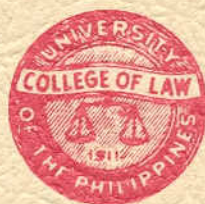


VOLUME 59

DECEMBER, 1984

FOURTH QUARTER

# PHILIPPINE LAW JOURNAL



CONSTITUTIONALISM IN THE PHILIPPINES —  
A VIEW FROM ACADEMIA  
*Irene R. Corte's*

THE CRITICAL EFFECT TEST: TOWARD THE PROTECTION  
OF PARODY AS FAIR USE  
*Leo M. Herrera-Lim*  
*Gerardo M. C. Valero*

LEGAL CONSEQUENCES OF INSANITY  
*Alfredo F. Tadiar*

MUSLIM PERSONAL LAW AND ITS INCORPORATION  
INTO THE PHILIPPINE LEGAL SYSTEM:  
A CONSTITUTIONAL PERSPECTIVE  
*Jainal T. Rasul, Jr.*

LAW AND NATIONHOOD: TRANSCENDING THE CRACKS  
IN THE PARCHMENT CURTAIN  
*Roberto M. Benedicto*

ISSN 0031-7721

---

---

# COLLEGE OF LAW

## UNIVERSITY OF THE PHILIPPINES

### ADMINISTRATION

#### VISITOR

PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

#### BOARD OF REGENTS

MINISTER OF EDUCATION, CULTURE AND SPORTS, *Chairman*

PRESIDENT OF THE UNIVERSITY, *Vice-Chairman*

REGENT RUBEN B. ANCHETA

REGENT CONRADO LL. LORENZO, JR.

REGENT GLORIA T. ARAGON

REGENT ESTELITO P. MENDOZA

REGENT ROBERTO S. BENEDICTO

REGENT DIONISIA A. ROLA

REGENT ADRIAN E. CRISTOBAL

REGENT ERNESTO G. TABUJARA

REGENT CLEMENTE C. GATMAITAN, JR.

REGENT RONALDO B. ZAMORA

REGENT EMIL Q. JAVIER

PROF. MARTIN V. GREGORIO, *Secretary*

#### THE UNIVERSITY

##### Officers of Administration — U.P. System

EDGARDO J. ANGARA, LL.B., LL.M., Doctor of Humane Letters (*honoris causa*),  
*President*

OSCAR M. ALFONSO, B.S.F.S., M.A., Ph.D., *Executive Vice-President*

IRENE R. CORTES, LL.B., LL.M., S.J.D., LL.D. (*honoris causa*), *Vice-President for Academic Affairs*

RAUL P. DE GUZMAN, B.S.F.S., M.P.A., Ph.D., *Vice-President for Planning & Finance*

MARTIN V. GREGORIO, A.B., M.A., *Secretary of the University*

##### Officers of Administration — U.P. Diliman

ERNESTO G. TABUJARA, B.S.C.E., M.S.C.E., Ph.D., *Acting Chancellor*

IRENE R. CORTES, *Acting Vice-Chancellor for Academic Affairs*

SANTIAGO S. SIMPAS, B.S.E., C.D., M.S., *Acting Vice-Chancellor for Administration*

LUIS D. BELTRAN, A.B., *Acting Vice-Chancellor for Student Affairs*

ERNESTO G. TABUJARA, *Acting Vice-Chancellor for Community Affairs*

EMETERIA P. LEE, B.S.E., M.Ed., Ph.D., *University Registrar*

ESTEBAN B. BAUTISTA, A.B., LL.B., *University General Counsel*

TERESA F. BERNABE, B.S.B.A., M.B.A., *Budget Director*

#### THE LAW COMPLEX

BARTOLOME S. CARALE, A.A., LL.B., LL.M., *Supervisor*

PURIFICACION V. QUISUMBING, A.A., A.B., M.A., LL.B., M.Phil., M.N.S.A., Ph.D.,  
*Director, Academy of Asean Law & Jurisprudence*

MERLIN M. MAGALLONA, A.A., LL.B., *Director, International Studies Institute of the Philippines*

FLERIDA RUTH P. ROMERO, A.B., LL.B., LL.M., *Director, Law Center*

MYRNA S. FELICIANO, B.S.L.S., M.L., LL.B., LL.M., *Director, Legal Resources Center*

DEMAREE J. B. RAVAL, *Officer-in-Charge, Institute of Judicial Administration*

#### THE COLLEGE

BARTOLOME S. CARALE, A.A., A.B., LL.B., LL.M., *Dean*

ALFREDO F. TADIAR, A.B., LL.B., LL.M., *Director, Office of Legal Aid*

EDUARDO A. LABITAG, A.B., LL.B., *Secretary, Director, Law Evening Department and Officer, Student Relations*

ANTONIO M. SANTOS, A.B., LL.B., M.L., *Law Librarian*

MA. PACITA M. PANGILINAN, B.S.B.A., *Administrative Officer*

ISSN 0031-7721

# PHILIPPINE LAW JOURNAL

Published by the College of Law, University of the Philippines  
Diliman, Quezon City, Philippines

---

VOLUME LIX

DECEMBER, 1984

FOURTH QUARTER

---

## FACULTY

PACIFICO A. AGABIN

*Faculty Adviser*

MYRNA S. FELICIANO

*Associate Faculty Adviser*

EDUARDO A. LABITAG

*Business Manager*

---

## STUDENT EDITORIAL BOARD

PETER B. PAYOYO

*Chairman*

ALBERTO T. MUYOT, JR.

*Vice-Chairman*

## MEMBERS

ELSA MARIE R. DIVINAGRACIA

DANIEL A. GORGONIA

MEL A. MACARAIG

ALELI G. MANIMTIM

MARCELINO MIKHAIL LEE L. MAXINO

JOSE ANTONIO R. NIERRAS

SABINO B. PADILLA IV

CAESAR J. POBLADOR

MA. HENEDINA V. SAN JUAN

ENCARNACION GEMMA M. SANTOS

---

BELLA T. DESAMITO

*Administrative Assistant*

---

The Editorial Staff and the College of Law publish contributions of interest and value to law students and the legal profession, but the views of the contributors to the PHILIPPINE LAW JOURNAL do not necessarily reflect those of the College of Law and the Journal.

Communications of either an editorial or business nature should be addressed to the PHILIPPINE LAW JOURNAL, Malcolm Hall, University of the Philippines, Diliman, Quezon City, Philippines.

It will be assumed that a renewal of subscription is desired, unless a notice of discontinuance is received by the Journal on or before the expiration date.

# CONTENTS

VOLUME LIX

DECEMBER, 1984

FOURTH QUARTER

CONSTITUTIONALISM IN THE PHILIPPINES — A VIEW FROM ACADEMIA .....	338
<i>Irene R. Cortes</i>	
THE CRITICAL EFFECT TEST: TOWARD THE PROTECTION OF PARODY AS FAIR USE .....	349
<i>Leo M. Herrera-Lim</i> <i>Gerardo M. C. Valero</i>	
LEGAL CONSEQUENCES OF INSANITY .....	365
<i>Alfredo F. Tadiar</i>	
MUSLIM PERSONAL LAW AND ITS INCORPORATION INTO THE PHILIPPINE LEGAL SYSTEM: A CONSTITUTIONAL PERSPECTIVE .....	377
<i>Jainal T. Rasul, Jr.</i>	
LAW AND NATIONHOOD: TRANSCENDING THE CRACKS IN THE PARCHMENT CURTAIN .....	393
<i>Roberto M. Benedito</i>	
INDEX .....	416

---

## THE PHILIPPINE LAW JOURNAL ISSN 0031-7721

Published quarterly during the academic year at the University of the Philippines. Editorial and Business Offices: College of Law, Malcolm Hall, University of the Philippines, Diliman, Quezon City, Philippines. *Re-entered as Second Class Mail at the U.P. Post Office, Diliman, Quezon City on September 1, 1978.*

### Local Subscription Rate:

One (1) year ..... P100.00

Single copy ..... P 25.00

### Foreign Subscription Rate:

One (1) year ..... US\$20.00

Single copy ..... US\$ 5.00

# COLLEGE OF LAW UNIVERSITY OF THE PHILIPPINES

## FACULTY

BARTOLOME S. CARALE, A.A., A.B., LL.B., LL.M., Dean and Professor of Law

### PROFESSORS OF LAW

EDGARDO J. ANGARA, LL.B., LL.M., Doctor of Humane Letters (*honoris causa*)  
VICENTE ABAD SANTOS, A.B., LL.B., LL.M., Emeritus  
BARTOLOME S. CARALE, A.A., A.B., LL.B., LL.M.  
MARIA CLARA L. CAMPOS, LL.B., LL.M., Emerita  
IRENE R. CORTES, LL.B., LL.M., S.J.D., LL.D. (*honoris causa*)  
BIENVENIDO C. AMBION, LL.B., LL.M.  
PERFECTO V. FERNANDEZ, A.B., LL.B.  
JOSE F. ESPINOSA, LL.B.  
FLERIDA RUTH P. ROMERO, A.B., LL.B., LL.M.  
ARTURO E. BALBASTRO, A.B., LL.B., LL.M.\*  
ALFREDO F. TADIAR, A.B., LL.B., LL.M.  
MERLIN M. MAGALLONA, A.A., LL.B.  
CARMELO V. SISON, LL.B., LL.M.  
RUBEN F. BALANE, A.B., LL.B.\*

### ASSOCIATE PROFESSORS OF LAW

HAYDEE B. YORAC, LL.B., B.S.J., LL.M.  
MYRNA S. FELICIANO, B.S.L.S., M.L., LL.B., LL.M.  
SALVADOR T. CARLOTA, B.S.F.S., LL.B., LL.M.  
EDUARDO A. LABITAG, A.B., LL.B.

### ASSISTANT PROFESSORS OF LAW

RAUL C. PANGALANGAN, A.B., LL.B.  
RAPHAEL PERPETUO M. LOTILLA, A.B., LL.B.  
FIDES C. CORDERO, A.B., LL.B.

### LECTURERS AND PROFESSORIAL LECTURERS

EDWIN P. ACOBA, A.B., LL.B., LL.M.  
PACIFICO A. AGAEN, B.S.J., LL.B., LL.M., J.S.D.  
AMELIA C. ANCOG, LL.B., M.P.A., D.P.A.  
JOSE S. ARMONIO, A.A., LL.B., LL.M.  
SAMILLO N. BARLONGAY, A.A., LL.B., M.A.  
ANTONIO R. BAUTISTA, A.A. B.S.J., LL.B., LL.M., J.D.  
ESTEBAN B. BAUTISTA, A.B., LL.B.  
ARACELI T. BAVIERA, LL.B.  
JOSE C. CAMPOS, JR., LL.B., LL.M.  
ANTONIO T. CARPIO, A.B., LL.B.  
ARTURO M. DE CASTRO, A.B., LL.B., LL.M., S.J.D.  
SOLEDAD CAGAMPANG-DE CASTRO, A.B., LL.B., LL.M., S.J.D.  
JORGE R. COQUIA, A.B., LL.B., LL.M., S.J.D.  
DOMINGO P. DISINI, JR., A.B., LL.B., M.S.  
BIENVENIDO C. EJERCITO, B.S.C., LL.B., LL.M.  
AUGUSTO CAESAR ESPIRITU, A.B., LL.B., LL.M., M.P., Ph.D.  
BARTOLOME C. FERNANDEZ, JR., LL.B.  
RAMON C. FERNANDEZ, LL.B.  
ENRIQUE M. FERNANDO, LL.B., LL.M., LL.D. (*honoris causa*)  
BENJAMIN B. FESTIN, LL.B., B.S.C.  
GITA GOPAL, A.B., M.A., LL.B., LL.M.  
VIRGILIO S. JACINTO, A.B., LL.B., LL.M.  
YOLANDA Q. JAVELLANA, A.A., LL.B.  
JOSE C. LAURETA, A.B., LL.B., LL.M.  
OWEN J. LYNCH, B.A., J.D.  
VICENTE V. MENDOZA, LL.B., LL.M.  
MARIO E. ONGKIKO, B.S.B.A., LL.B.  
SABINO PADILLA, A.B., LL.B., LL.M.  
RAUL J. PALABRICA, A.B., LL.B.  
ERNANI C. PAÑO, LL.B.  
LEONARDO A. QUISUMBING, A.B., LL.B., LL.M.  
PURIFICACION V. QUISUMBING, A.A., A.B., M.A., LL.B., M. Phil., M.N.S.A., Ph.D.  
DEMAREE J.B. RAVAL, LL.B.  
CRISPINO P. REYES, LL.B., LL.M.  
PELAGIO T. RICALDE, A.B., LL.B., LL.M.  
VICENTE Q. ROXAS, B.S.B.M., LL.B., LL.M.  
JAIME N. SALAZAR, JR., A.B., LL.B.  
EMERITO M. SALVA, A.A., LL.B., LL.M.  
MIRIAM DEFENSOR-SANTIAGO, A.B., LL.B., LL.M., S.J.D.  
ANTONIO M. SANTOS, LL.B., M.L.  
BENJAMIN C. SANTOS, A.A., A.B., LL.B.  
GONZALO T. SANTOS, JR., A.A., A.P., LL.B., LL.M., C.d'A., M.A., M.N.S.A., Ph.D.  
PEDRO SOLIS, M.D., LL.B.  
SILVERIO S. TAYAO, A.A., LL.B., LL.M.

\*Part-time

\*\*Visiting Professor