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ARELLANO LAW GAZETTE

ARELLANO UNIVERSITY SCHOOL OF LAW



CHERRY LIEZ RAFAL-ROBLE

2011 BAR EXAM 3rd PLACER

HAIL TO THE 123 NEW ARELLANO LAWYERS!

Special Coverage of the
Corona Impeachment Trial

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AY 2011-2012

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Adviser

Editorial Office:

Ground Floor,
Heilbronn Hall,
Arellano University
School of Law,
Taft Ave. corner Menlo Street.,
Pasay City



Member:

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EDITOR’S NOTE



THE ESSENTIAL LAW STUDENT

WHAT DEFINES us students of law?

Is it the school that we go to? Is it the books that we read? Is it how well we recite in class? Is it how high our grades are? Or is it how prepared we are to take the Bar Exam?

If this is a multiple-choice type of question, the answer would be none of the above.

While the answers to the questions posited above could be an efficient gauge of what kind of law student we are, they are not sufficient indicators of what is the quintessential.

Lawyer Andre Palacios, our featured professor in this issue, lends support to that conclusion when he said that being in the Top 10 (He was No. 5 in 1998) of the Bar Exam is an achievement that matters only to people who think it is the fool-proof measure of legal knowledge.

Our drive to become a lawyer, therefore, should not be just for personal glory, mere intellectual gain, or simply pride.

What makes us law students relevant is how we use our knowledge to effect positive influence or change in our society. If we believe we know better, then we should try to do more.

Thus, we should not be fearful of how the ongoing impeachment trial of Chief Justice Renato C. Corona would turn out so long as we do something to ensure that the proceedings are done according to the spirit

of the Constitution and that the public are rightfully informed about all its intricacies.

Professor Henedino Brondial cannot be any more succinct and wise in his encouragement that we lawyers-to-be – whether for or against the impeachment of the Chief Justice – should play such an active role in this process with the end goal of cleansing the tarnished image of the justice system in our country.

The Gazette offers this issue, which has a special section devoted to the Corona Impeachment Trial (on Pages 23-33), for our reflection. As law students, we should not only concern ourselves about learning the law, but more importantly, we should bear in mind to use it for the good and benefit of all.

For this is what truly defines us.

-o0o-

The Gazette proudly congratulates our very own Cherry Liez O. Rafal-Roble for emerging No. 3 in the 2011 Bar Examinations. She shares some of her thoughts before, during, and after the Bar Examination in our stories on Pages 4 and 5 of this issue.

Rafal-Roble duplicated the school’s achievement in the previous year when Atty. Paolo Carlo Tolentino also placed third and Atty. Darren Salipsip took 10th place.

The successive feats prompted Supreme Court Associate Justice (Ret.) and AUSL Professor Antonio Eduardo B. Nachura to say: “Since this is becoming a habit, we might as well get the Nos. 1, 2, and 3 spots next year.”

Who knows?

Let’s keep our fingers crossed.

-JPPG

MESSAGE



Atty. Brondial is Chair of the Remedial Law Department at the Arellano University School of Law. He teaches Remedial Law Review 1 and 2 subjects and is a bar reviewer on Remedial Law.

ATTY. HENEDINO BRONDIAL

EVERY LAWYER’S TRIAL

THE HIGHEST official in the judicial hierarchy is on trial. With all its legalese, does Juan de la Cruz really understand the proceedings? Even when media have devoted so much space and spite on this event of unprecedented national significance, its adherents are still miniscule. To lawyers and lawyers-to-be, however, this impeachment trial is a rare opportunity to examine and re-examine their directions, professionally and vocationally.

The lawyer should not be a passive spectator in this unfolding legal drama. Whether for or against, he/she is expected to take sides. When he/she does, sentiments of a confused public will somehow be assuaged; doubts cleared; minds enlightened. But in espous-

ing one’s position, the lawyer must always act with honesty, sincerity, and integrity. The end-goal is to purify and strengthen that battered organization of which he or she is not only associated with, but is a member thereof or intends to be.

It is therefore a clarion call for every officer of the court, present and in-the-making, to play a part not in the prosecution or defense of an individual person but in the purgation of a tarnished institution, so that it may be born again into its destined place of dignity and nobility. The academe, the seedbed of legal minds, must be in the forefront of this struggle. After all, the lawyer in every man is on trial.

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2011 BAR EXAMS
AUSL BREAKS INTO
TOP 10 ANEW

123
CHIEFS
among new lawyers



BY JOHN PAUL GALANG

ARELLANO LAW continued its rein at a spot in the bar topnotchers' list as another Chief emerged No. 3 in the 2011 Bar Exam.

Cherry Liez O. Rafal-Roble, a 32-year-old working mother from Makati City and salutatorian of Law Class 2010, led all 123 successful bar candidates from AUSL. The school's overall passing rate is 44%.

Rafal-Roble obtained a rating of 84.445%, coming third behind two candidates from Ateneo de Manila University. A total of 1,913 examinees passed the 2011 exam, as announced by the Supreme Court on Wednesday, February 29.

"I never expected that I would top. I dreamed about failing a lot of times that if, indeed, I failed, it would not be painful anymore as I have already cried a lot in my sleep," said Rafal-Roble, who was working in her office (SGV & Co.) when she learned the news of her being among the topnotchers.

"It was my mother who always said that I would top the bar because she joked that I have the advantage of having two brains as



I was pregnant when the review started last year," she added.

The 2011 Bar Exam is a historic first as it was composed of 60% multiple-choice questions (MCQs) and 40% legal opinion and trial memorandum writing. Supreme Court Justice Roberto A. Abad introduced the innovation as the Bar Exam Chairperson "to exert pressure on law schools to re-examine the substance and shape of legal education."

Abad revealed that of the total 5,990 examinees, 34% passed in the MCQs, 50% in legal opinion writing, and only 15% in trial

memorandum writing. The overall passing percentage of 31.95% is the second highest to be registered in the millennium.

Chief Justice Renato C. Corona said, in his speech before the release of the results, that the Supreme Court shall continue to refine the Bar Exam and introduce innovations. Corona said the intention is not to fail the candidates but rather to determine if they possess the minimum standard required to become a lawyer. He was quick to note that "success as a lawyer is not dependent on the Bar Exam."

AUSL Dean Jose R. Sundiang, Sr. said he

(Above) WAITING GAME. Bar Examinees, their families, and friends troop to the Supreme Court main building grounds in the afternoon of February 29 to await the release of the 2011 Bar Exam results. (Inset) TOP CHIEF, Cherry Liez O. Rafal-Roble of AUSL copped the third highest rating in the Bar Exam. This photo was the one she used for her exam permit. (Left) ELITE TEN. Supreme Court Associate Justice and 2011 Bar Exam Chairperson Roberto A. Abad announces the Top 10 in the Bar Exam as Chief Justice Renato C. Corona looks on.

PHOTOS BY JPPGALANG

A QUICK CHAT WITH
Cherry Liez



Who fist broke to you the news of your being No. 3 in the Bar Exam?
"Dean Ace Pamaran (the valedictorian of their batch) and Atty. Crisostomo Uribe."

What were your expectations before the release of the results?
"I was trying to concentrate on other things. As I said I have often dreamed about failing. But when I'm awake, I never thought about the exams. That was weird."

How did you prepare for the bar exam?
"There's no formula. One is, I concentrated on my weak points. Then I listened to the reviewers. I was fortunate to have good professors in my foundation years too. The Opinion Writing was like a mere quiz given by Atty. Legaspi, so I was fortunate to have him."

Who was your inspiration when you took the exam?
"A lot of people. My Dad, my Mom, sisters, brother, my Lolo Franco who I fondly call Judge Franco who taught me the beauty of law, and the family living beside AUSL who stays in the kariton. I once told my Mom that if I top the bar, I would help them provide a better future for their kids."

was elated by the school's achievement despite the sudden transition to a different type of exam, but he expressed reservation as to whether the exam's objective was attained.

"I still believe that MCQs are not the accurate gauge [of knowledge and understanding of the laws]," Dean Sundiang emphasized.

2011 TOP 10 BAR EXAMINEES

RANK	NAME	SCHOOL
1	RAOUL ANGELO D. ATADERO	ATENEO DE MANILA UNIVERSITY
2	LUZ DANIELLE O. BOLONG	ATENEO DE MANILA UNIVERSITY
3	CHERRY LIEZ O. RAFAL-ROBLE	ARELLANO UNIVERSITY SCHOOL OF LAW
4	ROSEMIL R. BANAGA	NOTRE DAME UNIVERSITY
5	CHRISTIAN LOUIE C. GONZALES	UNIVERSITY OF SANTO TOMAS
6	IVAN M. BANDAL	SILLIMAN UNIVERSITY
7	EIREEN XINA M. ACOSTA	SAN BEDA COLLEGE
8	IRENE MARIE P. QUA	ATENEO DE MANILA UNIVERSITY
9	ELAINE MARIE G. LACEDA	FAR EASTERN UNIVERSITY-DLSU
10	RODOLFO Q. AQUINO	SAN BEDA COLLEGE

2011 BAR EXAMINERS

NAME	SUBJECT
COURT OF APPEALS JUSTICE AMY C. LAZARO-JAVIER	POLITICAL AND INTERNATIONAL LAW
ATTY. CESARIO ALVERO AZUCENA, JR.	LABOR AND SOCIAL LEGISLATION
DEAN ERNESTO L. PINEDA	CIVIL LAW
ATTY. ABELARDO T. DOMONDON	TAXATION
COURT OF APPEALS JUSTICE RAMON PAUL L. HERNANDO	MERCANTILE LAW
SANDIGANBAYAN JUSTICE MARIA CRISTINA CORNEJO	CRIMINAL LAW
ATTY. VIRGILIO C. MANGUERA	REMEDIAL LAW
ATTY. EDWIN M. CARILLO	LEGAL ETHICS AND PRACTICAL EXERCISES

"The only advantage is it is easier to correct the test."

Dr. Florentino Cayco III, Director for Administration and Personnel of AUSL, said the school would give Rafal-Roble due recognition for her achievement.

"It really pays to study hard. Being No. 3 was her reward," said Cayco, who admitted having mixed emotions since there were many candidates who did not pass.

Rafal-Roble said she intends to stay in her present job for a couple of years and then later apply for a notary license and do notary work at home while tending to her family.

HEAR YE, NEW LAWYERS!

Oath Taking of New Lawyers
March 21, 2pm, at the PICC

Clearance
March 1 to 20

Signing of the Roll of Attorneys
March 22, 23, 26, 27, 28; First two days reserved for those coming from the provinces; First come-first served basis.

SSC GEARS UP ACTIVITIES FOR STUDENTS, COMMUNITIES

BY FRANCIS R. SALVADOR

THE AUSL Supreme Student Council (SSC) ushered in 2012 with a series of projects and activities for the welfare not only of the students and the Arellano Law community but also the marginalized sectors of society.

Led by its officers Alma Fides Olivar-Espinosa (President), Mark Durante (EVP), Jane Guiriba (Secretary), and Alex Santos (Treasurer), the SSC participated in a medical mission at the Angelicum College Gymnasium on February 11 that benefited around 1,000 residents of barangays near Sto. Domingo Church in Quezon City.

Pre-screened patients availed of general medical, surgical, ophthalmology-optometry, dental, ob-gyne and pediatric services during the mission organized by the Dominican Studentate. Doctors also performed minor surgeries such as circumcision.

"Aside from personally providing assistance onsite, we were also able to donate medicines that were solicited from kind-hearted and generous donors," said Espinosa, who is also Vice President of Zonta Club of Greater Rizal.

The donors include Raymond Bautista, Khaye Quiraz and Karen Go of Scheele Laboratories Philippines, Inc., Mr. Ollie Marcelo of Ample Printing, Herman V. Sumadchat (President, Rotary Club of Balibago) and Elvira I. Gozun-Sumadchat.

The Council will also be staging a Fun Run on March 26 for the benefit of communities and families in Mindanao who were affected by last year's typhoon Sendong. Around 800 to 1,000 participants are expected to join the event, which will be held in Pasay City.

"Part of the proceeds will be used to support plans for the renovation, elevation, and lighting of the pathway to the various offices in the ground floor of Heilbronn Hall," Espinosa said. These offices include the SSC, Arellano Law Gazette, Legal Aid,



and University Clinic.

Meanwhile, the Council provided a television monitor at the lobby beside the Review Room for the live viewing of the

(Above) HEALING MISSION: SSC External VP Mark Durante (leftmost), President Alma Fides Olivar-Espinosa (2nd from left), and Treasurer Alex Santos (rightmost) with the lead organizers of the Medical Mission at Angelicum College Gym on February 11.

(Middle) HEALTHY & HAPPY: Residents of Barangays near Sto. Domingo Church availing free medical services and medicines.

(Below) IMPEACHMENT WATCH: Law students intently watch the live telecast of the impeachment proceedings at the lobby in front of the AUSL Admissions Office.

PHOTOS COURTESY OF SSC

Impeachment Trial of Chief Justice Renato Corona. It also posted smoking and non-smoking signs in particular areas inside the school premises for the guidance of everyone.

Espinosa revealed plans of the Council to build a wall-mounted glass plate showing the members of the AUSL faculty and lecturers in the bar reviewer program. She said that this would provide information for visitors and potential enrollees who are interested in knowing the school's pool of professors and reviewers.

ESSAY QUESTIONS MAY RETURN IN 2012 BAR EXAM

BY JOHN PAUL GALANG

Justice Martin S. Villarama, Jr., the Chairperson of the 2012 Bar Examinations, is considering bringing back the traditional essay questions in the annual qualifying test.

Bar Confidant Ma. Cristina B. Layusa, in a letter sent to the Deans of law schools around the country, said that the Office of the Bar Chairman is studying the possibility of making this year's Bar Exam comprise 50% multiple-choice questions (MCQs) and 50% essay ques-

tions and reverting to the old schedule of two examinations per Sunday. Layusa asked the Deans to submit their comments and suggestions to the Chairman.

In a meeting with graduating students, Dean Jose R. Sundiang, Sr. confirmed receiving such letter and announced that there are also plans to move the exam dates to October and to retain the venue at the University of Santo Tomas.

Justice Roberto A. Abad, the previous year's chairman, implemented 60% MCQs and 40% memorandum and legal opinion writing in the Bar Exam that drew mixed reactions from students and professors.



JUSTICE VILLARAMA

WINNERS

TABLE TENNIS
ANGELICO ZENON
DE LOS REYES

(Men's)
MA. ARNEE LOPEZ
(Women's)

BADMINTON
ARVIN FRANCIS ROSALES

(Men's)
BENETTE DE LEON
(Women's)

FUTSAL
TEAM B – YELLOW,
Champion
TEAM C – GREEN,
Runner-Up

VOLLEYBALL
FRESHMEN,
Champion
SENIORS,
Runner-Up

BASKETBALL
ALUMNI/PROFESSORS,
Champion
SENIORS,
Runner-Up



PHOTO COURTESY OF AAS

CHIEFS COMPETE IN FRIENDLY GAMES

BY JOHN PAUL GALANG

LAW STUDENTS proved they still got game as they vied in various sports events in the 2011-2012 Arellano University School of Law (AUSL) Intramurals from February 6 to 24.

Organized by the Arellano Athletics Society (AAS), the Intrams featured inter-level competitions in basketball, volleyball, table tennis, badminton, and futsal or indoor soccer game. AUSL professors and alumni were

grouped together to form one team. "Our purpose is to unite the students, professors, alumni, and the rest of the Arellano Law community through these friendly matches," said Celso Rosero III, President of AAS.

Individual and group champions received trophies donated by lawyer Edcel "Grexx" Lagman, Jr., incumbent councilor of Quezon City and an AUSL Alumnus.

AY 2012-2013 COUNCIL OFFICERS ELECTED

BY JOHN PAUL GALANG

The Supreme Student Council officers for the academic year 2012-2013 have been elected.

Carlo Tagayuna (4th year) was voted President, while Filadrian Canlas (4th year) and Valerie Rose Peralta (4th year) were chosen as Internal and External Vice Presidents, respectively, in the computerized elections held March 2 and 3.

Rosalie Montilla (1st year), Secretary; Michelle Chaguille, Treasurer (4th year); and Marie Rose Carlos (2nd year), Auditor completed the new set of Council officers.

All proclaimed winners ran unopposed except Montilla who edged rival Margarette Lasac by mere 12 votes, 151-139. Carlos, meanwhile, was a re-electionist. (See photos of the new SSC Officers on Page 22.)

President-elect Tagayuna said he intends to develop an action program based on consultations with the students. "I wish to open the communication lines between the students and the administration further in order to ensure the success of our collective endeavors," he added.

THESE CHIEFS HAVE GOT THE KICKS

PHILIPPINE FOOTBALL is akin to an enchanting music of the past left unnoticed in a dark and dusty chest. It is a sound so familiar to the ears with a beat comparable with the rhythmic jive of the heart. Long ago, Filipinos sing the soulful notes of the sport better than other Asian countries. As a result, the Asian Football Confederation was officially formed in Manila in 1954. Even the first bar examination held in 1900 is only seven years older than the first football association in the Philippines. Football is in the blood and consciousness of Filipinos.

Although the presence of the sport in the country has aged more than the beloved and well traversed Heilbronn Hall, it has remained unmarked by almost everyone's attention. For many victorious years, basketball has remained as one of the most popular indulgences in the Philippines and it is undeniable that the AUSL community is a part of that big basketball nation. But love gives life even in dry deserts. Behind and among the gods, who control the game with their hands are shadows whose tricks lie with their feet. A number of them are the unassuming athletes that complete the Arellano FC.

The Gazette found it worth the efforts to deface the hazy darkness of these shadows who take pride in taking matters with every part of their bodies, except their hands. An interview with current team captain Ryan Eclipse Balais and former team captain Frederick Tolentino proved very instrumental in completing the task.

When was the team organized?
FRED: The team has been there for a long time. As far as I can remember, it already existed even when Atty. Berne Guerrero,

our current coach, was still a student. It was formerly called Arellano Football Team and it was only during the school year 2006-2007 that it was named Arellano FC.

Who composes the team and who can be a part of it?
FRED: AUSL students and alumni make up the team. Once a member, he is always a member; that is why when we compete in outside tournaments, we always find time to contact the alumni and let them play for the team if they want to. Any student na gusto maglaro ng football simply have to approach any member of the team kung willing sila maglaro at maging part ng team.

What tournaments do you usually participate in?
FRED: The team regularly prepares for the annual Conflicts of Law Tournament.

RYAN: I think the most prestigious tournament we have competed in so far is the Laurel Cup sponsored by Lyceum University because it was an open tournament that allowed us to play with fellow football enthusiasts from all over the country.

What are the difficulties the team typically encounters?
RYAN: Schedule of players and keeping a complete roster during practice is a problem. We overcome it by setting specific practice dates that are convenient for everyone.



What was the team's biggest success and upset so far?
RYAN: Since I joined the team, I think the biggest success was when we reached the quarter finals in the last Conflicts tournament. That was also the most disappointing because I believe we lost because of our own goals against FEU.

FRED: In 2006, the team finished as 3rd runner up in the Conflicts tournament.

Have there been any improvements in the team recently?
RYAN: I believe we now have a more balanced team. We have been playing together for a while so our team chemistry is improving, although that has to be translated into good teamwork on the playing field. If we do that, we can execute plays better and we will have a better chance of surpassing

FOOTBALL WAS IN THE BLOODSTREAM OF ARELLANO LAW STUDENTS LONG BEFORE THE PHILIPPINE AZKALS MADE THEM MUCH MORE COOL AND FAMOUS IN THE COUNTRY. SHAYNE ANNE BASCO WRITES THE STORY OF THE UNSUNG SCHOOL ATHLETES KNOWN AS THE ARELLANO FC.

ARELLANO FC members displaying their solid form during the 2011 Laurel Cup held at the ASCOM Football fields in Fort Bonifacio, Taguig City. The Laurel Cup is a one day football festival organized by the Lyceum of the Philippines College of Law. Standing from left to right: Vicente Cabañezas, Glein Mark Bodiongan, Frederick Tolentino, Celso Rosero, Khalid Hassan, John Paul Lopez, Atty. Michael Vernon "Berne" Guerrero. First Row: (L to R) Ryan Eclipse Balais, Atty. Aristeo Franklin Garcia, and Jufer Co. The team carries LAWPHIL as its jersey banner.

PHOTO COURTESY OF ATTY. ORMIL GO, AUSL FC ALUMNUS

SEAL OF IDENTITY



The original logo, designed by Khalid Hassan, represents the face of an indian chief and two arrows which are the symbols of our school and is made to identify the team with our school.



The other logo which the team currently uses is designed by Co-Captain Mark Bodiongan. It has the face of an indian chief and an arrow with AUSL on the upper portion, contained in a cord. It basically shows how united the team is, as well as the Arellano community. We also carry LAWPHIL as our jersey banner.

our last performance.

FRED: The attendance of the players is a big improvement. We used to join tournaments with only exact number of players needed. Minsan wala talagang substitutes. Also, the recruitment has improved since it is more personalized. Unlike before na ipaskil lang yung form and magsa-sign kung sino ang may gusto, ngayon, we recruit students na naglalaro talaga even before they entered law school, and friends na gusto talaga matuto mag-football.

What binds Arellano FC?
RYAN: Primarily, the passion to play football and of course, the friendship among the team members. Bonus na lang din talaga that we get to enjoy when we play in outside tournaments while we also hone our skills. Sa paglalaro din kasi, we get to realize the things we have to improve on.

FRED: Masaya sa team. We are known as the happiest team sa Conflicts. Hindi kami nauubusan ng pauso at dahilan para tumawa. We are happy to get to play the game and we play hard for a common goal – and that is to win.

The sudden re-emergence of football in the Philippines is a huge disorientation to those who were naive of its existence. It served as a caravan, a circus, and so much more it should not be. Conversely, it invigorated football enthusiasts and players alike; as the sport is again given the recognition it is due. The Arellano FC breathes its life from the passion, commitment and dedication of its members for the sport. With it comes the bond of friendship that transcends the gates of the university. True, shadows do not appear under the glaring brightness of the limelight; yet it does not make them any less of the fine athletes that they are.

With contribution from Markus.

REDISCOVERING THE KNOWLEDGE LAIR

ABBY CIRERA TAKES US TO THE ROOM
OFT-TRAVELED YET OFT-OVERLOOKED



WHAT'S ONE place a law student will have to pass through one way or another?

No, it is not the kitschy coffee shops where you can smoke and slug coffee for hours on end trying to make headway with the intricacies of Civil Procedure or the tangled web that is Wills and Succession.

No, it is not the choice spots in school where the wi-fi signal is at its strongest and the friends you hang out with the rowdiest.

Yes, you probably now realize – It is the library.

In case you forgot, the library is where you go to read in peaceful quiet, do some research, borrow books you may not be able to afford on a strict student's budget, work on a group project with your blockmates, or simply, doze off on the inviting couches spread around the lobby-like entryway.

This is where you first meet the daunting Supreme Court Reports Annotated or SCRA. It is where you try to stifle your yawns after eating a particularly hearty lunch; to while away the minutes waiting for your class to start. The library is, for all intents and purposes, the designated common room for law school habitués — may it be professors who are catching up on new cases or suggesting books that the library may want to acquire, or students who come to study or – for the ones really “searching” – exchange meaningful glances.

Which is why as a student, it may be a good idea to try and get reacquainted with the library if you are serious about topping your quizzes and exams.

If you are a frequenter, you may have noticed that the AUSL law library is wearing a new look. It has been repainted and its couches reupholstered. It is important that the place where you study is well-lighted and spacious, not cluttered and gloomy. It also helps that there are sufficient (not to mention, working) air-conditioning units and that students are observing library protocols. The school administration believes that having the right environment contributes to the students' ability to absorb information, thus the renovation efforts.

Apropos to that, it might also be a good idea to get to know the people who keep those book shelves filled, up-to-date, and orderly – the library personnel. Since four years (or five



(Above) KNOWLEDGE SOURCES. The volumes of SCRA, textbooks, and reviewers in the library are always up-to-date.

(Left) KNOWLEDGE KEEPERS. The AUSL Library Staff composed of: First row (L to R) Cristina Igos, Victorina “Baby” Cayco, Chief Librarian Ramon Veranga, and Consolacion Daguro. Second row (L to R) Gracelyn Jacinto, Geraldine Garcia, Junsel Fortuno, Jay Adrian Ordanez, Noel Laiz, and Noli Nasol.

PHOTOS BY ABDUL ONOS
GROUP PHOTO COURTESY OF ITC DEPARTMENT

years for the executive program or even longer for some) is decidedly a long time to be frequenting the same place, it would be reasonable to expect that you would eventually get to be familiar with the library staff. It might pay to get to know them a little bit better.

KING OF THE “LAIR”

Ramon Veranga is the little known AUSL Chief Librarian. He may not be that “visible” as he prefers to work silently inside his office, but mind you, Veranga has 37 years of experience behind him work-

ing for Arellano. He became the school's Chief Librarian in 2000 and has held that position up to the present. He received his degree in Library Science from Arellano University in Legarda in 1975.

“I opted to be a librarian than a teacher because of the less demanding nature of work,” said Veranga, who enjoys playing chess and doing house cleaning in his spare time. “But I still get the same fulfillment being able to serve students.”

While he maintains that he loves his job in the College of Law, he said that it is more challenging to deal with law students

than college or high school students. For one, the students are older (though not necessarily wiser). Since most of them are already professionals, he admits he cannot just shush anyone because that person could be a department head in a government agency or an officer in the PNP or the Armed Forces of the Philippines. He has to use diplomacy and a certain degree of tact befitting a peer instead of sternness that he usually would employ to younger students.

Veranga likewise confesses walking on eggshells around barristers, who, in his

continued on Page 15

BEST STUDY NOOKS 'ROUND THE 'HOOD

NEED TO CAMP OUT FOR ALL-DAY, ALL-NIGHT READING? NEVER GO TOO FAR AS JANE GUIRIBA SHOWS YOU JUST THE RIGHT PLACES FOR A DATE WITH YOUR TEXTBOOK AND CODAL



2

cozy

Atrium Lounge, Century Park Hotel

Time to Study: 11:00 am to 1:00 am daily

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Contact Numbers: (632) 528-8888

Perks:

- Free wifi internet access
- Cozy ambiance
- Abundant parking space
- Comfortable seats

Drawbacks:

- More expensive than usual coffee
- Parking is not free

Comments:

If you want to experience being serenaded while you are studying or just resting, then the Atrium Lounge is the best place to go. Musicians perform there from 6:00 pm to 9:45 pm.



3

outdoor

Starbucks Coffee (Harbour Square)

Time to Study: Su: 6:30 am - 1:30 am; M, T, Th: 6:30 am - 12:30 am; F, Sa: 6:30 am-2:00 am

Location: Harbor Square, Pedro Bukaneg St., CCP Complex, Manila

Contact Number: (63 2) 551-0115

Perks:

- Delicious coffee
- With parking slots
- Wonderful view of Manila Bay

Drawbacks:

- Per hour parking fee in excess of 3 hours
- The bay water stinks at times

Comments:

If environment is such a big factor for you when you study, this Starbucks store

will tickle your fancy. Boasting a great outdoor view as it is beside the Manila Bay harbour, the place is where you can enjoy coffee while studying as early as 6:30 am.

4

homey



5

within walking distance, accessible

Garden Brew Cafe

Time to Study: Monday to Saturday, 9:00 am to 1:00 am; Closed on Sundays

Location: 2161 A Taft Ave, Malate Manila (near Shell Gas Station and LRT-1 Quirino Ave. Station)

Contact Numbers: (63 2) 377-3400 or 903-2795

Perks:

- Delicious, affordable, and wide variety of food for snacks or heavy meal
- Coffee and fruit juice variants available
- Inviting ambience with different kind of seats to choose from
- Free wifi access

Drawbacks:

- Might get a bit noisy in the evening as they serve beer
- The place may sometimes be closed for exclusive parties
- Serving time is a bit too long (for meals)

Comments:

The food and ambience will always make you want to come back to Garden Brew. Be there in the morning or afternoon or even in the evening on a normal weekday when it is relatively quiet and you will have a great place to study. You can even invite your group of friends as the place is quite spacious.

Coffee Prince & Restaurant

Time to Study: Monday to Thursday, 6:00 am to 12:00 mn; Friday to Sunday, 6:00 am to 1:00 am

Location: C1 Grand Towers Manila, P. Ocampo St., Malate, Manila

Contact Numbers: (63 2) 708-6704; 0915-3347777; 0920-2917777

Perks:

- Free Wi-Fi internet access
- Ample seats and space
- Delivery services
- Electric outlet for devices

Drawbacks:

- Limited parking
- Low lighting condition might affect reading

Comments:

Coffee Prince is a coffee house popularized by a Koreanovela of the same title, but this Philip-

pine version is not a franchise of it. Nevertheless, the store offers good-tasting food and drinks at reasonable prices. It is within walking distance from AUSL and has a second floor to accommodate more customers.

SUPERLAWYERS, ANYONE?

THERE IS A HERO AND VILLAIN IN EVERY LAWYER. ABDUL RAFI ONOS SEPARATES THE FICTITIOUS FROM THE REAL.

PASSING THE bar is more than a feather in one’s mortarboard – it is a testament to perseverance, ambition, and four years of nosebleeds. This is why for us law students, lawyers are extraordinary. Generalist lawyers in the past, those experts of every field of law, are regarded even more so. But recently, in a speech for UP Law’s 100th Anniversary, Sen. Edgardo J. Angara said that the age of these supermen-lawyers is over – the age of the specialists has come. The trend in Philippine legal profession is towards specialization, fueled by skepticism towards generalists,¹ in our version of “kiu casas du leporojn, kaptas neniun.” Who chases two jackrabbits catches none. But in comic books, the age of superhero lawyers is hardly over. After all, they started everything.

Lawyers in capes and tights have always been present in the medium of comics since its inception. The concept would germinate and persist through the years. The following are only a few of the lawyers who put on capes, wish for luck, and kick some criminal derrières.

The Clock

Contrary to popular belief, the first masked superhero is not Superman - it is The Clock. Before he became a vigilante, former District Attorney Brian O’Brien believed in the courts, till it failed him. His decision to become a vigilante was sparked by a frustration with the court system, the flaws of which let criminals operate with impunity. His motivations would be explored by several comic book writers over the years, through several other superheroes, spanning all seven decades of comic book history.² The Clock’s disguise was a three-piece suit, and he had a calling card that said, “The Clock Has Struck.” When DC Comics acquired the rights to the character in 1956, it let the character of The Clock fall to public domain. In the DC Universe, it is widely believed that The Clock died in 1944, but it is implied that The Clock faked his death.

She-Hulk

She-Hulk was introduced in 1980 by Stan Lee, John Buscema, and Chic Stone. In her

origin story, Bruce Banner, otherwise known as the Hulk, gave his cousin attorney Jennifer Walters a transfusion of his own blood when she was shot by a mob boss. As a consequence, she turns into a huge green monster under stress. However, She-Hulk’s personality remained after transformations. While usually a defense attorney, she later became an assistant prosecutor. She would later be hired by the law firm Goodman, Lieber, Kurtzberg, & Holliway, which specialized in representing superhumans.

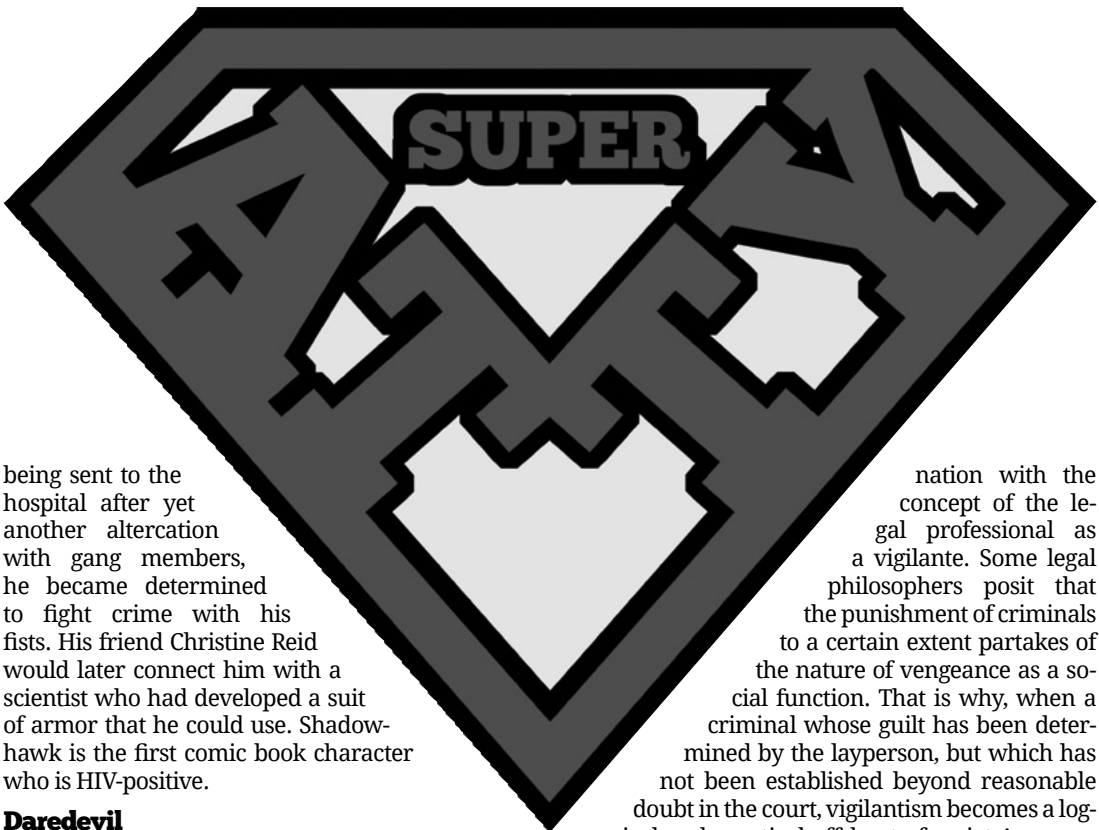
Two-Face

Two-Face started out as Harvey Dent, the District Attorney for the City of Gotham, but acid thrown at his face reduced him to a maniac with a split personality. His criminal exploits would normally involve motifs of duality, but at times it would be law motifs. In Dark Victory, Two-Face prosecutes Batman with the jury comprising Batman’s rogues gallery. Interestingly, usual iterations of his character depict him as having succumbed to the evils of vengeance, as in Jeph Loeb and Tim Sale’s The Long Halloween and in Christopher Nolan’s The Dark Knight.

Gotham would later produce two more superhuman lawyers, but this time in the side of good. In the main DC universe, Kate Spencer, the newest Manhunter iteration, is a prosecutor who later becomes Gotham’s District Attorney. In Earth-II, Richard Grayson, the first Robin, becomes a member of the bar, and welcomes the daughter of Bruce Wayne and Selina Kyle, alias Catwoman, Helena Wayne, alias Huntress, as a partner into his own law firm.

Shadowhawk

Shadowhawk, the alter ego of Paul Johnstone, was introduced in the 1990s. A successful African-American lawyer, he had his life set out for him till he was assaulted when he refused a mob boss’ demands, the assault ending with an injection of HIV-infected blood into his system. This ignited a downward spiral of depression for the District Attorney, who was subsequently fired from his job when his condition became known to the public. After



being sent to the hospital after yet another altercation with gang members, he became determined to fight crime with his fists. His friend Christine Reid would later connect him with a scientist who had developed a suit of armor that he could use. Shadowhawk is the first comic book character who is HIV-positive.

Daredevil

Arguably the most popular superhero lawyer is Matt Murdock, otherwise known as Daredevil. He was introduced by Stan Lee and Bill Everett in 1964. Daredevil is also the first superhero lawyer with a disability. While saving blind man from an oncoming truck, Matt Murdock was struck by a falling radioactive isotope across the face, blinding him. With the blindness came the augmentation of his other senses. He would later graduate with his sidekick Franklin Nelson from Columbia Law School. But the story of Daredevil, The Man Without Fear, would kick off in high gear in yet another tragedy, when mobsters kill his father.

Daredevil was seemingly doomed to a life of misfortune in a gauntlet of tragedy after tragedy. His girlfriend Karen Page left him after he revealed his secret identity to her. When she returned, she had become a porn actress addicted to heroin. She later sells his secret identity for drug money to Daredevil’s nemesis The Kingpin, who systematically destroys Daredevil’s life, has him disbarred, and tries to drive him insane. He faked his death when his identity became known to the public. As a pièce de résistance, the Daredevil movie was released in 2003.

In the latest volume of Daredevil, no longer limited by the trappings of noir, Daredevil has become a cheerful superhero who, having overcome the worst, is adamant he can take whatever life could give him.

The Wa-Pow Code

It is understandable that there is a fasci-

nation with the concept of the legal professional as a vigilante. Some legal philosophers posit that the punishment of criminals to a certain extent partakes of the nature of vengeance as a social function. That is why, when a criminal whose guilt has been determined by the layperson, but which has not been established beyond reasonable doubt in the court, vigilantism becomes a logical and practical offshoot of society’s vengeance, conventions of legal ethics be damned. For that matter, the concept of the vigilante lawyer is a layman’s concept, not a concept that could originate from an academic legal perspective.

Certainly, vigilantism is irreconcilable with a respect for the law. It is a visceral form of Shylock’s reasoning “If you prick us, do we not bleed?” but with the addendum of “And if you wrong us, shall we not put on capes and punch you in the face?” In a way, lawyers going vigilante is some form of fighting fire with fire, a fantasy upon a fantasy that it has become a fetish and a meme. The concept sells because it seems that for the masses, justice is not revenge enough. It states the darker aspects of humanity: we always want more.

But if anything, superhuman lawyers are an indication of the masses’ admission that the legal system is the high-road, and vigilantism is the entertaining road, albeit the road that should not be taken. It is the people’s confirmation that heroism is just one of the characteristics that define a member of the bar, literal ass-kicking not included. 🦸

Footnotes:

1. Yap, D.J. “Senator Angara: ‘Superman-lawyer’ doesn’t fly anymore.” Inquirer News. 5 Feb. 2012. Web. 21 Feb. 2012. <http://newsinfo.inquirer.net/139689/senator-angara-superman-lawyer-doesnt-fly-anymore>

2. Hilyerd, William A. “Hi Superman, I’m a Lawyer: A Guide to Attorneys (And Other Legal Professionals) Portrayed in American Comic Books: 1910-2007.” Widener Law Review 15.1 (2009): 159-195. Web. 15 Dec. 2011. Hilyerd’s research is the most helpful and exhaustive review on the topic, providing over 300 notes.

Rediscovering... continued from Page 11

years of inhabiting the College of Law, has been able to conclude as having a tendency towards volatility. This he discovered during study hours, more particularly during the few days before the Bar Exams. “The slightest noise could set them off,” he shares.

WHAT’S IN A LAW LIBRARY

The AUSL library consist of tomes of the ever present SCRA, legal journals from different publishers, the more popular volumes on the important areas of studies, Newsweek and The Times, as well as national broadsheets like The Philippine Star and The Philippine Daily Inquirer. There is also the lugubrious Black’s Law Dictionary strategically placed near the main door for quick and easy legal reference.

“We have new acquisitions of books published as late as 2011,” relates Mr. Veranga. The library is updated on new volumes coming out of presses and books which are held to be important by publishers themselves, who call to inform the Chief of any new publications.

Despite this, Veranga says he would still sometimes hear complaints from students about the lack of books. This usually crops up when students are scrambling to get books to cram for major exams.

“We actually have enough books. The budget is slated at 10 books per 1,000 students, which is the minimum requirement. But during exam periods, students rather pay the overdue fine than returning books on time and finding it unavailable the next time they borrow,” Veranga explains.

Veranga says he is always ready to offer help to students and to listen to them if they have suggestions or even complaints. He also instructs his staff to be polite and accommodating as law students may be temperamental because of too much pressure from juggling work, school, and family. “The library is for the students. We try our best to cater to their needs.”

Indeed, Veranga is proud that library service had never gone below 87 % in the evaluation surveys, which he deems as an accomplishment for him and his staff.

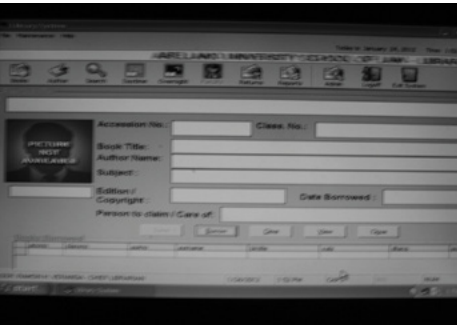
KEEPING UP WITH THE TREND

The AUSL Library would soon have online facilities like what most libraries of top universities are offering now. Veranga says the school had already acquired an online reference program and completed the uploading of data therein. Once its other services are made available and the Administration approves its implementation, the new research tool would be launched and ready for everyone’s use. In time, the students would be able to find the books they need, take it out, and return it with just the click of the mouse. All automated for impatient geeks out there.

The library hopes to see more improvements in the years to come as the need grows and changes. The students, meanwhile, should maximize what it offers and enjoy its confines like their little study corners at home but with much respect for other users and a warm smile to those who give them kind service. 🦸

COMMENTS, COMPLAINTS, OBJECTIONS, COUNTER-OBJECTIONS?

Send all of them and more to auslgazette@gmail.com



(Topmost) CLICK AND SEARCH. An online research tool will soon be launched.

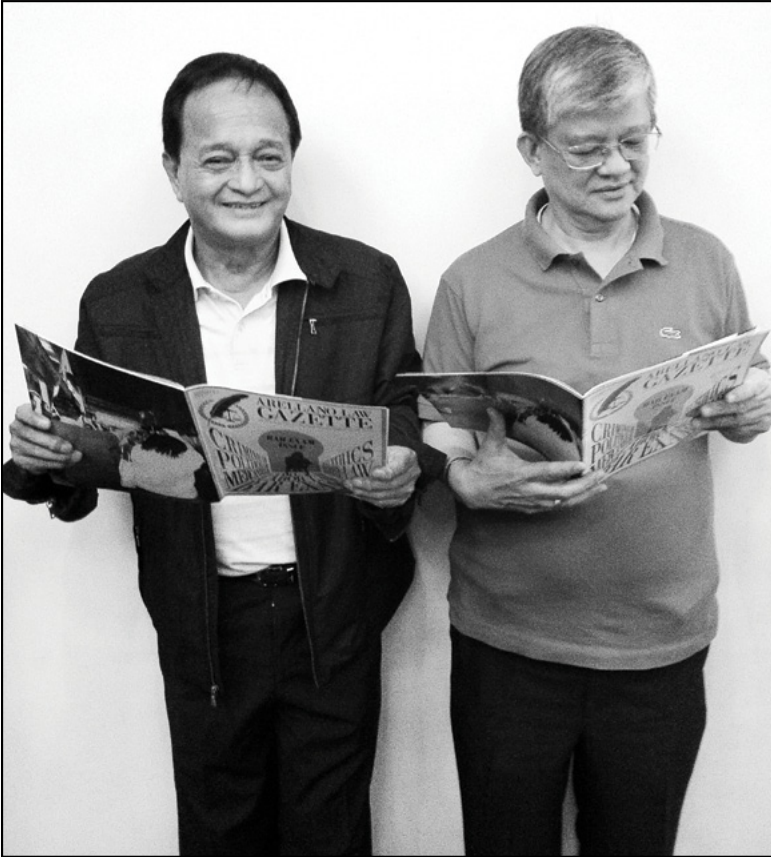
(Above immediate) READING MATERIALS. Law Reviews and other publications are also available in the library.

PHOTOS BY ABDUL ONOS

GALLIMAUFRY

*Noun: 1. a jumble, combination, or medley of things
2. hodgepodge*

OUR HONORABLE READERS.



CAUGHT ENJOYING reading The Gazette are no less than Supreme Court Associate Justices Jose C. Mendoza and Antonio Eduardo B. Nachura (Ret.).

FUNNY LAW SCHOOL ANECDOTE

In Public International Law, I was reporting about a topic on treaties. Sensing that my classmates were becoming uninterested in my report, I suddenly said, “Before a treaty becomes binding between the states involved, there must be onety and twoty so a threety will follow.” No one noticed it. After a moment, I said that it was a joke and that’s when they laughed.

submitted by Vince Mananghaya

WINNER!

To Vince, you may claim your prize at The Gazette Office. Be ready to recite to us your anecdote.

Cheers!

After her monumental best-seller “The Secret” comes another highly motivational book, “The Power”. This book subscribes to the principle of Law of Attraction, the same principle she enunciated in “The Secret”. Applying the Law of Attraction, she proposes to combine it with Love: with strong optimistic thoughts and a passionate heart you can unleash the power within you and make things possible.

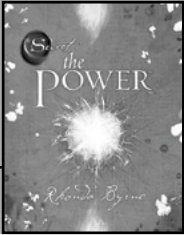
The book explains that life is simple and it is made up of either positive or negative things. To have the negative things stuck in your life is really bad news. The good news is the power and control to make it positive lies within you. Whatever you desire,

The same happens when you speak of a person’s negative things - you are bringing them in your life. The law of attraction is responding to your feelings and thoughts. Let go of anything that you do not love about your life and about others. Do not hold on to negative things from the past. Think and talk about the things you love. Choose what you love. If you want money and you have negative beliefs about money these beliefs will repel the coming of money in your bag of wealth. You have to change the way you think about money and take out the guilt feeling of wanting it; instead give a good feeling of having it and money will stick to you. You will be more inspired to earn

BOOK REVIEW

Rhonda Byrne's THE POWER

BY MARICEL TAPAY



you must want it with all your heart. Your feeling towards it is the fuel that will drive you to have it. The book claims that it has been proven in our history that those who dare to imagine the impossible are the ones who break all human limitations. The force of love will work through the forces of nature to bring into your life whatever it is that you desire. But first you have to want it and claim it.

The Mind is a magnet and Love is sticking power. When you feel good about the success, happiness and good qualities of any person, you are bringing them to yourself. When you rejoice in other people’s good fortune, their good fortune sticks to you.

and multiply it. Success in your career operates the same way. Highly successful people are those who love what they do. The forces of love drive them to master their craft. They are fearless to yield each day. They have the passion to deliver even beyond what is expected. Lastly, if love fuels our thoughts and our thoughts magnetize the possibilities of our desire, it is gratitude that multiplies what we have received. The more that we are grateful of our richness the more we will be enriched.

We all deserve an amazing life. Destiny is a matter of choice. Nobody else can make our lives better and make our dreams happen. The POWER is within us.

ATTY. ANDRE PALACIOS’

DETOUR FOR DESTINY



CEL TAPAY UNRAVELS A YOUNG LAWYER WHO INSPIRES AND IS INSPIRED TO SHARE HIS KNOWLEDGE AND PASSION

IN LIFE, “you never know what you’re gonna get.” This, we never learned from any famous guru but ironically from the mentally-challenged eponymous lead character in the 1994 film *Forrest Gump*. The quote rings true for everyone whose lives took a sudden unexpected turn and embraced what they have become as if they planned it all along.

For lawyer Andre Palacios, lecturer in Public International Law (PIL) at the Arellano University School of Law (AUSL), the discovery of what could be his life-long passion did not start until two years after graduating from college.

His Many Hats

Atty. Andre, or simply Raj to his friends, is no ordinary lawyer. He placed fifth in the 1998 Bar Examination and, at age 40, has already worked in various capacities in key government offices and in prestigious law firms. He is a holder of a Master of Laws degree in Public International Law from the University College London (UCL) where he was a British Chevening Scholar. Currently, he is the General Counsel and Corporate Secretary of Millennium Challenge Account-Philippines, the Philippine government entity implementing the official development assistance program funded by a P20-Billion grant by the US government through the Millennium Challenge Corporation.

It was also not ordinary that as a growing man back then, this son of an army colonel and an English professor from Iloilo City had no inkling whatsoever of becoming a lawyer.

“In high school I had no idea what I wanted to be. I did not even think of being a teacher,” said Raj who eventually took up Bachelor of Secondary Education at the University of the Philippines in Diliman and taught high school at Colegio San Agustin in Makati.

Accidentally in Law

Although he enjoyed teaching high school economics, Raj craved for more challenge and decided to pursue further education. He was torn between taking up Law and Master in Business Administration (MBA). After making a cost-benefit analysis of the two choices, he chose what he thought was the more challenging course.

“The need for challenge pushed me to take up law,” Raj said partly in jest as he knew that being in law school would be a completely new experience for him. Admitting that he was not the epitome of academic excellence during college, did not have the best study habits, and was always nervous when called for recitation, he vowed to do things the right way when in law school. And he did throughout his stint at the UP College of Law, recalling that “it felt good to sit in class confidently waiting for the teacher to ask questions, half hoping to be called to recite.”

Study Secrets

In law school, he would often be found at the library reading SCRA volumes until evening, because there was no Lex Libris or LawPhil.net then, and he wanted to save on photocopying costs. He remembers studying four hours each school day on the average. He would pace himself by counting the number of pages of required reading and multiplying it by the number of minutes

ATTY. ANDRE'S
CHUNKS OF
WISDOM



KNOW WHAT IT IS THAT YOU WANT.

“Think about what you want to do really. Do it with a purpose. Do it deliberately. If you want to do Law, then study. Otherwise, you’re wasting your time and money.”

KNOW YOUR PRIORITIES AND TAKE CONTROL OF YOUR LIFE.

“Take control of your lives, fix your schedules and early on define what’s important to you. If work is important and law school is supplementary, so be it. Don’t expect high grades in law school. But if you think this is an investment for the future and your work now is really a way for you to get to your Law degree, then arrange it that way. If you know what your priorities are, you can choose the activities you do, because you know

how to spend your time. Then the results would be better.”

LEARN ON YOUR OWN. LEARN DESPITE THE TEACHER.

“I think the most important way to motivate is to make the students realize that it is within their power to pass the bar and do well in the practice. Teaching is mine. I will try to help you but the learning is yours. Learning is an internal process. Sometimes you learn despite the teacher. You learn on your own. The impediment to learning is yourself. The sooner you realize it, the better for you.”

DIAGNOSE WHAT YOU NEED TO WORK ON

“Know your weak points. Diagnose it carefully. Knowing the problem is half the solution.”



(Above) U.K. SIGHTING. Atty. Palacios with his wife along Thames River in London with Houses of Parliament and Big Ben (clock tower) in the background. (Inset) ICJ VISIT. With his LLM classmates and professor Philippe Sands, QC (Queens Counsel) and authority in Public International Law, during their visit to the International Court of Justice.



THE INTERVIEW. Atty. Palacios readily said “yes” to the Gazette’s request for interview for this article. Cel Tapay, the author of this article, was inspired by his stories and was surprised how humble and unassuming he is despite his achievements.

needed to read all of those pages.

He shared techniques he adopted since his first year in law school. “Pick about 100 codal provisions (to memorize). Over four years, you will be able to memorize them. Then read the Supreme Court decisions in the original.” When you do these, he said, the review later would really be just a review.

Civil Law and PIL are his favorite law subjects. He singled out Taxation as the most difficult, and he thought that he would fail in this subject in the Bar Exam. He surprisingly got a grade of 93%, thanks to a CPA board exam reviewer. “It was a reviewer by Prof. Virgilio Reyes. He explained the concepts very well and gave clear examples of how they were applied. I hope someday to shake his hand and personally thank him.”

Hurdling the Bar

Raj was a Court Attorney of Supreme Court Justice Santiago Kapunan at the time of release of the 1998 Bar Exam results. He still went to work even though he knew that the results would be announced that day in April 1999. He stepped out of their office to wait for the release and returned only after he got a call from an office colleague. Reaching the Supreme Court, he bumped into the previous year’s topnotcher who then blurted out to him, “Congratulations. You are number five.”

He was humble enough to say that while it is an achievement to be in the Top

10 of the Bar Exam, it is neither a good indicator of legal skills nor an assurance of success in the legal profession. “The ranking matters only to people who think it is the foolproof gauge of legal knowledge,” he said nonchalantly.

While he readily admitted that the most important factor in the Bar Exam is one’s preparation, he also cited other factors that could affect one’s performance in the exam: physical condition, mental and emotional state, and a little smile from Lady Luck. He said luck is indeed a factor as it could happen that the examinee, by sheer coincidence, was able to study the material that was required to correctly answer the exam questions. Lastly, it is very important to use the correct terms. “I keep telling my students an examinee needs to use the ‘magic words of the law’, so he can show to the examiner that he knows what he is talking about.”

PIL Devotion

Raj taught Agency and Partnership Law and Administrative Law in another law school, but it was only in AUSL where he was given the opportunity to teach the subject he loves.

“I am thankful to Dr. Florentino Cayco III for giving me the chance to teach PIL because that’s the law subject that I love most. My objective is to share my passion for PIL and to make students realize that it is relevant not only for passing the bar but also for practicing before Philippine courts.”

He got interested in PIL when he participated in the Jessup Moot Court Competition during his senior year in law school. Since then, he has been so enamored with PIL that he not only studied it during his Master of Laws in London, he also practiced it while he was legal assistant to the Philippine Permanent Representative to the World Trade Organization in Geneva, Switzerland.

“PIL is my biggest love, next to my wife, of course,” he said with a smile. He aspires to write a text book to help demystify PIL and make law students realize its importance in Philippine law practice.

Vast Experience

After working in the Supreme Court, Raj joined the litigation department of Car-

pio Villaraza & Cruz Law Office (now known as Villaraza Cruz Marcelo & Angangco). Not many are aware that he was a Private Prosecutor during the Senate impeachment trial of former President Joseph Estrada. From 2001 to 2004, he served in the Office of the Chief Presidential Legal Counsel in Malacañang where he was Assistant Secretary.

His Other Self

His interests though, not only revolve around legal stuff. From freshman year until junior year, he was the team captain of the UP Law Football Team. He has been running for over 20 years now, and he finished his full marathon in 2010. Whenever possible, he jogs twice a week to keep fit.

He loves to travel. During his five-week Easter Break while doing his London LLM, he visited 21 cities in

Europe and North Africa: Seville, Granada, Cordoba, Malaga, Madrid and Barcelona in Spain, Marrakesh in Morocco, The Hague in The Netherlands, Luxembourg, Geneva, Monaco, and Bordeaux, Strasbourg, Avignon, Marseilles, Aix-en-Provence, Cannes and Nice in France. His favorite is Andalucia, the region of Southern Spain. For every city that he visits, he sends himself a postcard where he writes the details of the places he visited, the food he ate, and his overall experience of the place.

Raj’s love affair with his wife, who is an academic like Raj’s mom, began when they met in Manila while she was home for a Christmas break from her postgraduate studies in the UK. Their romance blossomed in Europe when she returned to UK and he went to Geneva to work for the Philippine WTO Mission.

A Perfect Feat

For someone who did not see himself joining the legal profession, Raj seems perfectly fit to become a lawyer and definitely has great potential to succeed in the field. And with all his achievements so far, it is surprising how he remains grounded and motivated to improve not only himself but also his students.

Anyone can pick from his “box of chocolates” and be inspired to turn their life around for the better.

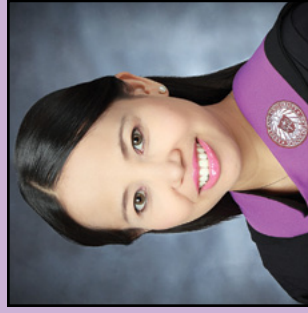


ON HIS GEAR. Atty. Palacios running his first full marathon. He runs as a pastime and to keep fit.

2011 BAR EXAM PASSERS

HAILE THE 123

NEW LAWYERS!



CHERRY LIEZ RAFAL-ROBLE

3RD PLACER



PHOTOS COURTESY OF
ITC DEPARTMENT



CONGRATULATIONS!

ARELLANO LAW
GAZETTE

HEAR YE! HEAR YE!



ATTY. REYNALDO LOPEZ, GAWAD SANTO TOMAS FINALIST

The Gazette congratulates its adviser Atty. Reynaldo “Bong” G. Lopez for being one of two finalists in the Gawad Santo Tomas of the University of Santo Tomas as Most Outstanding Associate Professor. Lopez teaches Philippine Constitution and other Political Science subjects in UST.

BE PART OF OUR NEXT ISSUE. HOW? READ BELOW.

LAW PROFS' QUOTABLE QUOTES

Don't we just love it when Professors do their monologues in class, especially when they mince bits of wit and humor? Have you by any chance taken note of those not-to-be-missed quotes from them? Send them to us and we'll share them next issue.

At Your Best Photo

We are sure you get your hands busy sometimes with your cellphone cameras for a brief moment of vanity while taking a break from studying. You do this either to keep you sane; or that you need a new Facebook profile picture; or perhaps to show to your parents how serious you are in studying law. Whatever the reason, we want a copy of a photo of you studying – be it in your room, in the library, in your car, or in a nearby café you use as your dorm extension. The best photos will be featured next issue.

e-mail submissions to auslgazette@gmail.com.

The New SSC Officers



**CARLO
TAGAYUNA**
FOURTH YEAR
PRESIDENT



**VALERIE ROSE
PERALTA**
FOURTH YEAR
**VP FOR EXTERNAL
AFFAIRS**



**FILADRIAN
CANLAS**
FOURTH YEAR
**VP FOR INTERNAL
AFFAIRS**



**ROSALIE
MONTILLA**
FIRST YEAR
SECRETARY



**MICHELLE
CHAGUILLE**
FOURTH YEAR
TREASURER



**MARIE ROSE
CARLOS**
SECOND YEAR
AUDITOR

PHOTOS COURTESY OF ITC DEPARTMENT

the
**ARELLANO
LAW
GAZETTE**

ARTICLES OF IMPEACHMENT

I
RESPONDENT BETRAYED THE PUBLIC TRUST THROUGH HIS TRACK RECORD MARKED BY PARTIALITY AND SUBSERVIENCE IN CASES INVOLVING THE ARROYO ADMINISTRATION FROM THE TIME OF HIS APPOINTMENT AS SUPREME COURT JUSTICE AND UNTIL HIS DUBIOUS APPOINTMENT AS A MIDNIGHT CHIEF JUSTICE TO THE PRESENT.

II
RESPONDENT COMMITTED CULPABLE VIOLATION OF THE CONSTITUTION AND/OR BETRAYED THE PUBLIC TRUST WHEN HE FAILED TO DISCLOSE TO THE PUBLIC HIS STATEMENT OF ASSETS, LIABILITIES, AND NET WORTH AS REQUIRED UNDER SEC. 17, ART. XI OF THE 1987 CONSTITUTION.

III
RESPONDENT COMMITTED CULPABLE VIOLATIONS OF THE CONSTITUTION AND BETRAYED THE PUBLIC TRUST BY FAILING TO MEET AND OBSERVE THE STRINGENT STANDARDS UNDER ART. VIII, SECTION 7 (3) OF THE CONSTITUTION THAT PROVIDES THAT “[A] MEMBER OF THE JUDICIARY MUST BE A PERSON OF PROVEN COMPETENCE, INTEGRITY, PROBITY, AND INDEPENDENCE” IN ALLOWING THE SUPREME COURT TO ACT ON MERE LETTERS FILED BY A COUNSEL WHICH CAUSED THE ISSUANCE OF FLIP-FLOPPING DECISIONS IN FINAL AND EXECUTORY CASES; IN CREATING AN EXCESSIVE ENTANGLEMENT WITH MRS. ARROYO THROUGH HER APPOINTMENT OF HIS WIFE TO OFFICE; AND IN DISCUSSING WITH LITIGANTS REGARDING CASES PENDING BEFORE THE SUPREME COURT.

IV
RESPONDENT BETRAYED THE PUBLIC TRUST AND/OR COMMITTED CULPABLE VIOLATION OF THE CONSTITUTION WHEN HE BLATANTLY DISREGARDED THE PRINCIPLE OF SEPARATION OF POWERS BY ISSUING A “STATUS QUO ANTE” ORDER AGAINST THE HOUSE

OF REPRESENTATIVES IN THE CASE CONCERNING THE IMPEACHMENT OF THEN OMBUDSMAN MERCEDITAS NAVARRO-GUTIERREZ.

V
RESPONDENT BETRAYED THE PUBLIC TRUST THROUGH WANTON ARBITRARINESS AND PARTIALITY IN CONSISTENTLY DISREGARDING THE PRINCIPLE OF RES JUDICATA IN THE CASES INVOLVING THE 16 NEWLY-CREATED CITIES, AND THE PROMOTION OF DINAGAT ISLAND INTO A PROVINCE.

VI
RESPONDENT BETRAYED THE PUBLIC TRUST BY ARROGATING UNTO HIMSELF, AND TO A COMMITTEE HE CREATED, THE AUTHORITY AND JURISDICTION TO IMPROPERLY INVESTIGATE A JUSTICE OF THE SUPREME COURT FOR THE PURPOSE OF EXCULPATING HIM. SUCH AUTHORITY AND JURISDICTION IS PROPERLY REPOSED BY THE CONSTITUTION IN THE HOUSE OF REPRESENTATIVES VIA IMPEACHMENT.

VII
RESPONDENT BETRAYED THE PUBLIC TRUST THROUGH HIS PARTIALITY IN GRANTING A TEMPORARY RESTRAINING ORDER (TRO) IN FAVOR OF FORMER PRESIDENT GLORIA MACAPAGAL-ARROYO AND HER HUSBAND JOSE MIGUEL ARROYO IN ORDER TO GIVE THEM AN OPPORTUNITY TO ESCAPE PROSECUTION AND TO FRUSTRATE THE ENDS OF JUSTICE, AND IN DISTORTING THE SUPREME COURT DECISION ON THE EFFECTIVITY OF THE TRO IN VIEW OF A CLEAR FAILURE TO COMPLY WITH THE CONDITIONS OF THE SUPREME COURT’S OWN TRO.

VIII
RESPONDENT BETRAYED THE PUBLIC TRUST AND/OR COMMITTED GRAFT AND CORRUPTION WHEN HE FAILED AND REFUSED TO ACCOUNT FOR THE JUDICIARY DEVELOPMENT FUND (JDF) AND SPECIAL ALLOWANCE FOR THE JUDICIARY (SAJ) COLLECTIONS.

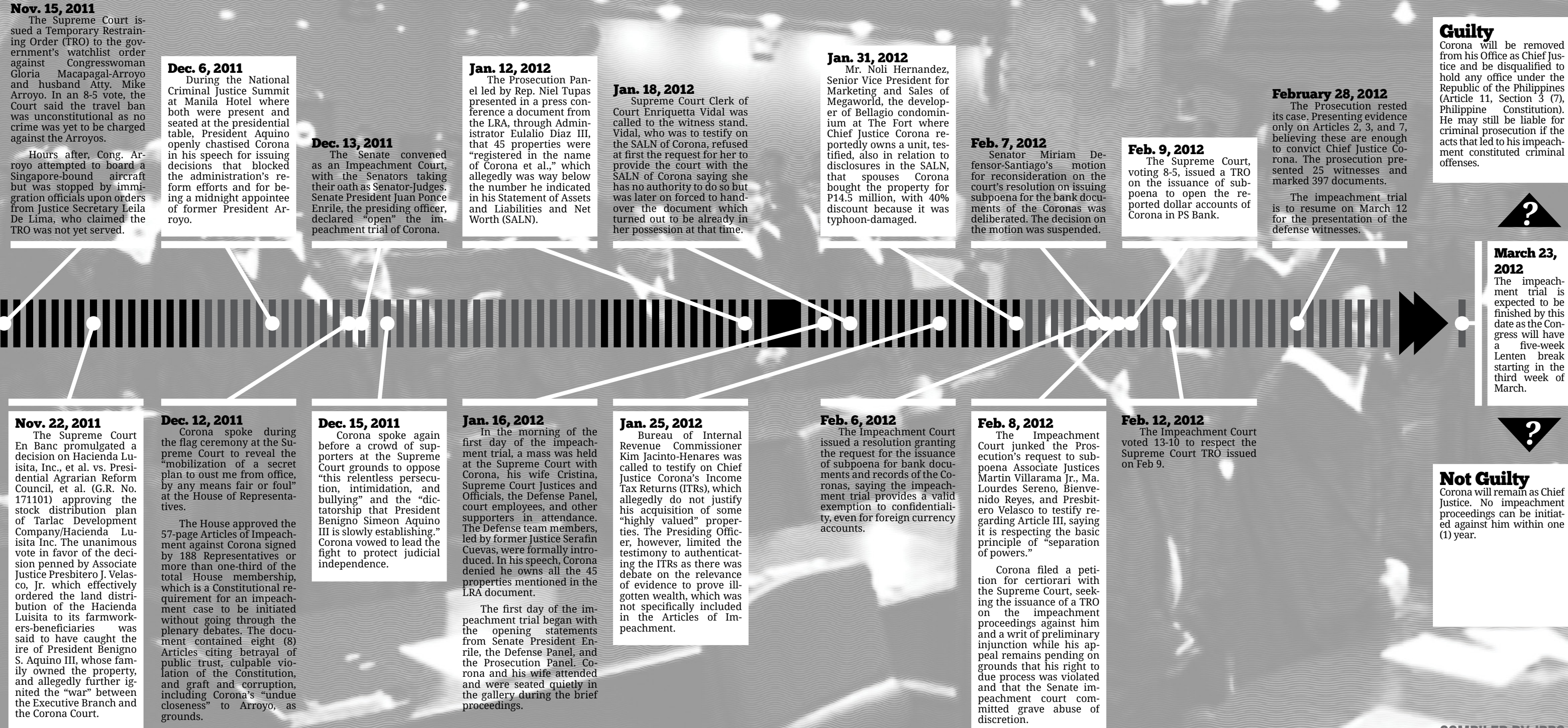
CORONA IMPEACHMENT SPECIAL

IMPEACHMENT TIMELINE
DRAMATIS PERSONAE
THE RHETORIC OF IMPEACHMENT

IN DEFENSE OF THE COURT
CHIEFS’ YELL

IMPEACHMENT TIMELINE

Case No. 002-2011: ON THE IMPEACHMENT OF CHIEF JUSTICE RENATO C. CORONA

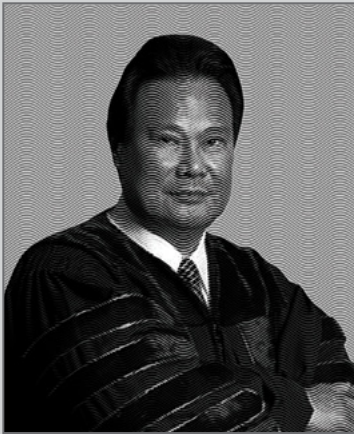


DRAMATIS PERSONAE

BY SHAYNE ANNE BASCO

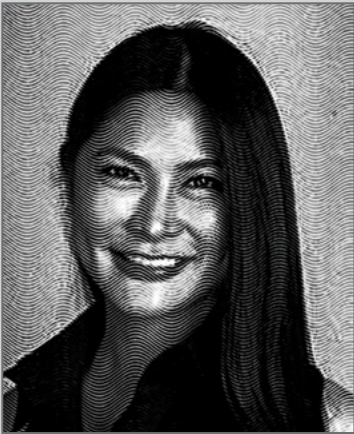
THE PRINCIPLE of Separation of Powers, which was first developed in ancient Greece, is a model for the governance of a state. It upholds the principle that the state is divided into branches, each with separate and independent powers and areas of responsibility so that no branch has more power than the other. The theory of the separation of powers is designed by its originators to secure action and at the same time to forestall overreaction which necessarily results from undue concentration of powers, and thereby obtain efficiency and prevent despotism.

The glorious revelry was short-lived as the Filipino people were bombarded with legalistic terminologies only days passed New Year. Like a theatrical play, the powers of the three great branches of the government unravel before their eyes in a manner never seen before. In a day's work, 188 Congressmen signed the Articles of Impeachment against Chief Justice Renato Corona that was allegedly driven by the President of the Philippines himself. The stage was set and the cameras continuously rolled as this time, the highest official of the court was put on trial. Yet, the story would not be complete without the characters that give life to the play.



THE MAIN CHARACTER

Renato C. Corona, the protagonist to some and the antagonist to many. He is the 23rd and current Chief Justice of the Supreme Court of the Philippines. The so-called midnight appointment made by Former President Gloria Macapagal Arroyo in favour of Corona is also one of the contents of the Articles of Impeachment against him. He is a consistent honor student from grade school to college at the Ateneo de Manila University, where he likewise received his Bachelor of Laws. He has received his Master of Laws from Harvard School in 1982 and has earned his Doctor of Civil Law Degree from the University of Santo Tomas. He has served as a special counsel at the Development Bank of the Philippines and has been a senior officer of the Tax and Corporate Counseling group of SGV & Co. He has also served under the administration of former President Fidel V. Ramos as Deputy Executive Secretary and later Chief Presidential Legal Counsel. On April 9, 2002, he was appointed to the Supreme Court and has rendered some notable opinions on cases such as *Neypes v. CA* (period to appeal from decisions of trial courts), *Republic v. Sandiganbayan* (forfeiture of Swiss assets of the Marcos family) and *Francisco v. House of Rep.* (separate opinion on the impeachment resolution against Chief Justice Hilario Davide, Jr.).



THE SPOKESPERSON FOR THE DEFENSE

Karen Olivia Jimeno received her Bachelor of Laws degree at the University of the Philippines College where she graduated as cum laude in 2005. She was likewise awarded the Dean's Medal for Academic Excellence. She obtained her Master of Laws at Harvard School of Law in 2011. She graduated as magna cum laude with the degree Bachelor of Arts in Humanities and Management from the University of Asia & the Pacific. She married Evan McBride, an investment banker, on January 07, 2012, days before the commencement of the impeachment proceedings.



THE LEAD COUNSEL FOR THE DEFENSE

Serafin R. Cuevas, born on June 25, 1928, was appointed by Former President Ferdinand Marcos as an Associate Justice and he served as such from June 01, 1984 – April 16, 1986. He took his Bachelor of Laws degree at the University of the Philippines and was admitted in the practice of law in 1952. He has likewise served as a judge of the Court of First Instance (Now RTC) and an Associate Justice of the Intermediate Appellate Court (Now CA). The late Chief Justice Fred Ruiz has recognized his expertise and appointed him as Chairman of the Supreme Court Committee that drafted the trial court manual. He was also a member of the U. P. Law Center Committee that drafted the proposed Code of Crimes.



THE LEAD PROSECUTOR

Neil "Junjun" C. Tupas, Jr., born on July 3, 1970 from a political clan in Viejo, Iloilo. He is currently the representative of the 5th District of Iloilo. He passed the bar on his third attempt and has been a member of the Philippine Judicial and Bar Council. He is under the Liberal Party and is the Chairman of the Committee on Justice in the House of the Representatives. He has sponsored 26 House Bills since he assumed office on June 20, 2007.



THE SPOKESPERSON FOR THE PROSECUTION

Federico "Miro" Saenz Quimbo, is the Representative of the 2nd District of Marikina. He took his Bachelor of Laws degree at the University of the Philippines where he also served as a member of the Student Council and the captain of the debating team. He was appointed as the head of Pag-IBIG Fund from 2002-2008. During his stint, the Fund became the most profitable corporation and consistently belonged to the top ten corporations in the Philippines. He was one of the awardees of the Ten Outstanding Young Men of 2007 by the Philippine Jaycees.

THE PRESIDING OFFICER

Juan Ponce Enrile, was born out of wedlock on February 24, 1924, as Juanito Furagganan to Petra Furagganan. His father Alfonso Ponce Enrile was then already married and a powerful regional politician. He was reunited with his father during his high school years. He graduated cum laude at the University of the Philippines College of Law. He garnered the 11th spot in the 1953 bar examinations with a rating of 91.72% and a perfect score in Mercantile Law. He has earned his Master of Laws degree at the Harvard School of Law with specialized training in international tax law. He has served under the Marcos Regime as the Secretary of National Defense until he associated himself with the Reform the Armed Forces movement. He has later won a senatorial seat and thereafter served as a Congressman. He became the Senate President on November 17, 2008 when Senator Manuel Villar resigned.



AUSL PROFESSORS IN THE PROSECUTION TEAM

Under the team of Rep. Elpidio Barzaga Jr. of Cavite, Lead Prosecutor for Article V and Secondary Prosecutor for Article II:



ATTY. HENEDINO M. BRONDIAL who hails from Legaspi City, Albay graduated from the University of Sto. Tomas College of Law in 1985. He was admitted to the Philippine Bar on June 2, 1986. He has been in litigation for 27 years and is currently a Professor and a Bar Reviewer at the AUSL on Remedial Law subjects. He is also a Reviewer for the MCLE on Civil Procedure and Evidence. He is the Senior Partner of the Brondial Law Offices.



ATTY. MARIO E. VALDERRAMA earned his Bachelor of Laws degree from the Far Eastern University Institute of Law. He graduated valedictorian and magna cum laude in 1982 and placed 12th in the Bar Examination the same year with an average of 88.2%. He is the only Filipino in the Approved Faculty list of the Chartered Institute of Arbitrators and the first Filipino to be admitted as Fellow of the Hong Kong Institute of Arbitrators. He is the President of both the Philippine Institute of Arbitrators, Inc. and the Philippine Chapter of the East Asia Branch of CI Arb. He is an accredited arbitrator of the Philippine Dispute Resolution Center, Inc. and a Philippine Supreme Court Accredited Appealed Cases Mediator. He teaches alternative dispute resolution at AUSL.

Notes:
1. http://en.wikipedia.org/wiki/Separation_of_powers
2. G.R. No. L-47178 November 25, 1940

Sources:
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<http://www.upalumni.ph/featured-young-graduate/>

THE RHETORIC OF IMPEACHMENT

BY KREMIL S. DAVID

IT WAS not too long ago when the nation witnessed the televised coverage of former President Joseph Estrada’s impeachment trial. We can assume everyone is now familiar with what Chief Justice Renato Corona is facing in the Senate acting as an impeachment court. Pundits and legal experts are all over the tri-media and the internet - busily discussing and explaining the nuances and possible consequences of what is undoubtedly the “trial of the year.” News organizations covering the events are tapping the minds of legal experts to provide running commentaries on the impeachment proceedings.

Mass media as a tool for information dissemination plays a critical part in politics and governance. What may be said by a politician on television may be taken out of context and aggravate the issue. Words employed by public figures persistently as expression of their belief and opinion must be taken by the public with discernment in order to prevent confusion and further conflict, what with the lightning speed of information sharing and exchanges especially through the social media such as Twitter and Facebook.

The business of the impeachment court is still far from over. Everyone is intensely following the proceedings not only in anticipation of drama (perhaps from Senator-Judge Miriam Defensor-Santiago) or comic relief (again, from Senator-Judge Santiago), but also because every Juan dela Cruz feels he has something to say on the issues being deliberated.

It is a typical lawyer’s trick – accusing the accuser.

Atty. Jose Midas Marquez of the Supreme Court pronounced that the diatribe of the President aimed against the Chief Justice is an attack to the judicial institution. The spokesperson even warned that such a gesture might lead into a constitutional crisis. Members of the House Representatives who initiated the impeachment of the Chief Justice countered that the very same

process is not an attack but rather a means to strengthen the judiciary.

We have seen the showdown of wits between the House prosecutors and the defense team led by seasoned lawyer and former Supreme Court Justice Serafin Cuevas. Intelligent though they may be in their own right, the ordinary Filipino who is not well-versed with the technicalities of a trial may be confused by the eristic debaters in the Senate floor.

The aim of adversary proceeding is to thresh out the truth so that correct judgment may be rendered. Yet the reality still persists that the legal or judicial truth may necessarily be not the actual truth. The versions of truth presented by the two contending parties in the impeachment trial may be presented as legally true, subject to the appreciation of the senators-judges. And from this, a question comes to mind – Who is telling the truth?

The public must be divided with this. And our politicians must be too good to be true.

Perhaps, it would be helpful to view this process then on the side of rhetoric – the science which investigates the general principles to which every discourse must conform, that is designed to instruct, convince, or persuade. Aristotle defines rhetoric as a manner of effectively organizing material for the presentation of truth, for an appeal to the intellect through speech. Through the ages, this system of science has become a system of public discussion whereby, rightly or wrongly, by fair means or foul, a point of contention is carried. Especially now that everyone enjoys the power of social media which serve as sounding board for our sentiments and reactions, every voice can be heard.

It used to be that statesmanship was an art, developed and

trained to serve the purpose of governance. “With words, we govern men,” said Benjamin Disraeli more than a century ago. And this statement rings true even today. For what is power when it is not pronounced.

The separation of powers and the blending of powers have been obscured by the powerful blend of separation.

A basic lesson in Constitutional Law teaches us that separation of powers has been designed to serve as check and balance between and among the three great departments of government in a republican democracy such as ours. This doctrine also purports that from such separation, division of labor in carrying out the mandate of the government has been provided by the constitution.

Such that, legislature is limited to enactment of laws; the executive to the enforcement of law; and the judiciary to the interpretation of law.

Yet from the scattered provisions of the constitu-

tion, we find that there are instances where powers and functions are shared by these three branches, such that blending of powers is often observed. There are points of contact between these branches as prescribed by the organic law. By way of example, the President participates in lawmaking process when he signs or vetoes a bill. The Legislative performs judicial function in cases of impeachment. And, the Judiciary by the same token may re-

view the acts of the government branches and instrumentalities.

We have to admit that although the constitution draws the line of demarcation of these powers, the language of the Constitution in general terms tend to create confusion. This is seen in the light of the ongoing impeachment trial. Some would say that the Supreme Court may validly assert its power of judicial review upon finding that there is grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the impeachment court. Even the House Prosecution’s conduct in transmitting the articles of impeachment can thus be a proper subject of judicial review. But the House or the Senate for that matter may not recognize such exercise of power by the Judiciary as it may insist its jurisdiction over the impeachment proceedings.

The President holding the entire executive machinery, in some instances may assail that part of his mandate is to see that

laws are faithfully executed. And given this argument, it has a legitimate stake in the outcome of the impeachment trial.

This is where we find the powerful blend of separation. Inasmuch as there is a borderline limiting the actions of the executive, legislature, and the judiciary, our leaders from these three branches are caught in a cobweb – encroaching upon one another’s prerogative and power. In times like this, the dilemma is that there is no legitimate fourth estate which can serve as the final arbiter. While it is true that it is the people who has the final power to break the impasse, following the principle that all government authorities emanate from them; the problem lies in the divisive attitude of the people brought about by confluent interest of the key players.

We seek political justice from judicial politics.

The 1987 Constitution enumerates those who maybe impeached. It is interesting to note that the President and the Vice President are the only elected officials that may be subject to impeachment. All the rest are appointed officials who perform judicial and quasi-judicial functions. The enumeration is exclusive. Being so, the provision in the Presidential Decree 1606 creating the Sandiganbayan Court which states that justices in the Sandiganbayan Court are impeachable officials, would no longer hold true under the present Constitution.

Experts say that impeachment process is a class of its own, neither criminal nor civil process. In the words of former Chief Justice Artemio Panganiban, impeachment is more political than legal. However, we seldom dissect the import of this statement. And we are content with this claim without

first defining for purpose of clarity what the term “politics” meant.

Politics has been given a bad connotation. Blame the traditional politicians whom we have loved to hate for tainting this noble art of state management. Following Aristo-

“We have to admit that although the constitution draws the line of demarcation of these powers, the language of the Constitution in general terms tend to create confusion.”

tle’s classic definition, Politics is that branch of social philosophy which deals with the ethical management of the affairs of the state. But it is lamentable to say that the term politics has evolved from a philosophical system into an arena of dirty games and power grabbing.

The President, it is recalled since his assumption in office has defied the appointment of the Chief Justice. His theory is that such appointment is a product of a game plan brewed by the former president to keep her safe from prosecution and future charges. The Chief Justice may shield his former boss from accountability by having a hand in the cases brought before the Supreme Court. Judicial politics, for whatever that means has been the primordial consideration of such an appointment.

History tells us that the process of impeachment was developed in the Parliament of Great Britain to exercise some control over the King. The Parliament must have thought of impeachment as a panacea in the tendency of the monarch to exercise absolute power. There is a world of difference between the monarchy and representative democracy. Our impeachment process has been designed to oust elected and appointed officials. Save for the President and the Vice President, the people in their sovereign capacity have no direct hand in the appointment of the other impeachable officials, especially the Justices of the Supreme Court.

In all these narration, what have we learned so far, as a nation and as a people? Those who cannot remember the past are condemn to repeat it, as warned by George Santayana. Perhaps, we may have yet to learn from our history as a nation. The why and wherefore of our plight as a people have yet to be rediscovered. And perhaps, the current impeachment process

must be viewed or reviewed as a lesson for us to truly learn what public accountability and public trust really mean in the true sense of the terms.

Postscript.

As of this writing, there is not yet a resolution as to the quantum of evidence which will be used in judging the Chief Justice. We learn from Remedial Law that the evidence required in civil cases is preponderance of evidence; while criminal cases would require proof beyond reasonable doubt. Swinging forth in the scale of justice are the other quanta such as clear and convincing evidence, prima facie evidence, overwhelming evidence, and substantial evidence.

We are rich in jurisprudence as to the definitions and criteria set by law in terms of this required evidence. Digging deeper with the terms, I recall my lessons in Advanced Grammar as to parallelism and grammatical consistency. In a series of terms, parallelism must always be observed. There seems to be a slight inconsistency in the grammatical import of the categories of evidence.

QUANTUM OF EVIDENCE REQUIRED	CASES OR PROCEEDING
PROOF BEYOND REASONABLE DOUBT	CRIMINAL CASES
PREPONDERANCE OF EVIDENCE	CIVIL CASE
SUBSTANTIAL EVIDENCE	ADMINISTRATIVE OR QUASI-JUDICIAL CASES
CLEAR AND CONVINCING EVIDENCE	EXTRADITION PROCEEDING

The degree of evidence is qualified or modified depending on nature of the case. Such that, evidence in extradition proceeding must be clear and convincing. Evidence in administrative cases must be substantial. In criminal cases, the required evidence must be proof beyond reasonable doubt.

In civil cases, the Rules require that the party having the burden of proof must establish his case by preponderance of evidence. Taken from the Latin words, praewhich may either mean beyond or great, and pondus or weight, preponderance means the quality of having a greater weight. Hence, to be at least grammatically consistent, civil cases must require preponderant evidence and not preponderance of evidence. There is no disagreement that “preponderance of evidence” is also correct grammatically. But if we are to modify a noun, we need an adjective. Evidence is a noun which is modified by the word preponderant.

Should the senators-judges decide on the quantum of evidence they will adopt in the impeachment case, their options are not limited. And preponderant evidence is one of these.

IN DEFENSE OF THE COURT

BY LESTER OPLE*

THE SUPREME Court should order the Legislature to cease and desist from proceeding with the impeachment of Chief Justice Renato Corona, on the ground that judicial power extends to any and all questions pertaining to the powers of the other branches of government. Law students should support and defend the Supreme Court from the mob if and when it happens, for when our society no longer has the rule of law, the profession we law students aspire for is nothing but a fancy title adorning our signature.

One of the oldest quips among law students is the doctrine of infallibility of the Supreme Court. The joke goes, if a lower court makes a mistake, it is an error that can be corrected by the Supreme Court; but if the Supreme Court makes an error, then it becomes part of the law of the land. This flies in the face of logic for the lay person, but even law students sometimes are challenged in explaining the concept of the supremacy of the Court in our system of government. Hence, the Roman Catholic concept of Papal infallibility and the doctrine of supremacy of the Courts will be contrasted to arrive at the conclusion that the Courts should remain infallible.

“Within reasonable bounds, the Courts will be dragged time and again into controversy, and such should not lessen its place within our tripartite system of government.”

Papal infallibility is a dogma of the Catholic Church which states that, by action of the Holy Spirit, the Pope is preserved from even the possibility of error when in his official

capacity he solemnly declares or promulgates to the universal Church a dogmatic teaching on faith or morals. This is the cement that holds the Catholic faithful together, for the doctrine of infallibility of the Pope is to be rejected



ered“governed by law and not of men.” Modern governments necessitate such arrangements, for if it were otherwise, then we will have anarchy, where every man does as he pleases disregarding law and the rights of others. Stated simply, the exercise of faith as defined by a specific denomination is a personal choice; the exercise of citizenship- its rights and responsibilities- is defined by law and those institutions who interpret the law. Hence, the Judiciary, with all the foibles and quirks of the individuals who compose it, is Supreme when it interprets the law.

To the point of those in favor of proceeding with the impeachment, questioning how else can the Chief Justice be made

considered outside the auspices of the Mother Church.

Similarly, the Supreme Court in the Philippines is considered infallible in its

exercise of judicial review. In a sense, the Philippine Supreme Court is more powerful than its US counterpart, in that the power of judicial review is only impliedly granted to the US Supreme Court, whereas the 1987 Constitution, as a reaction to the perceived “rubber stamp” Supreme Court of the Martial Law era, explicitly granted the Supreme Court the power of judicial review. This has been reiterated in numerous cases, the most pertinent of which to the issue of the impeachment of CJ Corona being Francisco v. House of Representatives, decided in 2003, albeit with a different factual milieu.

However, this is where the similarities end. Only a Pope can correct a previously erroneous edict by another Pope; in the same way, only the Supreme Court can reverse itself and correct a previously decided upon point of law. But unlike Papal edicts, wherein “Catholics” may disagree with the Pope and yet still go to church, proclaim their “faith”, yet do and believe as they please, citizens of a country do not have that luxury, at least in so far as laws of the land are concerned. Citizens of a democratically constituted government are expected- nay, constrained- to follow written law, and authoritative interpretations of such written law. This is because modern governments are consid-

ered“governed by law and not of men.” Modern governments necessitate such arrangements, for if it were otherwise, then we will have anarchy, where every man does as he pleases disregarding law and the rights of others. Stated simply, the exercise of faith as defined by a specific denomination is a personal choice; the exercise of citizenship- its rights and responsibilities- is defined by law and those institutions who interpret the law. Hence, the Judiciary, with all the foibles and quirks of the individuals who compose it, is Supreme when it interprets the law.

To the point of those in favor of proceeding with the impeachment, questioning how else can the Chief Justice be made

to answer for his alleged transgressions, a perusal of the articles of impeachment is in order. The list of alleged offenses gave me the impression that CJ Corona is being impeached for performing what the Constitution commands him to do, which is to render a decision as a member of a collegial body. Congress is now virtually submitting the decisions of the Supreme Court to the Senate for review- clearly violative of the separation of powers doctrine enshrined in the Constitution. Add the fact that in a matter of less than one business day, 188 congressmen were able to vote on the impeachment of the Chief Justice, even as long-pending “priority legislation” sit idly gathering dust and cobwebs. How can then it be denied that the impeachment was a political exercise? If indeed the Chief Justice has committed impeachable offenses, Congress needs a compelling case such that the nation is one in agreement that Chief Justice Corona is no longer fit to serve the public- but in this case, it has miserably failed to prove that its intentions are purely in the service of the people. A closer reading of eminent Constitutionalist Fr. Joaquin Bernas, S.J. in his Jan. 1, 2012 column in the Inquirer^[1] supports this conclusion.

As one saying goes, never wrestle with a pig, because you get dirty and the pig likes it. Given the numerous entanglements of political and legal issues in the country and the muckraking that naturally follows wherever there is a political issue, do we really expect the Courts to be as chaste as Caesar's wife? And giv-

en the tendency of Filipino media to sensationalize- imagine, an institution of higher learning being assailed by the national press about its grant of a doctorate degree to CJ Corona!- do we still trust what we hear, see, or read from the Filipino press? Malcolm X, the American civil rights activist, once said about the media, “The press is so powerful in its image-making role, it can make a criminal look like he's the victim, and

make the victim look like he's a criminal. This is the press, an irresponsible press. If you aren't careful, the papers will have you hating the people who are being oppressed and loving the people who are doing the oppressing.” Within reasonable bounds, the Courts will be dragged time and again into controversy, and such should not lessen its place within our tripartite system of government. It will be history and the Filipino people who will judge the political ramifications of jurisprudence, not today's columnists or pundits. We have seen it in Javellana v. Executive Secretary, and numerous other martial law-era cases, and the subsequent reaction to rubber stamp decisions, hence the 1987 Constitution empowered the judiciary to check on the excesses of the executive and legislative departments. A pragmatic conclusion, I admit- but law does not exist in a vacuum, and the Courts not mere in vitro laboratory setups for laws.

Aristotle has said “Man perfected by society is the best of all animals; he is the most terrible of all when he lives without law, and without justice. “ Ferdinand I, the First Holy Roman Emperor, famously brandished his motto, Fiat justitia, et pereat mundus. Translated, it states “Let Justice be done, though the World perish.” Amid reports that other justices not friendly to the executive are contemplating resignation to appease the forces pushing on from across Pasig River^[2], and amid the Honorable Senate President JPE himself stating that the military is now the only force that can stop the Senate from proceeding with the impeachment^[3], we are seeing specters of society's wanton disregard for due process of law. As future members of the bar, these events should stir us

to rise up and defend the judiciary, for it represents the rule of law; for rule of law is a prerequisite to justice, and justice is the end which we all aspire for.

*Lester Ople, 28, is in his 2nd year of the Executive Program at AUSL and works at IBM.

[1] <http://opinion.inquirer.net/20269/quick-questions-for-the-senate-as-jury>

[2] <http://ph.news.yahoo.com/2-supreme-court-justice-step-down-2012-160000104.html>

[3] <http://newsinfo.inquirer.net/121009/enrile-only-military-can-stop-corona-impeachment-trial>



CHIEFS' YELL

THE IMPEACHMENT TRIAL BRINGS OUT THE LAWYER IN EVERY JUAN DELA CRUZ. WHAT HAVE YOU GOT TO SAY?

ON THE ARTICLES OF IMPEACHMENT

THE SC IS A COLLEGIAL BODY – THE CHIEF JUSTICE IS BUT ONE VOTE. THE ARTICLES OF IMPEACHMENT (EXCEPT THE ONE ABOUT CJ'S WIFE) ARE ALL PART OF THE JUDICIARY'S CONSTITUTIONAL MANDATE. THE SC MAY ERR, BUT THEY ARE MERELY HUMANS. BUT TO ASSAIL THEM IN THIS MANNER IS A DANGEROUS EXERCISE OF PNOY'S VAST POWERS.

- ANONYMOUS, AS POSTED ON THE FREEDOM BOARD

ON FEAR OF A CONSTITUTIONAL CRISIS

"HOW CAN A CONSTITUTIONAL PROCESS BRING ABOUT A CONSTITUTIONAL CRISIS? WE ALL KNOW THAT IMPEACHMENT IS PROVIDED FOR IN THE CONSTITUTION. THIS IS JUST THE CONSTITUTION AT WORK. I DON'T THINK THE EXECUTIVE AND LEGISLATIVE DEPARTMENTS ARE UNDERMINING THE INDEPENDENCE OF THE JUDICIARY."

- THE PINK PRINCESS, AS POSTED ON THE FREEDOM BOARD

ON INITIATING THE IMPEACHMENT

"LAHAT MAY GALIT SA KANYA. 85 NEEDED, 180+ ANG BUMOTO? MUKHANG POWERPLAY AH."

- @JUPITERCHUA, VIA TWITTER

LOOKING FORWARD

"THIS IMPEACHMENT TRIAL IS AN INDISPENSABLE REQUISITE OF THE MATURING DEVELOPMENT OF OUR DEMOCRACY. I SERIOUSLY HOPE THAT AS SOON AS THEY COME TO A CLOSE, FILIPINOS WILL BE MORE THAN WILLING TO HOP ON THE BANDWAGON OF HOPE TO STRENGTHEN OUR DEMOCRACY AS WE BUILD A RESILIENT, STRONG AND CAPABLE NATION."

- JOHN PAUL NANIT, 1ST YEAR

ON THE END RESULT

PARTISAN POLITICS PA RIN YAN, NUMBERS GAME, MANANALO ANG MARAMI. I DON'T WANT TO SOUND PESSIMISTIC BUT THAT'S THE REALITY. HINDI NAMAN SIGURO LAHAT NG SENATOR JUDGES, PERO I'M SURE KARAMIHAN DYAN HINDI MERITS NG KASO ANG GAGAWING BASIS SA DESISYON NILA.

- DINDO CERVANTES, 2ND YEAR

ON THE SENATE AS IMPEACHMENT COURT

I COMMEND THE EFFORT OF THE SENATE TO HAVE AN ORDERLY TRIAL AND AS A LAW STUDENT I AM EXCITED TO KNOW WHAT WILL HAPPEN, BUT I THINK WE ARE ALL WASTING OUR TIME IF THE SENATE CONTINUES TO IGNORE TO DECIDE ON THE QUESTION OR ISSUE OF WHETHER OR NOT THE GROUNDS CITED WILL CONSTITUTE AN IMPEACHABLE OFFENSE.

- LELILA AURE, 4TH YEAR

ON THE PERSONALITIES INVOLVED

"AS A STUDENT OF LAW, YOU WANT MORE OF THE BRILLIANCE OF RETIRED JUSTICE CUEVAS AND THE ABLE STEWARDSHIP OF SENATE PRESIDENT ENRILE. FOR COMIC RELIEF, WE'LL NEVER RUN OUT OF OPTIONS."

- ERIC REYNOSO, 2ND YEAR

ON THE PROSECUTION'S PREPARATION

THE TRIAL IS A LITTLE BIT USLESS BECAUSE THE PROSECUTOR'S SIDE IS VERY UNPREPARED WITH THE PLEADINGS AND EVIDENCE THAT SHOULD BE PRESENTED.

- FRANCIS TAN, 2ND YEAR

ON LESSONS LEARNED

IT HAS BEEN SAID THAT CASES ARE NOT WON IN THE COURT BUT ON THE DESK OF THE LAWYER PREPARING FOR IT. DEFINITELY, THE PROSECUTION, IN THE INTEREST OF THEIR CASE, IS EXPECTED TO COME PREPARED FOR TRIAL. I CAN'T HELP BUT DO FACE-PALMS WHENEVER AT THE IMPEACHMENT TRIAL I SEE THE PROSECUTION GET REPRIMANDED AND EMBARRASSED – APPARENTLY SHOWING THEIR LACK OF PREPARATION. THIS, TO MY MIND, IS A LESSON EVERYONE SHOULD KEEP IN MIND IN THEIR FUTURE ENDEAVORS AS LAW STUDENTS OR LAWYERS WHEN IT COMES TO TRIALS, INCLUDING THE IMPEACHMENT TRIAL.

- JOSEPH DICHOSO, 4TH YEAR

NUTRITIONAL EVILS

DISS IDENT

BY ABDUL RAFI ONOS

Last October, Telegraph, The Guardian, and Associated Press and several others covered the news of IDF soldier Gilad Schalit's release in a barrage of hand-wringing, as if to make up for their telling lack of interest in Palestine's United Nations membership bid the month before. The indifference is only natural; Schalit's release is more historical, since Obama promised to use the US' Security Council veto on Palestine's bid. Historical, that is, because history is written by the winners. Forget about the 1,027 Palestinian prisoners. They no longer exist.

Schilat's emaciation became a media springboard for all the possible nutritional evils done to him in his imprisonment, despite being reported to be otherwise healthy. These media organizations don't want a simple victory. They want to have their cake and eat it, too. And they want the rest of the seven-course meal, and the whole restaurant, and the whole supermarket that provides the ingredients. And they want to give all of it to Schalit. Because, by the Judeo-Christian god, Schalit is an Israeli soldier, damn it, and he better eat good.

There are even Knesset rumblings about the inequality of Hamas treatment to Schalit compared to the Israeli government's treatment of the imprisoned Palestinians, likening the prisons to a party with "five-star hotel" treatment. That's a rational observation, because when a terrorist blows up a café in your neighborhood, your government treats him to a five-star hotel. A hotel, it seems, where torture, intimidation, and other abuses are givens. Physicians for Human Rights in Israel re-

ported that there are "clear patterns of torture and/or cruel, inhuman and degrading treatment of Palestinian detainees."¹ The September before the prisoner exchange, the prisoners even went on a hunger strike to protest worsening conditions such as overcrowding, poor ventilation, and inadequate food.²

Really Healthy Children

If we are to discuss the health condition of the people on both sides of the Israeli-Palestinian conflict, then we must agree that the Israeli government has been terrible with its treatment of Palestinians.

In 2002, the United States Agency for International Development reported an increase in malnutrition among Palestinian children (30% chronic malnutrition, 21% acute malnutrition, for a total of 51% of Palestinian children, a significant increase from a less rigorous 2002 survey result with a total of 9.5%).³ The Israeli government then supposedly intensified its talks with Palestinian authorities, despite having simultaneously approved airstrikes on Gaza city and while withholding \$600 million in Palestinian tax from the Palestinian Authority. Now that must have been quite an interesting talk.

In 2006, the Israeli government withheld yet another \$55 million per month (\$660 million per year) from Palestinians, along UN's threat to cut off its aid. Dov Weisglass, Israel Prime Minister Olmert's adviser, said that, "The idea is to put the Palestinians on a diet, but not to make them die of hunger."⁴

In 2007, the Palestinian Central Bu-

Footnotes

1. Derfner, Larry. "Are Palestinians 'partying' in Israeli prisons?" JewishJournal.com 1 November 2011. Web. 20 Jan 2012. http://www.jewishjournal.com/israel/article/are_palestinians_partying_in_israeli_prisons_20111101/
2. Lendman, Stephen. Palestinians Protest Israeli Prison Hell. WarIsACrime.org. 6 October 2011. Web. 20 Jan 2012. <http://warisacrine.org/content/palestinians-protest-israeli-prison-hell> The article goes on to say: "Horrific conditions include severe overcrowding; poor ventilation and sanitation; no change of clothes or adequate clothing; wooden planks with thin mattresses for beds; filthy blan-

kets; inadequate food in terms of quality, quantity or conformance with dietary requirements; poor medical care; and hindered access to family members and counsel, among other abuses."
3. Bennet, James. "In Palestinian Children, Signs of Increasing Malnutrition." NYTimes.com. 26 July 2002. Web. 20 Jan 2012. <http://www.nytimes.com/2002/07/26/world/in-palestinian-children-signs-of-increasing-malnutrition.html?pagewanted=all&src=pm>.
4. Francis, David R. "What aid cutoff to Hamas would mean." CSMonitor.com. 27 February 2006. Web. 20 Jan 2012. <http://www.csmonitor.com/2006/0227/p17s01-cogn.html>.

reau of Statistics reported that 10% of Palestinian children suffer from permanent malnutrition. It is a huge number, considering that 46% of the Palestinian population is made up of children under 15 years old. The director of the study attributes the irreversible malnutrition to poverty, of which half the Palestinians suffer from.⁵

In 2008, the World Health Organization then reported that the Israeli West Bank barrier, internal closure, and the permit system, all of which were imposed by the Israeli government, affect West Bank Palestinians’ access to all levels of health care. For the Palestinians in the Gaza Strip subjected to external closure, they may become subject to a “humanitarian health crisis.”⁶ At the time, 80% of households in Gaza were affected by poverty, and there were 563 of the previously mentioned checkpoints and fixed impediments established by the Israeli government. The report’s annex states that health care still gradually deteriorated.

On an unrelated note, the Fourth Geneva Convention of 1949 provides that an occupying power should provide for the welfare of the occupied people.

The imposed malnutrition continued in 2009, with 80% of Palestinians in Gaza depending only on food aid handouts, and Gaza’s agricultural sector pulverized by Israeli land, air, and sea bombardment.⁷ Only 78 trucks of cattle were allowed into Gaza from October 2008 to June 2009, supposedly to cover nine months for 1.5 million people.

On another unrelated note, The Total US Aid to Israel from 1949-1996 is \$62.5 Billion, equal to the aggregate US Aid to the Caribbean, Sub-Saharan Africa, and Latin America for the same period.⁸

The blockade continued in 2010, where Israeli Court documents were disclosed in a freedom of information case that originated because of the constantly changing ban on items in Gaza. The documents reveal estimations of the Israeli government as to the amount of calories for Palestinian, as well as the reason for the changes: “The limitation on the transfer of goods is a central pillar in the means at the disposal of the State of Israel in the armed conflict between it and Hamas.”⁹

On yet another unrelated note, the British definition for terrorism, as cited by Mark Curtis in his 2003 book *Web of Deceit*, is “the use, or threat, of action, which is violent, damaging, or disrupting, and is intended to influence the government or intimidate the public

and is for the purpose of advancing a political, religious, or ideological cause.”¹⁰

But Gilad Schalit is more important than Palestinian children’s health. Schalit is an Israeli soldier.

An Unhealthy History

If the media were concerned with the treatment of Israelis, maybe it should reflect more on the origin of the conflict between Palestinians and Israelis. But they wouldn’t. If they did, then they’d be forced to confront the widespread anti-Semitism in Europe that lasted hundreds of years.

The fact is the First Zionist Congress held in Basel, Switzerland would not have been held, had Europe been more concerned with the welfare of the Jews. The 1917 Balfour Declaration would not have been written, had British Foreign Secretary Lord Balfour been less interested in hitting two birds with one stone. The first clashes between Jews and Palestinians in the 1920s, when the British forcibly took land from the locals and appropriated the same to the Jewish immigrants, would not have happened had the rest of Europe believed that all men are equal. US’ bond with Israel would not have strengthened in 1967, had US not believed that control over the energy resources of the Gulf in the postwar world is its right as a world superpower.

Obama’s stance in promising to veto the Palestinian bid for statehood is consistent with the trend of United States’ foreign policy for most of the last century. It is also consistent with the fact that the American Israel Public Affairs Committee is one of the most powerful lobbying groups in the United States. What it is inconsistent with is the aforementioned Fourth Geneva Convention of 1949, which has been repeatedly affirmed to be applicable to the Israeli-occupied territories by Security Council Resolutions 465 (1980) and 1322 (2002).¹¹

Obama demanded that Palestine should negotiate with Israel. Those who assented to “negotiation” include Catherine Ashton on behalf of the European Union and Nicolas Sarkozy, he who cannot comprehend the inherent sexism and irony in banning the burqa because it curtails the right of a woman to wear whatever she wants. But it would be futile if Palestine were to participate in another round of negotiations. Moshe Machover provides a summary of the peace process:

“...At each stage of the process,

Israel puts forward new conditions.

If the Palestinian side rejects them, the negotiations are broken off, and world public opinion is invited to blame Palestinian intransigence for the deadlock. However, if the Palestinian side capitulates to the new demands, then Israel finds a pretext for stalling. A favorite ploy is to create provocations such as ‘targeted assassination’ of Palestinian militants. These are rarely reported by the international media, and never given any prominence, as they are considered routine moves in the ‘war against terror’. Eventually, some armed Palestinian group retaliates with a bloody bombing inside Israel or an ill-aimed rocket barrage. This is invariably given lurid coverage in the international media. Thereupon Israel breaks off the talks, because obviously one cannot negotiate with such terrorists. Again, the Palestinians are blamed for the failure of the talks. Meantime, Israeli colonization continues to metastasize... After a while, there is another international initiative for resuming the negotiations. In the new round of talks, the previous Palestinian concessions are taken as a starting point, and Israel’s conditions are ratcheted up...”¹²

As of yet, the Israeli military forces control 70% of Palestinian land. That is an enormous amount of control, considering that the original agreement in 1937 by the Peel Commission proposed only a small Jewish state. (The Peel Commission was created by a group of white men wondering why brown-skinned men were revolting, and ended with white men deliberating how many brown-skinned men would be deprived of their lands.) Just this year, Israeli official Yitzak Molcho proposed to Palestinian officials that it would be turning the Israeli West Bank barrier into a border, even though the barrier was built intruding on 10% of the West Bank. This must be part of the negotiations between Israel and its slave country that the powers that be in the UN want: this shameless monumental land grab puts Jerusalem inside Israel. As the saying goes, give to Caesar what is Caesar’s, and to my god everything that is yours.

Bernard Avishai notes that while the statehood bid may be rejected, Palestine “will likely win ‘observer-state’ status in the Gener-

continued on Page 38

LOST IN TRANSLATION

RULE OF PRESUMPTIVE LEGITIMES AND PROPERTY REGIMES OF VOID MARRIAGES UNDER ARTICLES 36/53, FAMILY CODE

1st of Three Parts

BY ATTY. DOMINGO Z. LEGASPI

Introduction

“In this case, petitioner’s marriage to respondent was declared void under Article 36¹ of the Family Code and not under Article 40² or 45³. Thus, what governs the liquidation of properties owned in common by petitioner and respondent are the rules on co-ownership. In Valdes, the Court ruled that the property relations of parties in a void marriage during the period of cohabitation is governed either by Article 147 or Article 148 of the Family Code.” Diño v. Diño, G.R. No. 178044, January 19, 2011, 2nd Division].

Diño traces its roots to Valdes v. RTC BR. 102, QC⁴ and Mercado-Fehr v. Fehr⁵. After Fehr, It [Diño Case] is the only case that hewed along the lines of Valdes.

On the other hand, in at least four cases⁶, the Supreme Court, for various reasons, either upheld or left open the possibility of, the existence of an absolute community property regime [or conjugal partnership of property regime as the case may be] in “Art. 36 cases” –contrary to *Diño/Valdes, supra*.

Some "Fast Facts" [Hypotheses, If You Will]

Fact 1. The foundational relationships [Rights And Obligations] within a marriage are: a) *Marital relationship* –

between Husband and Wife; b) *Parental Relationship* – Parent and Child, and Co-Parenting; and, c) *Property Relationship*. These three relationships constitute, in the words of the Family Code, the “essential marital obligations”⁷ of every marriage.

Fact 2. There is abundant Jurisprudence re Art. 36 cases – hardly a year passes without the Supreme Court promulgating a number of decisions and expositions on Psychological Incapacity [nature, the standard of proof and other required criteria].⁸

Fact 3. There is no known Art. 53 Case that has become jurisprudence/case law. Whether or not there is any such case presently working its way into the judicial system is, though possible, un-

5. The Associated Press. “Poll: 10% of Palestinian children have lasting malnutrition effects” *Haaretz.com*. 4 Nov 2007. 20 Jan 2012. <http://www.haaretz.com/news/poll-10-of-palestinian-children-have-lasting-malnutrition-effects-1.217826>
6. World Health Organization. “Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan.” 13 May 2008. PDF. 20 Jan 2012. http://apps.who.int/gb/ebwha/pdf_files/A61/A61_18Rev1-en.pdf who.int.

7. Bartlett, Eva. “Imposing malnutrition on Gaza.” *ElectronicIntifada.net*. 16 July 2009. Web. 20 Jan 2012. <http://electronicintifada.net/content/imposing-malnutrition-gaza/8350#.Tp2zJmAf960>
8. Curtiss, Richard H. “The Cost of Israel to US Taxpayers.” *IFamericansKnew.org*. (n.d.) Web. 20 Jan 2012. http://ifamericansknew.org/stats/cost_of_israel.html
9. Franks, Tim. “Details of Gaza blockade revealed in court case.” *BBC News.co* 3 May 2010. Web. 20 Jan 2012. http://news.bbc.co.uk/2/hi/middle_east/8654337.stm

10. Curtis, Mark. “Web of Deceit: Britains Real Role in the World.” London: Vintage, 2003. Page 93.
11. Chomsky, Noam. “Hegemony or Survival: America’s Quest for Global Dominance.” New York: Metropolitan Books, 2003. Pages 177-178.
12. Machover, Moshe. Machover, Moshe. “Palestinian statehood: What does the PA expect to achieve at the UN?” *International Socialist Review*. Nov.-Dec. 2011: 4-7. Print.

likely.

Fact 4. After twenty-three years since the Family Code Of The Philippines and numerous pronouncements of the Supreme Court in Art. 36 Cases⁹, there are no known jurisprudence on: a) Cases of Presumptive legitimes [Article 51]; and, b) Articles 35 (6)/53 Marriage Cases.

Fact 5. There is a “state of disconnect” between Article 36 Cases [Fact 2] and dearth of jurisprudence re Facts 3 and 4.

Fact 6. In the few instances where there appears to be relevant jurisprudence, the Supreme Court was severely conflicted on the matter.

Fact 7. The net effect of standing/absent jurisprudence is to render the Rule Of Presumptive Legitimes of little use, and if one stretches the matter further, effectively deprive “common children” of their property rights under Article 51, Family Code.

Fact 8. Furthermore, there must be a multitude of second or subsequent marriages that are void, *in esse*, because of violation of Article 53 of the Family Code.

Statistical Anomaly, Perhaps?

The purpose of this paper therefore is to critique standing and opposing jurisprudence on the matter for example *Diño/Valdes* ruling, and *Metro Bank v. Pascual*¹⁰; invite discourse, in the hope for better clarity and understanding of the provision on property regime of Art. 36/53 marriages; and provide clarity on the application of the Rule Of Presumptive Legitimes and the Property Regime of Void Marriages under Articles 36 and 53 of the Family Code.

Classification Of Void Marriages Under The Family Code

Under the Family Code, a marriage, to be valid, must comply with the essential and formal elements required under Articles 2, 3 and 4 - and where any of such elements is missing, as defined under Articles 35, 36, 37 and 38 thereof, the marriage is void¹¹.

Unlike void marriages under the old rule [New Civil Code Of The Philippines] however, the Family Code allows for two basic classifications of Void Marriages. These are:

Void Marriages, Special Class.

Psychological Incapacity. The law defines this as:

“A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.”¹²

Subsequent Void Marriages Under Article 53:

“Either of the former spouses may marry again after compliance with the requirements of the immediately preceding Article; otherwise, the subsequent marriage shall be null and void.”¹³

These two types of void marriages

are considered of the “special class” because, in the language of the Family Code,

“Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate”¹⁴

An unequivocal exception to the general/basic rule of filiation is that “*Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code*”¹⁵

What could be more “special” when the children of a supposedly void marriage are considered legitimate; a void and non-existent marriage producing legitimate offspring?

Paradoxically, the currency of legitimacy invested in the children of this class of void marriages, as shown below, was severely devalued by erroneous judicial pronouncements in the cases of *Valdes v. RTC BR. 102, QC*, reiterated in *Mercado-Fehr v. Fehr* and now, by *Diño v. Diño*.¹⁶

Void Marriages, Standard Class.

To this classification belong all other Void Marriages, as defined by Arts. 35 [except sub-paragraph (6)]; 37 & 38.¹⁷

The children under this 2nd classification are illegitimate, having been conceived and born outside of a valid marriage, consistent with the general rule/standard for void marriages.¹⁸

Furthermore, the applicable prop-

erty regime of the void marriage is that of a co-ownership under either Art. 147 or Art. 148 of the Family Code.¹⁹

Classification Of Void Marriages Under Case Law/Jurisprudence

*In three cases*²⁰ - all involving determination of the property regime of a marriage declared void under Art. 36 - the Supreme Court ruled that:

“It is clear from Article 50 of the Family Code that Section 19(1) of the Rule applies only to marriages which are declared void ab initio or annulled by final judgment under Articles 40 and 45 of the Family Code. In short, Article 50 of the Family Code does not apply to marriages which are declared void ab initio under Article 36 of the Family Code, which should be declared void without waiting for the liquidation of the properties of the parties.

Article 40 of the Family Code contemplates a situation where a second or bigamous marriage was contracted. Under Article 40, “[t]he absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.” Thus we ruled:

x x x where the absolute nullity of a previous marriage is sought to be invoked for purposes of contracting a second marriage, the

ter; and

(9) Between parties where one, with the intention to marry the other, killed that other person’s spouse, or his or her own spouse.

12. Article 36, Chapter 3, Void And Voidable Marriages. EO 209, as amended.

13. Article 53, Ibid. See also Art. 35 (6) “Art. 35. The following marriages shall be void from the beginning: x x x (6) Those subsequent marriages that are void under Article 53.”

14. Article 54, Ibid.

15. Article 165, Ibid.

16. G.R. No. 178044, January 19, 2011

17. Articles 35 -38, Ibid.

18. Article 165, Ibid.

19. Art. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

sole basis acceptable in law, for said projected marriage to be free from legal infirmity, is a final judgment declaring a previous marriage void.

Article 45 of the Family Code, on the other hand, refers to voidable marriages, meaning, marriages which are valid until they are set aside by final judgment of a competent court in an action for annulment. In both instances under Articles 40 and 45, the marriages are governed either by absolute community of property or conjugal partnership of gains unless the parties agree to a complete separation of property in a marriage settlement entered into before the marriage. Since the property relations of the parties is governed by absolute community of property or conjugal partnership of gains, there is a need to liquidate, partition and distribute the properties before a decree of annulment could be issued. That is not the case for annulment of marriage under Article 36 of the Family Code because the marriage is governed by the ordinary rules on co-ownership.

In this case, petitioner’s marriage to respondent was declared void under Article 36 of the Family Code and not under Article 40 or 45. Thus, what governs the liquidation of properties owned in common by petitioner and

respondent are the rules on co-ownership. In Valdes, the Court ruled that the property relations of parties in a void marriage during the period of cohabitation is governed either by Article 147 or Article 148 of the Family Code. The rules on co-ownership apply and the properties of the spouses should be liquidated in accordance with the Civil Code provisions on co-ownership. Under Article 496 of the Civil Code, “[p]artition may be made by agreement between the parties or by judicial proceedings. x x x.” It is not necessary to liquidate the properties of the spouses in the same proceeding for declaration of nullity of marriage.

WHEREFORE, we AFFIRM the Decision of the trial court with the MODIFICATION that the decree of absolute nullity of the marriage shall be issued upon finality of the trial court’s decision without waiting for the liquidation, partition, and distribution of the parties’ properties under Article 147 of the Family Code.”

This ruling is erroneous and has deprived legitimate children [of void Article 36/53 marriages] of their presumptive legitimes conformably as provided under the law.

A call for clarity is in order, for the guidance of the bench and the bar; and to protect the rights of “common children” [vide, Article 51, Family Code].

10. G.R. No. 163744, February 29, 200, Op Cit.
11. Art. 2. No marriage shall be valid, unless these essential requisites are present:

(1) Legal capacity of the contracting parties who must be a male and a female; and
(2) Consent freely given in the presence of the solemnizing officer.

Art. 3. The formal requisites of marriage are:

(1) Authority of the solemnizing officer;
(2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and
(3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

Art. 4. The absence of any of the essential or formal requisites shall render the marriage void ab initio, except as stated in Article 35 (2).

A defect in any of the essential requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable.

Art. 35. The following marriages shall be void from the beginning:

(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;
(3) Those solemnized without license, except those covered the preceding Chapter;
(4) Those bigamous or polygamous marriages not failing under Article 41;
(5) Those contracted through mistake of one contracting party as to the identity of the other; and
(6) Those subsequent marriages that are void under Article 53.

Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

Art. 37. Marriages between the following are incestuous and void from the beginning, whether relationship between the parties be legitimate or illegitimate:

(1) Between ascendants and descendants of any degree; and
(2) Between brothers and sisters, whether of the full or half blood.

Art. 38. The following marriages shall be void from the beginning for reasons of public policy:

(1) Between collateral blood relatives whether legitimate or illegitimate, up to the fourth civil degree;
(2) Between step-parents and step-children;
(3) Between parents-in-law and children-in-law;
(4) Between the adopting parent and the adopted child;
(5) Between the surviving spouse of the adopting parent and the adopted child;
(6) Between the surviving spouse of the adopted child and the adopter;
(7) Between an adopted child and a legitimate child of the adopter;
(8) Between adopted children of the same adop-

Nutritional... continued from Page 34

al Assembly” which may give it “the right to sue Israeli officials before the International Criminal Court” for violations of the Geneva Conventions.¹³ But that will be the day that pigs fly.

Ignoring the Symptoms

Perhaps the media bias in the Gilad Schalit prisoner exchange event is based on a fear that if people paid enough attention to Schalit’s health, the world would forget to read history books and find out that the Israeli-Palestinian conflict is not an old one, but a continuing massacre that is a result of European racism, British colonial interests, and American hegemony. Maybe we would be led to forget that there are other problems in the Middle East, like the health of Palestinian children. Maybe we would forget that human rights abuses are happening because we give our consent. It is a simple conclusion, but it comes from simple facts.

However, it is an erroneous conclusion. If the facts are simple, then we should be out there, on the streets, on the web, protesting the devil out of it. We are not. The symptoms are there, we just pretend we’re not sick.

We don’t need media to tell us Schalit needs to be fed like a king. We already believe it. We believe that bad things happen to people because they must have done something to deserve it. We believe in karma. We believe that this world is a just world. We believe that Palestinian children deserve starvation because they were born Arab. And we believe that the Palestinian people deserve the systematic destruction of their society, because we believe most of all, as hard as we believe in our gods, that they are not us.

Telegraph and their ilk feed us with delicious articles about the evils of Arabs in the Middle East, and we are obese with racism. We bow down to eat and we eat every single word as if it were manna from heaven, where imperialist media sits at the right hand of hegemony. To quote Warren Ellis: “They do what they like. And what do you do? You pay them.”

These news organizations will not change their menu, but we can always change our options. We can choose the imperialist bread and circus, we can choose to be lotus-eaters, or we can choose otherwise.

A man fattens sheep before a feast. Mourn the day that man fattens his fellow man.

13. Avishai, Bernard. “Abraham’s Children: Towards a right of return for Palestinians.” Harper’s Magazine. Dec. 2011: 41-50

PLEASE HAVE MY SEAT, MISS

VANTAGE POINT

BY AAC

I DO NOT consider myself a feminist—let’s just get that clear first. I do not cultivate any high-flying PhD dissertation-fodder philosophy about women’s liberation. Anyway, I think almost everyone missed the point on that but it is another discussion altogether.

I am not comfortable labeling myself with any particular -ism, I feel it is restrictive and hypocritical in many levels. No one is just one thing all the time. It would be maddening to be so, and culturally impossible too.

I have always felt that women are the superior species. And it did not come from any sort of philosophical dogma or parental encouragement either. It was merely a personal deduction, at an early age and through seemingly empirical evidence that men are generally useless beyond lifting heavy furniture. And they have to team up with other boys to accomplish that, mind.

At tests, they sucked; they never do their homework; they are always getting in trouble; they always get reprimanded and scolded for failing to follow rules; for being stupid, generally. I did not then understand how these creatures can go through life with only half a brain. Yeah, unconsciously, at the young age of 10 or so, I was excruciatingly critical and condescending of the male population. The only guy I had a modicum of respect for (intellectually that is) was my father. Stress on *intellectual*. He was smart, he was arrogant, and he seemed to be sure of things – never wrong; he hugs paperbacks of varying genres in his overnight bag. For a minute in my young life, my father seemed a sort of an undisputable hero.

But my classmates in elementary school completely eradicated my faith in the rest of the male population. They were just hopeless, clueless gits, the lot of them.

So I have always harbored the prejudice in favor of my own sex. Girls are smarter. Girls follow rules; girls are more likeable, cleaner, tidier; girls accomplish tasks faster and more accurately and rarely if at all, get in trouble. Getting in trouble was to me as foreign as Tibet. I never got in trouble. But that was before I went to college, and even then, it wasn’t really enough to fill an angst-ridden first novel the likes of *Prozac Nation*.

Now, even being certain of our overall superiority, I never thought it beneath us to get help from a man. I’m speaking of help here in terms of manual labor. Like opening car doors (always, not only on first dates), holding an elevator door, offering to carry heavy stuff, walking on the right side of the sidewalk, paying for dinner, giving up seats in a crowded bus. Yes, giving up seats.

I have no doubt that men worth their salt are those who willingly go out of their way for others, and by others I mean women. I hold men to this great standard. Even with the recent developments in cultural thinking and feminist literature and trend infiltrating popular culture (with the increase of kick-ass women in TV and the movies), I seriously believe that this women’s lib thing doesn’t preclude a woman from expecting to be respected and being taken care of.

There is certainly no doubt that we are capable of taking care of ourselves; and standing on the MRT or buses is no sweat at all – some of us do this on a daily basis. But when a man ignores a lady and pretends to be asleep in his seat, or busy with a book or a cellphone, I feel that familiar conviction that I am in the presence of worms. Wimpy worms who cannot even spare a minute of their times off their a*s to be polite to a lady.

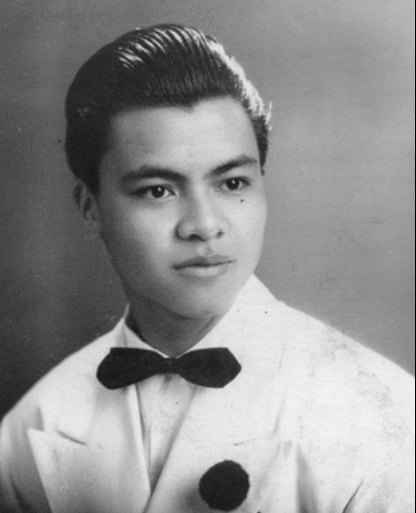
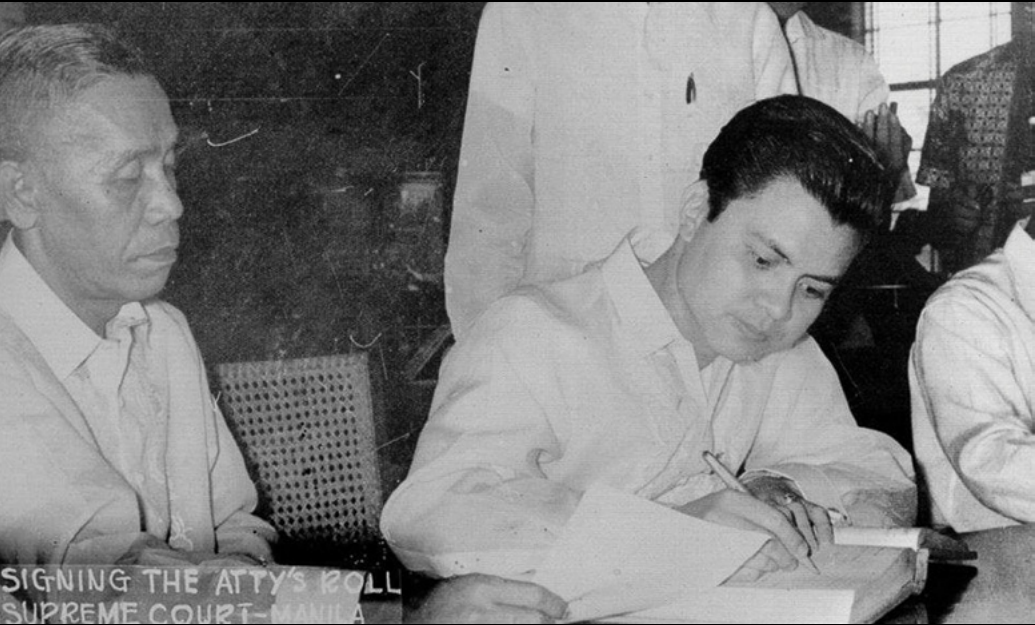
For it is a manifestation of a man’s character, the willingness to abandon his own comfort so the women around him gets to be comfortable, and not chivalry that I see in this simple little gesture. It shows the kind of breeding he’s had, the generosity and graciousness ingrained in his personality.

It shows manners. Never mind the equality of the sexes, men who use this as a reason for remaining seated are major slouches, who will forever be on buses, who will never get to drive their own cars. This is all about manners, and does not only apply to men but also to anyone with class enough to observe them. Men who do are almost a social miracle, because so very few have evolved past the worm stage.

Mind, I expect young, capable women to give up their seats as well for elderly gentlemen, or a pregnant lady, or a mother with a bunch of kids and grocery bags by the armful.

It is not about equality of the sexes or recognition of the woman’s strength, not even about women’s liberation movement. *Just plain manners*. Manners do not entirely make a man, but rather, make an excellent evidence of it.

A GLIMPSE OF ATTY. JOSE R. SUNDIANG, SR.'S CONTINUING EXEMPLARY JOURNEY



HAPPY 80TH, DEAN!

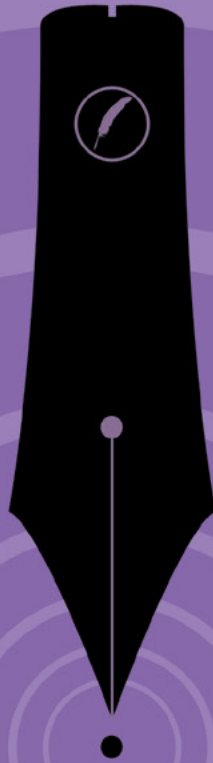
*Alindi ko alam
bakit at kailan
pumitik ang orasan
sa alikabok na malumanay
nahuhulog at patuloy na pumapatak
sa pitak ng alaala
na pilit lumalarawan
ng paligid ng gunita*

an excerpt from the poem
"Rainbow"

by

Reynaldo "Bong" Lopez
Lawyer | Professor | Poet

For Law is a poetry of wisdom



ARELLANO LAW GAZETTE
ART AND LITERARY
FOLIO

SOON!