's oppression to ethnic minorities, Myanmar has become a country focusing on killing the Rohingya Muslims minority in the Rakhine state. This is a kind of ethnic cleansing as described by the United Nations.

The Rohingya, who numbered around one million in Myanmar at the start of 2017, is one of the many ethnic minorities in the country. Rohingya Muslims represent the largest percentage of Muslims in Myanmar, with the majority living in Rakhine state.³⁵⁰ Myanmar's economy will see a prolonged expansion as more capital and labor are deployed on fertile land, but its democratic politics will be messy and unsatisfactory, leaving its erstwhile supporters feeling jilted.³⁵¹

This year on February 1, the military took over the country following a general election which Aung San Suu Kyi and her party won by landslide and declared a long-year state of emergency. Elected leader Aung San Suu Kyi and members of her party are among hundreds of people detained.³⁵² Businesses have closed their doors as tens of thousands of protesters gathered in towns and cities across Myanmar as part of a general strike against the coup, despite a chilling message from the military that confrontation would cost more lives. Myanmar's Assistance Association for Political Prisoners said 640 people have been arrested, charged or sentenced since the coup – including former members of government and opponents of the army takeover.³⁵³

In the Philippine Setting

Philippines is one of the countries which suffered from the brutal and dreadful effect of authoritarianism. Claiming that it was the last defense against the rising disorder caused by increasingly violent student demonstrations, the alleged threats of communist insurgency by the new Communist Party of the Philippines (CPP), and the Muslim separatist movement of the Moro National Liberation Front (MNLF)³⁵⁴, President Ferdinand Marcos implemented Martial Law on September 23, 1972. Gross human rights violations were reported involving killings, torture and

³⁴⁹ Pongsudhirak (January 1, 2018). Authoritarianism is accelerating in Southeast Asia.

Retrieved on January 4, 2021 from <https://asia.nikkei.com/Editor-s-Picks/Looking-ahead-2018/Authoritarianism-is-accelerating-in-Southeast-Asia>

³⁵⁰ BBC News (January 23, 2020). Myanmar Rohingya: What you need to know about the crisis.

Retrieved on January 20, 2021 from <https://www.bbc.com/news/world-asia-41566561>

³⁵¹ Pongsudhirak (January 1, 2018). Authoritarianism is accelerating in Southeast Asia. Retrieved on January 4, 2021 from <https://asia.nikkei.com/Editor-s-Picks/Looking-ahead-2018/Authoritarianism-is-accelerating-in-Southeast-Asia>

³⁵² Cuddy (February 25, 2021). Myanmar coup: What is happening and why?. Retrieved on February 26, 2021 from <https://www.bbc.com/news/world-asia-55902070>

³⁵³ Retrieved on February 26, 2021 from <https://www.aljazeera.com/gallery/2021/2/22/in-pictures-general-strike-and-protests-in-myanmar>

³⁵⁴ Retrieved on February 26, 2021 from <https://www.britannica.com/place/Philippines/The-early-republic>

abduction. Around 8,000 individuals, including senators, civil libertarians, journalists, students, and labor leaders, were arrested and detained without due process upon the declaration of martial law.³⁵⁵ The assassination of Ninoy Aquino on August 21, 1983 set in motion the beginning of the revolution towards democracy.³⁵⁶ Later, on February 25, 1986, Corazon C. Aquino and Salvador H. Laurel took their oaths in Club Filipino as President and Vice President respectively.³⁵⁷

For a time, democratic rule in the Philippines was on course for political openness consistent with liberal values.³⁵⁸ President Rodrigo Duterte, a controversial politician from Davao City, has made the country tremble and thrilled with his violent war on drugs since winning office in 2016. Duterte's power as the Philippine leader, backed by the military and police forces, has made some of his adversaries turned back because of fear for their lives and their family. While there are some oppositions unwilling to fight anymore, there are also those eager to risk their lives and freedom to fight for what they believe is right and just for the Filipinos.

The military has been overtly politicized and, conversely, politics and culture have become increasingly militarized.³⁵⁹ Human rights and freedoms have been thrown out of the window. Yet the civilian strongman with authoritarian instincts remains popular, with no military coup in sight and no visible risk of "people's power" demonstrations that could dislodge him. Unlike his predecessors, Duterte also has thrown in his lot with China, which is not a bad fit for his brand of authoritarianism.³⁶⁰

Recently, Lumad children from University of San Carlos- Talamban in Cebu City were "rescued" by the Philippine National Police because of alleged indoctrination of communism. Human rights advocates termed it as a "raid". However, reports have stated that they only went to USC to advance education. To recall, Save Our Schools Network Cebu stated that 176 Lumad Schools have been shut under the Duterte administration. Because of the shutdown, Lumad students and teachers fled to different cities such as Cebu and Metro Manila. It is in these urban areas where they continued their

³⁵⁵ Retrieved on February 26, 2021 from <https://www.officialgazette.gov.ph/featured/the-fall-of-the-dictatorship/>

³⁵⁶ Retrieved on February 27, 2021 from <https://www.officialgazette.gov.ph/edsa/the-ph-protest/>

³⁵⁷ Retrieved on February 27, 2021 from <https://www.officialgazette.gov.ph/featured/the-fall-of-the-dictatorship/>

³⁵⁸ Ibid

³⁵⁹ Smith (May 8, 2020). Philippines: Rodrigo Duterte's dictatorship sinks to new depths with closure of main broadcaster. Retrieved on January 22, 2021 from <https://theconversation.com/philippines-rodrido-dutertes-dictatorship-sinks-to-new-depths-with-closure-of-main-broadcaster-138025>

³⁶⁰ Pongsudhirak (January 1, 2018). Authoritarianism is accelerating in Southeast Asia. Retrieved on January 4, 2021 from <https://asia.nikkei.com/Editor-s-Picks/Looking-ahead-2018/Authoritarianism-is-accelerating-in-Southeast-Asia>

education in makeshift facilities called Lumad Bakwit Schools.³⁶¹ Lawmakers have denounced the raid and sought a House inquiry into the “Gestapolike” police operation. Several rights groups also demanded the immediate release of those arrested and to stop the harassment and red-tagging of indigenous peoples.³⁶²

Conclusion

Government oppression over its own citizens, curtailment of basic human rights and some involves ethnic violence are just few of the causes that fueled people to rise against the government. Authoritarianism, as what others might think is the best method of pacifying its citizens, might also be the ground to generate detest from them.

Most importantly, ethnic violence and people’s activism tend to involve inequality over privilege and material goods, for example, property rights, job opportunities and other perquisites. Authoritarian regime has this characteristic of offering immunity to individuals, clan, government officials and the like in exchange to them turning a blind eye to the human rights abuses and inequalities in the government and in the society. Moreover, such regime does not provide a mechanism for representing diverse groups or constraining the power of the sovereign.

The arguments on whether authoritarian regime is necessary to hold diverse society together are not universally embraced. Verily, most of the countries in Southeast Asia have the tendency to use iron fist to ethnic minorities or even to individuals that are part of the dominant society to instill fear and to gain obedience from its citizens.

Authoritarianism will only result to civil conflict, endless hatred towards the government and further dividing a culturally diverse country. Stressing the ethnic multiplicities in most of the Southeast Asian countries, a handful of writers have argued that diversity may actually be good for controlling conflict and promoting democracy.

³⁶¹ Eviota (February 27, 2021). Why the Lumad went to University of San Carlos-Talamban Campus for refuge. Retrieved on February 28, 2021 from <https://www.rappler.com/moveph/what-police-rescued-lumad-children-from-cebu>

³⁶² Retrieved on February 28, 2021 from <https://newsinfo.inquirer.net/1397518/chr-no-evidence-of-lumad-kids-indoctrination>

The Importance Of A Law That Provides Special Medical Assistance To Public School Teachers And Non-Teaching Personnel

Mark R. Mira

In this modern age where technological sophistication is at its height and has a profound and immense influence over the substance and manner which people think, a revolutionary and functional form of teaching where it deals not only the satisfaction in the quest of knowledge but also the quenching of the thirst for good values and proper way of living must be readily available at all times. Education has hitherto been considered as one of the country's mechanisms in the foundation of not only a strong and good governance but also a sustainable and lifelong relation among the people in terms of economic, cultural, social, and moral aspects.

Education is internationally recognized as a fundamental right. At the national level, a constitutional commitment to education matters both symbolically and practically. Constitution delineate a country's fundamental values and commitments as well as its economic and political organization. Education provides an indispensable remedy to eradicate ignorance that somehow has contributed to poverty. Hence, this is where teachers situate themselves and, for centuries, have taken a relentless course of action to invigorate their crusades to teach and guide people towards a clean rightful, and just living.

Teachers play vital roles in the nation as they become the vanguard of providing quality and functional basic education. It cannot be denied that so much is expected from the teachers by the states in as much as the people are deemed to grow and mature as good, productive and responsible citizens, and it can only be achieved and attained if quality education from competent and effective teachers are freely available for all regardless of the socio-political and religio-cultural status of an individual.

Teachers and their Vital Role

The roles of a teacher at present are getting more complicated . In the 21st century classroom, teachers are facilitators of student learning and creators of productive classroom environment, where students can develop the skills they might need at present or in future”.¹

In the traditional view of teaching , the teacher lectures the students on a particular subject, through lessons that build on students' prior knowledge and moves them toward a deeper understanding of the subject at hand². However, as time has been gradually and dramatically becoming advance, the trend of teaching style should meet the kind of standard the society demands. Thus, a teacher has evolved from basically being the

epitome of knowledge to someone who performs different difficult and delicate tasks the society deemed her to execute.

The teaching profession

Thus, the court made a clear and categorical statement in the case of *TECHNOLOGICAL INSTITUTE OF THE PHILIPPINES TEACHERS and EMPLOYEES ORGANIZATION (TIPTEO) and its member MAGDALENA T. SALON, V. THE HON. COURT OF APPEALS and TECHNOLOGICAL INSTITUTE OF THE PHILIPPINES*: “ We do not find these entreaties sufficiently compelling or convincing as Salon is no ordinary employee. She is a teacher from whom a lot is expected; she is expected to be an exemplar of uprightness, integrity and decency, not only in the school, but also in the larger community. She is a role model for her students; in fact, as she claims, she stands in *loco parenti* to them. She is looked up to and is accorded genuine respect by almost everyone as a person tasked with the heavy responsibility of molding and guiding the young into what they should be - productive and law-abiding citizens.”³

Teachers are indeed invaluable to our society. Their responsibility in molding the values and character of the young generation of the country cannot be overestimated. Aside from educating our children, teachers are likewise the most reliable and dedicated public servants. They are consistently called upon by officials of the local and national government to assist in various extra-curricular and civic activities that contribute to the welfare of the community and the country, most notable of which is when they guard the precincts and transmit the votes during an election period.⁴

In the case of *Government Service Insurance System v. Luz M. Baul*, the Supreme Court once again upheld the indispensable roles that the teachers perform in the society when it stated:

“[We] must not also neglect to mention the fact that public elementary school teachers are the lowest paid government workers, considering the nature and importance of the services they render. They are the most reliable and dedicated public servants being constantly called upon by officials of the local and national government to assist in various extra-curricular and civic activities which contribute to the welfare of the community and the country. Their responsibility in molding the values and character of the young generations of the country, cannot be overestimated”⁵

Moreover, the New Civil Code and the Family Code of the Philippines have explicitly defined and described the “ *Patria Potestas* “or Parental Authority given by the state to the teacher. The Family Code states that “The school, its administrators and teachers, or the individual, entity or institution engaged in child care shall have special parental authority and

responsibility over the minor child while under their supervision, instruction or custody . Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution.”⁶

Teachers and their Occupational Diseases

Teacher’s effectiveness and efficiency are always observed everyday not only in the teaching and learning process but also in curbing student’s inconsiderable behaviors and attitude. This is how teaching becomes complicated.

Philippine educational system provides a plenary and protracted roles that teaching and non-teaching personnel in the Department of Education ought to perform on the daily basis. Thus, good physical rigor is a must. Teachers should also be healthy to meet the standard as required by the teaching profession and the department as well. Unfortunately, the different risks the teachers face in their field have made them vulnerable to different diseases.

A research conducted in Germany on 2015 states that teachers’ nature of work results to psychoemotional stress ⁷. The stress factors cited by teachers themselves are time pressure, working hours, noise in school, excessively large class sizes, problems with school authorities, and lack of autonomy on the one hand; and inefficiency, students’ behavioral problems and lack of motivation, problem behavior on the part of parents, and low social status on the other.⁸ With these different factors that teachers confront everyday in their teaching profession, it may result to the existence of different health abnormalities.

In the Philippines, a research conducted on Lifestyle diseases Affecting the Performance of the Teaching and Non –Teaching Personnel clearly describes that” for teaching personnel, stress with 133 respondents and ranked 1 in the factors that contributed to the development of the lifestyle diseases. According to the teaching and non- teaching personnel, stress cannot be avoided in the performance of their roles and responsibilities to the learners. They mentioned that stress is the unseen factor in the development of lifestyle diseases”⁹.

Moreover it further says that” Diet and Nutrition with 93 respondents and ranked 2 in the factors that contributed to the development of the lifestyle diseases. According to the teaching personnel, diet and nutrition played an important role in the development of the lifestyle diseases. Diet and nutrition were seldom given attention by them due to multifarious paper works and activities in the school.”¹⁰ Further , the research also declares that “Failure to undergo annual physical check-up with 49 respondents and

ranked 3 in the factors that contributed to the development of the lifestyle diseases.

According to the teaching personnel due to failure to undergo annual physical check-up, some lifestyle diseases were not identified before it will be worsened. Furthermore, it is a must to undergo annual physical check-up to monitor the body conditions not only on lifestyle diseases but also on other deadly diseases.”¹¹ The study found out that the majority of lifestyle diseases that affect the work performance of teaching and non-teaching personnel were hypercholesterolemia, arthritis, hypertension, diabetes, obesity, chronic obstructive pulmonary diseases (COPD), heart diseases and stroke .

Furthermore, teachers spend their days with students, colleagues and parents, making them susceptible to bacterial and viral infections. In fact, a study led by investigators from the MGEN Foundation for Public Health revealed that teachers are more susceptible to certain types of infections than other workers. During the study, researchers surveyed 1,817 non-teachers and 3,679 teachers ranging in age from 20 to 60. After adjusting for variables, they found that male and female teachers had a higher lifetime prevalence of laryngitis and rhino pharyngitis, two infections of the upper respiratory tract.

They also found that female teachers had a higher lifetime prevalence of bronchitis. The results of this study appeared in the April 21, 2006, online edition of “BMC Public Health.”¹²

Teachers spend much of their time standing, and may have to bend, stretch and lift to use educational aids and equipment such as blackboards and projectors. This puts them at risk for varicose veins and for injuries, including sprains, strains, pulled muscles, and back injuries. For teachers had a lot of time using a computer, the risk of developing carpal tunnel syndrome is also a concern.¹³

More so, the court also recognizes the strenuousness of the teacher’s job when it stresses that “ other related school activities of a teacher, aggravated by sub-standard, if not adverse, working conditions, give rise to increased tension, if not emotional and psychological disturbance on the part of the teachers.”¹⁴

Within this level of understanding on the risk that teachers face everyday in the school to meet the desirable level of competency and effectiveness on their profession. It is on this respect that teacher must be given financial health assistance for their annual checkup and even hospitalization.

Education as a Constitutional Right

Much is expected from the teachers by the state inasmuch as the teachers' complicated tasks which do not only involve their roles in providing their learners with good education, but also extending extra miles by performing some functional roles within the community. Thus, the government through its enforceable laws, has to serve and protect teachers - their persons and their profession. Within this line of argument, the legislative should at least draft and enact laws to provide the teachers with extra protection for their health status. The Court stressed that "executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to the government agency officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret".¹⁵

The health of the people has always been the priority of the state. The Constitution provides that "**The State shall protect and promote the right to health of the people and instill health consciousness among them.**"¹⁶ The clear and precise language of the Constitution, being the fundamental law of the land, upholds good health to its citizen inasmuch as healthy citizens results to healthy governance for a healthy nation. That health and security of each citizen are essential factors to achieve the goals and mission of a shining and vibrant republic. Without any argumentation, such health privilege must be afforded to all sectors of this country.

It is the deliberate application of the doctrine of *Parens Patriae* with which in the case of *Government of the Philippines V El Monte de Piedad Y Caja de Ahorras de Manila* the court describes as "the right of the legislature or government of the state to enforce charity of public nature, by virtue of general superintending authority over the public interest, where no other person is entrusted with it."¹⁷

Likewise, "**The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers**"¹⁸.

This particular Constitutional provision is the actualization and realization of social justice and human rights that equitably cater the different sectors of the society. "Social justice is neither communism, nor despotism, nor atomism, nor anarchy, but the humanization of the laws and

the equalization of the social and economic forces of the state so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion of the welfare of all people, adoption by Government of measures calculated to insure economic stability of all the component elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of *Salus Populi est Suprema Lex.*¹⁹ Thus within the principle embodied in the Social justice, teachers who are vulnerable to any peril within their field of profession have to be protected in such a way that their welfare should at all times be secured.

Moreover, the state has never been quite neglectful in providing the basic needs of the entire educational institution of this country. The Constitutional expressly declares that the **“State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment”**²⁰

From this Constitutional guarantee, it is within the legal parameter to conclude that the teachers, being part of the educational institution, should be given extra priority in terms of their well-being by providing them much privileges to improve their physical health. This can only be done by enacting laws that will provide them extra financial assistance which they will use for their annual checkup and hospitalization. In this regard, whatever illness which has not yet been diagnosed will be detected, eventually be given extra attention.

Teachers and their Medical Assistance

The Magna Carta for Teachers clearly describes the rights of the teachers to whatever access to health protection. Section 22 of the statute clearly states that “compulsory medical examination shall be provided free of charge for all teachers before they take up teaching, and shall be repeated not less than once a year during the teacher's professional life. Where medical examination show that medical treatment and/or hospitalization is necessary, same shall be provided free by the government entity paying the salary of the teachers. In regions where there is scarcity of medical facilities, teachers may obtain elsewhere the necessary medical care with the right to be reimbursed for their traveling expenses by the government entity concerned in the first paragraph of this Section.”²¹

Further, In Section 23, it pronounces that:

*“ teachers shall be protected against the consequences of employment injuries in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as a compensable occupational disease in accordance with existing laws. ”*²²

In addition , The Universal Health Care Act ²³ which has just recently been enacted has explicitly expressed its provision to provide good access to health care protection to all Filipino sectors.

The following policies which the statute have been founded are :

- (1) The state shall adopt an integrated and comprehensive approach to ensure that all Filipinos are health literate, provided with healthy living conditions, and protected from hazards and risks that could affect their health ;
- (2) A health care model that provides all Filipinos access to a comprehensive set of quality and cost-effective, promotive, preventive, curative, rehabilitative and palliative health services without causing financial hardship,, and prioritizes the needs of the population who cannot afford such services;
- (3) A framework that fosters a whole-of-system, whole-of-government, and whole-of-society approach in the development, implementation, monitoring, and evaluation of health policies, programs and plans; and
- (4) A people-oriented approach for the delivery of health services that is centered on people's needs and well-being, and cognizant of the differences in culture, values, and beliefs.

Although there are existing laws that cater the needs of the different sectors of the society in terms of ensuring quality access to medical assistance such us Philippine Health Insurance Corporation (PhilHealth)²⁴ and at one point or the other it has been beneficial to the teachers in terms of immediate need for hospitalization it is however imperative to provide the teachers , and even the non –teaching personnel in the Department of Education ,an extra financial assistance for their annual medical checkup and purchase of some necessary medical maintenance.

The Supreme Court , has upheld the provision of teachers compensation as a matter of extra protection for themselves in the performance of their duties and responsibilities.

In the case of *Gonzaga V Employee's Compensation Commission and Government Service Insurance System* wherein the teacher was forced to

retire from her work at the age of 49, as direct consequence of her hypertension and ametropia the court declared that “to deny permanent total disability benefits to herein petitioner, a teacher who for 24 years of dedicated service, was forced to retire due to illness contracted in the course of her employment, would render inutile and meaningless the social justice precept guaranteed by the Constitution.”²⁵

Likewise in the case of *Abadiano V GSIS, et.al* wherein the respondents denied to provide Catalina Buenvenida , an elementary teacher ,who died because of liver cancer ,with due compensation the Supreme Court pronounced

“While there is that possibility that factors other than the employment of the claimant may also have contributed to the aggravation of his illness, this is not a drawback to its compensability. For, under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant’s illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease.”

The duties of the public school teacher are not confined to the classroom. During the 24 years that Catalina B. Buenvenida worked as a teacher, she must have been exposed to the elements while attending to the outdoor projects which were part of the curriculum and extra curricular activities connected with her school work. The deceased, Catalina B. Buenvenida, was exposed to the elements, like inclement weather, heavy rains, typhoon as well as dust.

These natural elements and unwholesome conditions are occupational hazards of a public school teacher. During the 24 years that the deceased served as public school teacher she must have gone hungry many times resulting in the weakened condition of her body.”²⁶

Moreover , the Court also stressed that “to deny petitioner, who had actually served the government for at least 25 years what is rightfully due him under the facts obtaining, is to emasculate the very objective of the Workmen’s Compensation Act, as amended — a social legislation designed to effectuate and implement the social justice guarantee of the Constitution.”²⁷

In the case of *Abaya V Employee’s Compensation Commission* the Court has reiterated its stand on the due teacher’s compensation stating that “Petitioner could not in all honesty be deemed entitled to merely partial disability benefit; because she has, been forced out of work and has been rendered incapable of further pursuing her usual job which is teaching. It was not only her "ability to perform her usual task" which was impaired, and her "efficiency and competence for work as well as earning capacity" which was reduced; but ultimately, herein petitioner had to let go of her job as a teacher.

She was forced to retire because her illness rendered her incapable of teaching.”²⁸

Going further, in the case of *GSIS V Cuanang* , the Court upheld the risks experienced by the teachers in their daily profession , thus they deserve to be properly compensated when it declared that “It is of common knowledge that the job of a teacher can be very stressful. Carmen Cuanang’s responsibilities were never limited to the four corners of the classroom.

Aside from teaching students, she also prepared lesson plans, attend seminars, conferences and other school activities, within and outside the school premises, such as tree planting for the beautification of the school premises and the community, sports fest programs and parades, year after year throughout her almost 26 years in government service. During election periods, she was also deputized by the Commission on Elections to act as an election registrar. In addition, in going to and from the school, she was constantly exposed to the ravages of the natural elements such as heat, rain and dust. Needless to say, the collective effect of all these factors can indeed be very stressful especially for someone afflicted with Rheumatic Heart Disease as Carmen Cuanang. It goes without saying that all these conditions contributed much to the deterioration of her already precarious health.”²⁹

In the case of *ECC and GSIS V CA and Arreola* , the Court in its resonating pronouncement stated clearly that:

“The court takes this occasion to stress once more its abiding concern for the welfare of government workers, especially the humble rank and file, whose patience, industry, and dedication to duty have often gone unheralded, but who, in spite of very little recognition, plod on dutifully to perform their appointed tasks. It is for this reason that the sympathy of the law on social security is toward its beneficiaries, and the law, by its own terms, requires a construction of utmost liberality in their favor. It is likewise for this reason that the Court disposes of this case and ends a workingman’s struggle for his just dues.”³⁰

Teachers’ Duties and Responsibilities

Teachers are expected to be always effective and efficient in performing their duties and responsibilities in ensuring that students should grow holistically through knowledge and moral values. Akin to this reality, fulfilling such delicate tasks confront them to different health risks . Thus, providing them extra financial assistance which they can use in their basic medical checkups and hospitalization should be ensured by the states . In this way, diseases and illnesses that teachers might acquire could be prevented as early as possible. Although teachers may be considered to be middle class sector, therefore their capacity to avail medical assistance is not

possible. However, facts remain that many of the teachers in this country have been experiencing financial constraint. There are teachers who struggle to sustain even their basic needs, thus to avail basic medical procedures such as annual checkup or purchase of medical maintenance is something which they cannot afford.

In any event, the Constitution has never been so deaf and mute to pronounce the vitality of the teachers as a working force whose importance is upheld with much ardor inasmuch as quality education is essential for a healthy and dynamic nation where prosperity and justice prevails. Hence, it will never be so hard for the legislature to give such favorable chances to the teachers to promote their health and wellness by enacting laws that will provide them extra financial health assistance to be received by them annually. In this manner, good health is ensured. Thus, the noble tasks of a teacher are very much compensated.

END NOTES

1. *The 7 Roles Of A Teacher In The 21st Century* (April 4, 2020), retrieved from <https://etoninstitute.com/blog/the-7-roles-of-a-teacher-in-the-21st-century>
2. Many Roles of Teachers (April 4, 2020) retrieved from <http://www.teachercertification.org/a/the-many-roles-of-the-teacher.html>
3. G.R. NO. 158703 : June 26, 2009.
4. *Teachers' Compensation and Support Act of 2018* (April 4, 2020), Retrieved from <https://www.teacherph.com/teachers-compensation/>
5. G.R. NO. 166556, July 31, 2006
6. Article 218, paragraph 1 and 2 of The Family Code of the Philippines (Executive Order No.209,S.1987)
7. Klaus Scheuch, et. al *Teachers' Health* retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4558646/> retrieved on April 4, 2020
8. *Id.*
9. Luzviminda G. Rivera *Lifestyle Diseases Affecting The Work Performance Of Teaching and Non - Teaching Personnel Of Paniqui South District Of Schools Division Of Tarlac Province: An Assessment*, Retrieved from <https://www.dlsu.edu.ph/wpcontent/uploads/pdf/conferences/research-congress-proceedings/2018/fnh-03.pdf> retrieved on April 4, 2020.
10. *Id.*
11. *Id.*
12. Leigh Ann Morgan, *The Hazards of Being a Teacher*, Retrieved from <https://work.chron.com/hazards-being-teacher-9309.html> retrieved on April 5, 2020.
13. *Id.*
14. PHILIPPINE HEALTH CARE PROVIDERS, INC V COMMISSIONER OF INTERNAL REVENUE, G.R. No. 167330 , September 18, 2009 citing Asturias Sugar Central, Inc. vs. Commissioner of Customs G.R. No. L-19337 , September 30, 1969.
15. GSIS V Baul, G.R. NO. 166556, July 31, 2006.

16. PHIL.CONSTI. Art. 2. Sec.15.
17. G.R. NO. L-9959, December 13,1916.
18. PHIL.CONSTI. Art. 13. Sec.11.
19. Calalang V Williams , 70 Phil 726
20. PHIL.CONSTI , Article 14, Section 5,par.5.
21. 21THE MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS , REPUBLIC ACT No. 4670 June 18, 1966.
22. *Id.*
23. An Act Instituting Universal Health Care for All Filipinos, Prescribing Reforms in the Health Care System, and Appropriating Funds Therefor (Universal Health Care Act), Republic Act. No. 11223.
24. An Act Instituting a national health insurance program for all Filipinos and establishing the Philippine Health Insurance Corporation for that purpose (National Health insurance Act of 1995) ,Republic act 7875 as amended by Republic Act 10606.
25. G.R. No. L-62287. January 31, 1984.
26. G.R. No. 52254. January 30, 1982.
27. Cenabre V Employee's Compensation Commission , G.R. No. L-46802. April 28, 1980.
28. G.R. No. 64255. August 16, 1989.
29. G.R. No. 158846, June 03, 2004.
30. G.R. No. 121545, November 14, 1996 citing Vicente V Employees Compensation Commission
31. 193 SCRA 190,197 (1991)

Teachers' ATM Cards as Loan Collateral: An In-Depth Look into ATM "Sangla" Scheme

Cherryl P. Fuentes

Philippines is living in a culture where status is defined by the logo of the material things used by the person and being able to buy what is the latest in the market. Even during celebrations, Filipinos will do everything just to put abundance of food on the table for the visitors. This culture keeps middle class and low income earners living payday to payday. It has become normal to hear among our colleagues, friends, family and relatives "*Naa kay kwarta? Pahulama sa ko be, bayaran ra dayun.*" Hearing this sentence always leaves a bad impression, as if someone is about to commit a serious crime. The negative impression of borrowing money is deeply rooted in account to people running away from the responsibility of paying the borrowed money with their own excuses. Most of the borrowers will always have this negative notion of believing that "*Walay napriso sa utang*", that borrowing of money is not bad at all since it is a way of asking for help from someone.

The person who needs money may go to banks, credit unions, online lenders, pawnshops, payday loan lenders, friends and family members, credit card advances and home equity credit. Each have their own requirements and collaterals needed upon borrowing money. With regards to the term of loan, there is short term and long term. For short term loan, there is commonly known as the payday advances, and it has been a trend here in Philippines. Payday loan advances is a form of credit that is predatory in nature since it charges many low-income households a triple-digit annual percentage rates (APRs) to borrow small sums of money for a short period of time (Elliehausen&Lawrence, 2006). Payday loan advances entails responsibility and requires collateral that is pledged by a borrower to a lender for the assurance of repayment. The most famous collateral as of today is the Automated Teller Machine (ATM) card and this is common among public school teachers. This practice is not limited only to teachers but includes all the private and public employees, the OFW with their remittances and the 4Ps beneficiaries for the conditional cash transfers. The borrower surrenders the ATM card together with the Personal Identification Number (PIN) to the lenders. Many individuals resort to this sort of credit in instances of desperate monetary conditions.

ATM Salary Loan in the Philippines is seen as an achievable and viable decision for individuals who would prefer not to handle necessities, just as for individuals with less ideal credit. The magnitude of debit card pawning have triggered bold moves of government agencies to propose integrating ID cards and payroll ATM Cards into one, so that it will be more difficult for employees to pawn their debit cards to money lenders (Felipe, 2014). The ATM loan may be quick and easy way to access but it is prone to certain abuses and risks.

Survey of Related Literature

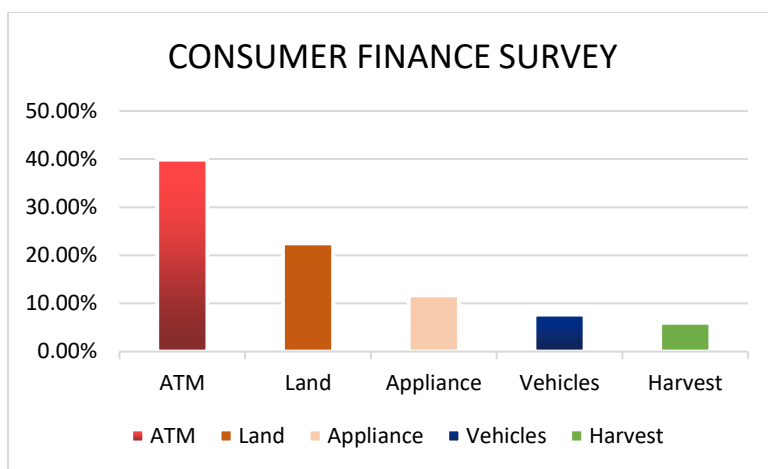
The popularity of the debit card pawning in the Philippines has reached a broad range of borrowers – from conditional cash transfer recipients, private company employees, to even government and police personnel (PTV News, 2015; Sunstar Bacolod, 2014; Felipe, 2014). The OFW, the 4Ps beneficiaries, government and public employees has one thing in common, they all have ATM cards. In exchange of immediate cash, the card holder will use it as collateral. It is one of the best option for someone who needs cash urgently. The ATM is the only means where the company pays for the compensations of the services rendered every month, event bonuses and other benefits is directed to the ATM. Borrowing, however expensive is one of the most prevalent coping mechanisms of the poor (Germidis, et al, 1991). The Bangko Sentral ng Pilipinas stated that “There is no law prohibiting the use of an Automated Teller Machine (ATM) card as a collateral”. Anybody can pawn their ATM to anyone for there is no law restricting it.

Formal and informal finance coexist in markets with weak legal institutions and low levels of income (Germidis et al., 1991, Nissanke and Aryeetey, 1998). Both formal and informal finances are present in the market especially when poverty is widespread. Financial markets in developing countries are often described as fragmented in the sense that different groups of borrowers are served by different lending intermediaries (Conning and Udry, 2005). Money lending in Philippines has become prominent as it is mainly the source of capital for most entrepreneurs, the solutions of the financial problems and the means of realizing the luxury. But obtaining loan from the formal financial institution such as bank is limited, while from the informal lenders are everywhere and easy to access.

ATM “sangla” is an informal loan arrangement where the borrower’s ATM (debit) card is used as collateral, where the lender uses the card to withdraw the repayment (principal and interest) from salary deposits on every payday until the entire amount is repaid. The unique survey data of factory workers in an industrial estate near the Metro Manila area was conducted and it shows that slightly less than half (42%) of the respondents actually utilized ATM “sangla” at least once, with the average loan amounting to the average monthly salary. The survey also reveals that roughly one-third of our respondents are present-biased discounters (myopic individuals), where they tend to hold higher loan balances with ATM “sangla” transactions than those whose preferences are time-consistent. The results show that the present-biased discounters are naive, rather than sophisticated, suggesting that the emergence of ATM *sangla* may have encouraged them to over borrow to finance luxury expenses. This presentation was based on a paper co-authored with Nobuhiko Fuwa (University of Tokyo), Eduardo Lucio (University of Queensland), Sharon Faye Piza (World Bank), and Yasuyuki Sawada (Asian Development Bank).³⁶³

³⁶³ (Fuwa & Piza, Preliminary Draft 1 Hyperbolic Discounting and an Induced Informal Credit Institution by a New Technology : A Case of Debit Card Pawning in the Philippines 1970)

The Consumers Finance Survey of Bangko Sentral ng Pilipinas (BSP) from July 2014 to January 2015, with 18,000 respondent household revealed that ATM was the most used collateral loans of 39.9 percent of the Filipinos. “We have found out that it’s actually the :Sangla” ATM that is the most popular collateral among Filipinos,” said BSP Economic Statistics Director Rosabel Guerrero. All over the Philippines, land is the second most used collateral with 22.5 percent, the appliances at 11.7 percent, the vehicles with 7.7% , and harvest at 6.0 percent.³⁶⁴



Recently, the researcher conducted an interview in the workplace with 20 participants. Notably, all of them have no hold of their ATM cards. They admitted that they availed loans from different lending institutions and the ATM card is used as the collateral. Co-makers or the co-borrowers are also a requirement and the co-maker must also be an active borrower. The informal institutions also have their own way of having many borrowers. This is through endorsement and recruiting, the one who endorses will be given incentives of cash upon the release of the loan of the one being endorsed. Formal lending institutions such as commercial banks fail to cater the credit needs of the small scale entrepreneurs because of its lending terms and conditions. However, the rules and regulations set by these formal institutions have created the myth that the poor are not bankable, and since they cannot afford the required collateral, they are considered “not-credit-worthy” (Atieno,20011). According to the Hong Kong Institute of Bankers, “lending money to individuals and corporations is the business of banks that comes with interest and other fees”. Considerations should be made before the bank will approve certain loan such as the Character, Ability, Margin, Purpose, Amount, Repayment, and Insurance or the CAMPARI. Other banks follows the 5c which stands for Character, Capital, Capacity, Collateral, and Condition.³⁶⁵

³⁶⁴ (Galolo, ATM card is most popular collateral for Filipinos 2017)

³⁶⁵ (Lomarda, Pautang Naman: A Comparative Study on Authorized and Unauthorized Money Lending in the Philippines)

Disquisition (Pros and Cons- with Pertinent Laws, Rules, Policies and Jurisprudence)

The ATM card alongside the PIN is considered to be one's private property. But it will tempt those who have nothing of value to present the same in securing any loan. ATM loan is one of the best quick loan options. It does not need numerous requirements, effort and time. By using only the ATM card, this will serve as collateral to make sure that the borrower can pay it in the agreed time. This loan can be availed of by non-bank lenders both formal and informal. Banks and lending companies that are registered under the Security and Exchange Commission (SEC) are classified as the formal lenders while the informal lenders are those that are not registered and operate illegitimately. The sad reality of this ATM "sangla" scheme is that, it has become normal and is practiced mostly by informal lenders. The formal financial institution in the Philippines is supervised by the three different agencies. First, Bangko Sentral ng Pilipinas, aside from having the monetary authority, it also supervises banks and their allied financial subsidiaries and affiliates (except insurance companies), non-stock savings and loan associations, and pawnshops as provided for in its Charter (R.A. 7653), the general banking law (R.A. 8791) and other laws. Second, the Security and Exchange Commission that oversight the on the domestic capital market and supervises self-regulatory organizations (SROs), investment houses, and securities dealers/brokers. In addition, it also supervises investments companies, finance companies and pre-need firms. Third, the Insurance Commission (IC) supervises insurance and reinsurance companies, insurance brokers, and mutual benefit associations. The IC shares also supervisory powers with BSP over banks consistent with its role as depositor. With these three supervising agency, the borrowers is protected and the lenders will be transparent in every transaction details. The interest rate is surely set according to law.

But still, the teachers opted to surrender their ATM card to avail loan from informal lenders which are commonly called as loan sharks. Not a few moneylenders charge very high interest rates. Because of this, they are often called loan sharks (Fajardo, 1981). These loan sharks will not require further documents, it is also accessible and there is guaranteed fast transaction as long as the borrowers have ATM cards and proof that they can pay the applied loan amount. ATM loan is a 1 - day process, quick and convenient which the teachers like the most because there is no need for the processing of documents and also there is no other option. Teachers seek the convenience in applying loan and fast transaction even if it comes from informal lenders. In a payday advances lending process, when the fee for a short-term payday loan is translated into an annual percentage rate (APR), this will result to an implied high annual interest rates (Snarr, 2002). These high implicit interest rates have led to complaints that payday lending is per se a predatory lending practice. While predatory lending has no "official" definition, it generally refers to lending practices "that are considered to be as detrimental to borrowers as to be considered abusive" (Quercia, Stegman, & Davis, 2004). The moment that the teacher or any borrowers surrenders its

ATM cards, it would be very difficult to get out. These informal lenders have their own way of keeping the borrower in a debt cycle. The fact that they are illegally operating, there is also a limit in terms of law protection. There is no clear interest rates and fees, all will depend upon the lender's rate which are usually at high rate per month favorable to the lender. The term of contract of the borrower will depend on the lender. This is a clear violation of R.A. No. 3765 known as the "Truth Lending Act". It is the policy of the State to protect its citizens from a lack of awareness of the true cost of credit to the user by assuring a full disclosure of such cost with a view of preventing the uninformed use of credit to the detriment of the national economy. Sometimes there is no loan agreement and there is no proof of payment. The security of customer information is not safe. During payday, the teachers will go to the financial institution which holds their ATM cards to get the remaining balance after the deductions of their loan. The lenders will withdraw it from the bank, but sometimes bank will be offline so they will go to another bank and there will be charges upon withdrawal. The charges will then be shouldered by the borrower. The teacher can do nothing about it because before they agreed, it has already been deducted.

Consequently, the pawning of ATM card violates the Bank Terms and Conditions. The Card shall only be used by the Customer and is not transferable or allowed for lending or pledging to any third party. The Customer is responsible for the proper use of the Card and the related PIN and shall take reasonable steps to keep the Card and PIN secure and confidential and shall not allow any unauthorized person to have access to the Card or PIN. While the bank is committed in protecting the privacy and ensuring that all personal data are processed in accordance to the principle of transparency, legitimate purpose and proportionality pursuant to R.A. 1073 (Data Privacy Act of 2012), the act of surrendering the ATM cards, disclosing personal information is the exact opposite of the data privacy act. There is no assurance that the personal information will be kept safe.

Concerned with the potential abuses and dangers on the side of the borrowers involved in this informal lending practice, financial regulators and related agencies have been discouraging depositors from pawning their debit card (PDIC, 2013; Agcaoli, 2011). The BSP issued a public advisory to "Stop Sangla ATM Schemes". It encourages citizens to borrow from responsible financial institutions that protect the welfare of their clients. It gives warning to the public of the possible abusive practices of informal lenders as well as the risks. Informal lenders usually charge excessive rates, can withdraw the amount higher than agreed loan amortization, can commit other abuses because there is no formal contract, loan terms and conditions, and are not authorized by any government agency so there is a limited mechanism in filing complains or request for restitution of losses. Due to the ATM card being surrendered with all the personal data attached to it, there is a higher risk of identity theft. Identity theft is referred to as a fraud committed using the sensitive personal information of another individual with the intent to commit, or to aid or abet any unlawful activity that constitutes a violation of any existing laws and results in economic loss to that individual. The risks of

unauthorized withdrawals from ATM account is possible as well as the use of personal data and ATM account to commit fraudulent or criminal activities.

The Securities and Exchange Commission (SEC) took step against these informal lenders. There are over 200 informal lenders who have applied for registration after the investigation that was conducted in response to President Rodrigo R. Duterte's directive for the government to be tough against "five-six" and other usurious practices. SEC Chairperson Teresita Herbosa, in her report to Finance Secretary Carlos Dominguez III said that "Apart from charging them with violation of Republic Act 9474 (Lending Company Regulation Act), the informal lenders could also be charge of violation of the Truth in Lending Act" which likewise imposes fine and/or imprisonment. For foreign informal lenders, they will be referred to the Bureau of Immigration. With the said directives, the SEC issued two advisories. The first advisory cited provisions of RA No. 9474, or the Lending Company Regulation Act, which makes it illegal to act as lending company or investor unless registered with the Commission as lending company. The second advisory warned informal lenders facing complaints for violations of RA No. 9474 and/or those engaging in "fraudulent, oppressive and illegal practices in lending to borrowers including those violating the Truth in Lending Act," they will be investigated for possible prosecution. Among the illegal practices cited by the SEC are "charging unreasonable interest rates or fees, employing harassment tactics in collecting from borrowers, coercing borrowers to buy on credit or otherwise appliances or other items, filing criminal complaints against borrowers as a circumvention of the prohibition against imprisonment for non-payment of debt and similar other activities. According to Finance Secretary Carlos Dominguez III "Our banks have been slow in adopting the needs of small entrepreneurs, especially those without enough assets to turn in as collateral. The banks need to do some hard thinking about expanding access for small entrepreneurs, most of whom fall victim to loan sharks".³⁶⁶

The Department of Education employees particularly the teachers, have the highest percentage of ATM loan. This could lead to years of indebtedness. "It is not illegal *per se* but what is being tried, is to prevent over-indebtedness. The impact of indebtedness is something that cannot be quantified," (Restituto Cruz). The Department issued Department Order 05, Series of 2018 which is the implementation of 5,000 pesos net take home pay for Department of Education personnel. The Net Take Home Pay (NTHP) threshold is mandatory. Any financial obligation incurred by any personnel of the Department of Education (DepEd) shall not be deducted from his/her monthly salary if such deduction will lower his/her NTHP beyond the P5,000.00 threshold. This is to ensure that the teachers will be able to sustain their daily needs. The formal lending institution will then deny any loan application and this will result for teachers going to informal lenders to secure loan.

³⁶⁶ (SEC takes steps vs informal lenders 2017)

Department of Education (DepEd) Undersecretary for Finance Annalyn Sevilla reminds the teachers of the memorandum issued by the DepEd Secretary Leonor Briones not to use ATM as loan collateral³⁶⁷. In the said office memorandum OM-OSEC-2020-006 of DepEd Secretary Leonor M. Briones dated April 18, 2020, it reminded the teachers to refrain from using ATM payroll cards as collateral for loans.³⁶⁸ This reminders came after a teacher from Gapan, Nueva Icija who had pawned her ATM to the lending institution complained that despite the 60-days grace period of no deductions for a loan under the Bayanihan Act 2, the deductions of her loan still continued. Sevilla added that teacher Karen has the right to report to BSP or the SEC with regards to the refusal of the lending institution to adhere the loan moratorium order.

In pursuant to Section 4 (aa) of the Republic Act No. 11469, otherwise known as the *Bayanihan to Heal as One Act*, and the Implementing Rules and Regulations issued by the Department of Finance affective April 2, 2020, several entities and institutions, both public and private, including the Government Service Security System (GSIS) and Pag-Ibig Fund, have issued their respective guidelines for the implementation of the mandatory grace period or the suspension of payment of loans. With the additional cash credited to ATM, DepEd reiterates its advice against the use of ATM payroll card as collateral and this practice is prohibited by the DepEd Terms and Conditions for Accreditation under the Automatic Payroll Deduction System. As stated by the BSP, the practice of pawning the ATM is a dangerous scheme, for it exposes borrower's identity and there might be an unauthorized use of personal data possibly for unlawful activities. This practice also unduly promotes over-indebtedness. With the Bayanihan to Heal as One Act, mandatory grace period must be observed to help the families amidst this COVID-19 pandemic. But for those who have pawned their ATM card might not enjoy the grace period given.

Even the Philippine National Police (PNP) is not exempted from the pawning of ATM as loan collateral. With this alarming act, Chief Superintendent Debold Sinas of Central Visayas directed their cops to present their ATM every Monday with no excuses and failure to do so will face appropriate sanctions. This act will give assurance that the cards are not with the informal lenders or loan sharks. He said that cops need to properly manage their finances, particularly those in debts and were found inefficient in their jobs. Others would resort to illegal activities to pay off their debts and sustain lifestyle.

The Pantawid Pamilyang Pilipino Program (4Ps) is a human development measure of the national government that provides conditional cash grants to the poorest of the poor, to improve the health, nutrition, and

³⁶⁷ (News, DepEd warns teachers: Pawning ATM payroll account 'illegal' 2020)

³⁶⁸ (DEPED, OFFICE MEMORANDUM OM-OSEC-2020-006 REMINDER TO REFRAIN FROM USING ATM PAYROLL CARDS AS COLLATERAL FOR LOANS OR ENGAGING IN THE ATM SANGLA SCHEME 2020)

the education of children aged 0-18.³⁶⁹ Each family was being issued with an ATM card for the cash grants so that it can be withdrawn easily from the banks. But some beneficiaries could not withdraw it anymore because they have already pawned their ATM. They will just have to wait if there is still a change after the deductions, if not, the tendency would be to loan again for another term. There is no assurance that they will not be charged of more than what is intended. The practice of the 4ps beneficiaries of pawning their ATM cards is a violation of the Grievances Redress System (GRS) on misbehavior of beneficiaries' guidelines, cash cards are not allowed to be used as collateral. In 2018, DSWD-XI found at least 186 beneficiaries who had violated the guidelines. Odysa Eshter, Pantawid Regional Grievances Redress System Focal Person in Region XI said, "any beneficiary found committing the offense will be subjected to counseling and must promise not to do it again". For habitual offenders, they will be subjected to cash grants suspension or referred for delisting, depending on the assessment of the Municipal Link officer and the social worker in-charge.³⁷⁰ The GRS guideline is also supported by the approved policy of the Pantawid National Advisory Committee (NAC), which states that "inappropriate utilization of the grants such as pawning, or making it as collateral and selling of Cash Cards and/or Pantawid Pamilya IDs, using and/or spending grants for purposes other than those intended for education and health needs of the family are all subject to appropriate sanctions."

Worried with the rampant illegalities of the ATM "Sangla" Scheme on February 14, 2018, Senator Grace Poe initiated an inquiry in aid of legislation and introduced the Resolution No. 632 "RESOLUTION DIRECTING THE SENATE COMMITTEE ON BANKS AND FINANCIAL INSTITUTIONS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE "SANGLA ATM" SCHEME, AND ITS ALLEGED MISUSE BY UNSCRUPULOUS INDIVIDUALS AND FINANCIAL INSTITUTIONS, SO AS TO PREVENT THE OCCURRENCE OF MORE FRAUDULENT ACTIVITIES IN THE FUTURE". The resolution stated that pawning individual's ATM is prone to abuse and there are reports that unscrupulous lending institutions have withheld debt payments for the ATM accounts usurious rates, or have delayed or refused to return ATM cards even after debt has been paid. The resolution number 632 reiterated the following statutes which deem violable in the pawning of ATM cards:³⁷¹

- (1) Article II, Section 9 of the 1987 Philippine Constitution declares that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.³⁷²

³⁶⁹ (Pantawid Pamilyang Pilipino Program: GOVPH)

³⁷⁰ (Mellejor, DSWD warns 4Ps beneficiaries vs. pawning cash card 2019)

³⁷¹ <http://legacy.senate.gov.ph/lisdata/2734823580!.pdf>

³⁷² (THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES – ARTICLE II: GOVPH)

- (2) Republic Act 9774, known as the Lending Company Regulations of 2007, also declares a State policy “o regulate the establishment of lending companies and to place their operation on a sound, efficient and stable condition to derive the optimum advantages from them as an additional source of credit; to prevent and mitigate, as far as practicable, practices prejudicial to public interest; and to lay down the minimum requirements and standards under which they may be established and do business.³⁷³
- (3) Presidential Decree No. 114, known as the Pawnshop Regulation Act, also declares the same exact State policy for pawnshops;³⁷⁴

During the Committee hearing, Senator Chiz Escudero, as the Committee Chair of the Senate committee on banks, financial institutions, and currencies asked the BSP officials who were present if using ATM card to secure a loan was illegal. BSP Deputy Director Plabasan then explained that under bank terms and conditions, ATM cards issued to its respective clients are considered as bank properties and only its clients should know the PIN of the cards, therefore it cannot be shared. He added that there is no law prohibiting the use of an Automated Teller Machine (ATM) card as collateral in securing a loan. Plabasan also agreed that ATM card is not considered as “good collateral” as the owner can declare anytime that it was lost and a replacement could be sent directly to the owner. BSP Assistant Governor Restituto Cruz said that it is not illegal but warns the public of its implication. It would be difficult to ban the said practice because it gives individuals access to easy credit. The act of surrendering the ATM with the PIN is not with force but instead on their own will. ³⁷⁵

In the Article of Lilian Mellejor, Republic of the Philippines News Agency, she stated that the pawning of the ATM in exchange of a quick cash loan could lead into a financial trouble. There would be a possibility that the creditors will withdraw more than the agreed amount for the payment. And it would be hard for the ATM owner to track down all the charges and deductions made. And it would be hard for them to file a complaint because the lenders is vague in its legality. There is a situation wherein the capital money borrowed were not the priority of the creditors for the re-payment, instead it is on the interest only. So if the salary is enough for the payment, interest should be paid first, the principal will remain. After months of paying, it is just like nothing happen because the outstanding balance is almost the same from the beginning. The borrowers’ will then be offered to renew with another charges and computations. Thus ATM card loans become also an easy target for a loan cycle.

³⁷³ (Republic Act No. 9474: GOVPH 2007)

³⁷⁴ (Presidential Decree No. 114, s. 1973: GOVPH 1973)

³⁷⁵ (Ager, Use of ATM card as loan collateral legal – BSP 2018)

Manila Teachers partylist Rep. Virgilio Lacson has filed a bill penalizing the pawning of ATM cards. The public school teachers and beneficiaries of Pantawid Pamilyang Pilipino Program who fell prey to unauthorized ATM card pawning scheme are expected to benefit from this bill. Under House Bill No. 7966 or the proposed "Anti-ATM Pawning Scheme Act of 2020," Lacson, the chairperson of the House Committee on Micro, Small, and Medium Enterprise Development, wants to penalize the unauthorized claiming of another person's benefit, wages, salaries, and remuneration. "This scheme has become so rampant that the public has grown used to it, and sees it as a regular occurrence, without realizing that many lenders take advantage of the borrower's vulnerability," Lacson said in the bill's explanatory note. House Bill 7966 "Anti-ATM Pawning Act of 2020" wants to penalize the unauthorized claiming of another person's benefit, wages, salary and remuneration. The bill sees to promote the protection and welfare of beneficiaries, employees and workers.

In the case of *Angelito P. Miranda vs. Ma. Theresa M. Fernandez*, the complainant acts as an agent of money lenders Manuel P. Miranda and Josephine Miranda Cabusao (creditors) files a complaint for grave misconduct, dishonesty, estafa and other deceits against the respondent. On January 4, 2010, the respondent obtained a loan of ₱124,800.00 from the creditors, through the complainant. The transaction was evidenced by an Agreement between the respondent and her creditors. The Agreement provided that the amount of loan shall be paid in equal installments of ₱2,600.00 every 15th and 30th day of the month until fully paid; the first payment was to start on January 12, 2010. As security for the loan, the respondent surrendered her ATM Card No. 1727165289 to her creditors to allow them to withdraw the amount of ₱2,600.00 every payday from her salaries deposited with the Land Bank of the Philippines (LBP). She undertook that "filing false Affidavits of Loss or causing any deliberate blocking of my ATM card in any form by myself, the Borrower, during this Agreement shall be a case for Perjury or Estafa." She also executed a waiver of rights under the "Bank Secrecy Law of the Philippines addressed to the Manager of the LBP, Quezon City Hall, Quezon City. However, as the creditors went to the bank to collect the amount due from the respondents account, the ATM card was retained by the ATM machine with advisory receipt stating "Invalid Card". This happens because the respondent made a false representation to the bank that she had lost her ATM card and enabled her to withdraw her salary over the counter and led to the issuance for a new ATM card directly to her. A day after the discovery of the fraud, the complainant sent the respondent a demand letter which she ignored. By the respondent's failure to file her comment on the complaint despite the OCA's two (2) directives and warning, she is deemed to have admitted the existence and justness of the claim against her. Executive Order No. 292 (E.O. 292), otherwise known as the Administrative Code of 1987, provides that a public employee's failure to pay just debts is a ground for disciplinary action. Section 22, Rule XIV of the Omnibus Rules Implementing Book V of E.O. 292 and Other Pertinent Civil Service Laws, as modified by the Revised Uniform Rules on Administrative Cases in the Civil Service, defines "just debts" as those (1) claims adjudicated by a court of law or (2) claims the existence and

justness of which are admitted by the debtor. The respondent's false representation to the LBP is in violation of her undertaking that she will not block her ATM card. The blocking of the ATM card she surrendered to her creditors and her act of securing a new ATM card from the LBP to avoid payment of her indebtedness constitute dishonesty and conduct unbecoming of a court employee. The respondent's failure to comply with the Court's directives constitutes gross misconduct and insubordination. Misconduct is a transgression of some established and definite rule of action, or an unlawful behavior or gross negligence by a public officer; misconduct is grave if it involves any of the additional elements of corruption, such as willful intent to violate the law or to disregard established rules, as established by substantial evidence.

CSC Memorandum Circular No. 19,s. 1999 classifies willful failure to pay just debts as a light offense punishable by reprimand for the first offense. Dishonesty and grave misconduct are both classified as grave offenses punishable by dismissal for the first offense. Under Section 55, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, when the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that which corresponds to the most serious charge or count and the rest shall be considered as aggravating circumstances.

WHEREFORE, the Court finds respondent Ma. Theresa M. Fernandez, Clerk III, Metropolitan Trial Court, Quezon City, GUILTY of willful failure to pay just debts, gross misconduct and insubordination, and dishonesty, and accordingly orders her DISMISSAL from the service, with forfeiture of all benefits, except accrued leaves. She is further disqualified from holding any position in the government or in any government-owned or controlled corporation.

The case at bar is an example that having the borrowers ATM card is not prohibited and is not an assurance of repayment for the lenders. There is high probability of loan default as the owner of the card can anytime reports loss or theft resulting to card deactivation and issuance of new one in favor to the borrower. As to the borrower, it is tempting to block the ATM card to avoid the lender to withdraw the amount due. The agreement should not be taken for granted to avoid the most serious charge/s.

Critique and Recommendations

The ATM card loan has become the new trend of fastest and easiest way of getting money aside from the online lending. No matter how many public advisories are issued and regardless of the abuses and risks attached to it, the percentage of this ATM loan is still rising. Borrowers will willingly grab any opportunity that could save them from their financial trouble even if this will result to excessive interest of loan ceiling. Moreover, informal lenders have their own way of pampering their borrowers, the latter not realizing that they

are actually falling deeper into the debt trap. Loans extended to those regular company (or government) employees with their ATM cards as collateral would seem to provide an effective mechanism to mitigate traditional problems arising from information asymmetry in credit markets (*a la* Stiglitz and Wise 1982; Armendariz and Morduch 2010). The cooperative in school which aims to help the teachers in their financial trouble has limited funds. Therefore, the schedule of the release of loans depends on the availability of the funds. That is why, sometimes it would take days or weeks before cash will be released.

With regards to this matter, DepEd should implement preventive measures for new teachers who are vulnerable to this scheme. For those teachers who are already into this scheme, other measures for them to be discouraged to pawn again must be implemented. BSP must implement policies that will best serve both the lenders and the borrowers. The formal lenders such as banks should also look for a way to stretch out their hand to help those in needs without also risking their business interest. There should be financial literacy to raise awareness on financial management and in order to avoid the situation of debt cycle. Teachers should be encouraged to loan in the teachers' cooperative instead, and that the cooperative will also find ways to hasten the release of the teacher's loan.

Conclusion

Pawning of ATM cards in the Philippines can be considered as an institutional innovation in response to the emergence of new technology and market demand. As the society uses high technology, so is the availing of loan. Everyone is coping for the changes. The increasing demand on ATM availability has allowed firms to pay the salary of their employees through bank deposits. Through this means, informal arrangement on credit emerged.

According to the findings of this research, it appeared that majority of the borrowers resort to informal money lenders as it was proven to have less complex loan system and the ways of pampering the clients is more convenient for the borrowers. Even if the formal lending institutions have more flexible loan packages, those who need money in a hurry would willingly go for more accessible lending institution. In this research, the prevailing loan collateral for such informal money lenders is the ATM card.

The pawning of ATM cards has been part of Filipinos in need. Though it is very risky for the borrower's part because of the possibility of identity theft and fraud, they see this as the most immediate solution of their problem. It is difficult to ban this type of scheme because it turned out to be the best option for those who lack capacity to avail the services of the formal financial entities.

Sources

- THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES – ARTICLE II: GOVPH. (n.d.). Retrieved November 28, 2020, from <https://www.officialgazette.gov.ph/constitutions/the-1987-constitution-of-the-republic-of-the-philippines/the-1987-constitution-of-the-republic-of-the-philippines-article-ii/>
- Ager, M. (2018, March 19). Use of ATM card as loan collateral legal – BSP. Retrieved November 28, 2020, from <https://newsinfo.inquirer.net/976439/use-of-atm-card-as-loan-collateral-legal-bsp>
- AMITA LEGASPI, G. (2018, March 19). Chiz questions proposed ban on pawning ATM cards. Retrieved November 26, 2020, from <https://www.gmanetwork.com/news/money/companies/647091/chiz-questions-proposed-ban-on-pawning-atm-cards/story/>
- Avena, K., PauloAbad, Bunal, M., Hill, T., & Thomas, M. (2016, October 27). What is an ATM Loan? Is it the Same as a Personal Loan? Retrieved November 25, 2020, from <https://www.loansolutions.ph/blog/personal-loans-atm-loans/>
- Diokno, B. (2020, February 06). Benjamin E Diokno: Accounting as the language of business - some perspectives from the Bangko Sentral ng Pilipinas. Retrieved November 26, 2020, from <https://www.bis.org/review/r200206f.htm>
- Fuwa, N., & Piza, S. (1970, January 01). Preliminary Draft 1 Hyperbolic Discounting and an Induced Informal Credit Institution by a New Technology : A Case of Debit Card Pawning in the Philippines. Retrieved November 28, 2020, from <https://www.semanticscholar.org/paper/Preliminary-Draft-1-Hyperbolic-Discounting-and-an-a-Fuwa-Piza/95fb6a6e7afb33068398a66844ab672ebd8ad12d>
- Galolo, J. (2017, March 14). ATM card is most popular collateral for Filipinos. Retrieved November 28, 2020, from <https://www.sunstar.com.ph/article/131272/Sports/ATM-card-is-most-popular-collateral-for-Filipinos>
- Lomarda, R. (n.d.). Putang Naman: A Comparative Study on Authorized and Unauthorized Money Lending in the Philippines. Retrieved November 28, 2020, from https://www.academia.edu/9532724/Putang_Naman_A_Comparative_Study_on_Authorized_and_Unauthorized_Money_Lending_in_the_Philippines
- Luci-Atienza, C. (2020, November 21). Solon files bill penalizing ATM pawning. <https://mb.com.ph/2020/11/21/solon-files-bill-penalizing-atm-pawning/>
- Madestam, A. (2013, November 20). Informal finance: A theory of moneylenders. Retrieved November 28, 2020, from <https://www.sciencedirect.com/science/article/pii/S0304387813001636>
- Mellejor, L. (2019, January 31). DSWD warns 4Ps beneficiaries vs. pawning cash card. Retrieved November 28, 2020, from <https://www.pna.gov.ph/articles/1060563>

News, A. (2020, October 16). DepEd warns teachers: Pawning ATM payroll account 'illegal'. Retrieved November 28, 2020, from <https://news.abs-cbn.com/news/10/16/20/deped-warns-teachers-pawning-atm-payroll-account-illegal>

OFFICE MEMORANDUM OM-O S E C-2 0 2 0-006 REMINDER TO REFRAIN FROM USING ATM PAYROLL CARDS AS COLLATERAL FOR LOANS OR ENGAGING IN THE ATM SANGLA SCHEME. (n.d.).

Pantawid Pamilyang Pilipino Program: GOVPH. (n.d.). Retrieved November 28, 2020, from <https://www.officialgazette.gov.ph/programs/conditional-cash-transfer/>

Person. (2018, August 04). BSP warns against using ATM as collateral from loan sharks. Retrieved November 28, 2020, from <https://www.philstar.com/business/2018/08/05/1839653/bsp-warns-against-using-atm-collateral-loan-sharks>

Presidential Decree No. 114, s. 1973: GOVPH. (1973, January 29). Retrieved November 28, 2020, from <https://www.officialgazette.gov.ph/1973/01/29/presidential-decree-no-114-s-1973/>

Republic Act No. 9474: GOVPH. (2007, May 22). Retrieved November 28, 2020, from <https://www.officialgazette.gov.ph/2007/05/22/republic-act-no-9474/>

Ronquillo Correspondent, R., & Ronquillo, R. (2019, February 01). DSWD XI warns 4P families vs. pawning their ATM cards. Retrieved November 26, 2020, from <https://mindanaotimes.com.ph/2019/01/31/dswd-xi-warns-4p-families-vs-pawning-their-atm-cards/>

SEC takes steps vs informal lenders. (2017, February 28). Retrieved November 28, 2020, from <https://www.dof.gov.ph/sec-takes-steps-vs-informal-lenders/>