

The Official Publication of the Foundation for Liberty and Prosperity

CJ PERALTA, SJ BERNABE HEAD FLP BOARDS OF JUDGES

Chief Justice Diosdado M. Peralta heads the Board of Judges of the Legal Scholarship Program of the Foundation for Liberty and Prosperity (FLP), while Senior Justice Estela M. Perlas-Bernabe chairs the Board of Judges of the FLP Dissertation Writing Contest. The FLP Legal Scholarship Program selects 20 outstanding third and fourth year law students from around the Philippines. In partnership with Tan Yan Kee Foundation (TYK), FLP awards each scholar P200,000 per school year. The first batch of FLP scholars all passed last year’s bar exam with two of them landing in the top ten – Sean James Borja, 1st place and Katrina Monica Gaw, 5th place.

This year, 33 applied from whom the Board of Judges will select 10 third year scholars. Of the 10 third year scholars last year, nine retained their scholarships for their fourth year class. Thus, the Board of Judges will select one more to complete the 10 fourth year law scholars.

The FLP Dissertation Writing Contest aims to augment existing literature on the Foundation’s core philosophy of liberty and prosperity under the rule of law. In partnership with Ayala Corporation, it awards the 1st place winner P300,000, 2nd place – P200,000, three 3rd places – P100,000 each, and 20 finalists, P20,000 each. The contest is open to all Filipino law students, including those taking masteral degrees. Deadline for submitting entries is April 30, 2020.

This year’s 1st prize was awarded to Josiah David Quising of the Far Eastern University, 2nd prize to Diana Lou Boado of the Lyceum of the Philippines University. The three 3rd place winners were Charles de Belen of San Beda University,

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Chief Justice Diosdado M. Peralta Justice Estela M. Perlas-Bernabe

Beverly Lumbea of LUMSA University-Rome, and Clarissa Mae Sawali of FEU.

Chief Justice Peralta took his oath as the country’s 26th chief magistrate on 24 October 2019. Both Peralta and Bernabe vied for the top Supreme Court post and reportedly received perfect votes from the Judicial and Bar Council (JBC) in the short list submitted to the president. •

Various Topics of 2018-2019 Dissertation Contest Finalists

The dissertation contest winners' topics were reviewed in the previous issue of the FLP Newsletter (Volume VIII, Issue 1). In this article, attention is given to the entries submitted by the rest of the finalists – those who received consolation prizes.

Two finalists' entries touched upon the digital era and issues that emerge out of it. On the one hand, "Rise of the Machines as Creators: The Ownership Conundrum of Computer-Generated Works" by Gwendolyn Ann I. Bañaria (Far Eastern University) focused on the ways the current legal copyright framework of the Philippines account for the existence of computer-generated works as new media and artificial intelligence technologies gradually imitate human creativity and permeate various sectors of society. Bañaria argued that "it is more beneficial" to have these "autonomously-generated works" accessible in the public domain "due to the uncertainty of the degree of intervention of the user, the computer, and the programmer". She concluded that computer-generated works may serve as raw materials for creative industries and the cultural economy in general by making them available to the general public – in effect contributing to "the protection and enrichment of the public domain". On the other hand, the entry submitted by Justin Ian M. Manjares (Ateneo De Manila University) titled "There's Death, and There's Online Death: Exploring Digital Assets as a Legal Concept for the Transmissibility of a Decedent's (Digital) Assets to His Heirs" accounted for the possession of digital assets as a byproduct of the integration of new media technologies into people's daily life and how, in the absence of a will, these may be inherited. Manjares argued that the legal issues pertaining to the classification and transmission of digital assets are hinged on two factors, namely "(1) the lack of a definition and (2) the absence of provisions for a manner of transmission that respects the decisional privacy of the decedent" and concluded that it is crucial for the government to enact new laws and ensure that privacy is upheld.

Three dissertation contest entries revolved around the discussion of various liberties.

The dissertation entry titled "Post-Conflict Amnesty Practice Under Contemporary Public International Law and Domestic Law" by Jose Angelo

A. Blay (De La Salle Lipa - Batangas) analyzed and determined the post-conflict amnesty practice of other states vis-à-vis the Philippines. Blay's study provided an assessment of how Philippine laws are enacted in consonance with the standards and limits set under contemporary public international law in granting amnesties to rebel and insurgent groups. In addition, he recommended that further research must determine particular aspects of the country's amnesty grants such as "monitoring, database for profiles of applicants and even the programs set for the rebels to get back into society" to encourage post-conflict amnesty practices as a tool for peacemaking.

Marlouize E. Villanueva (University of San Carlos - Cebu) authored "Beyond the Minimum: Justiciability of the Question of the Right to a Living Wage in the Philippines" and used the lens of Chief Justice Artemio Panganiban's *dual standard of judicial review* and Amartya Sen's *capability approach* in correlating the right to a living wage to the principle of liberty to warrant judicial review. Villanueva argued that "the right to living wage substantially capacitates an individual to utilize the functionings already present around one, especially that of the exercise of political rights" and concluded that freeing people from domination can allow them to "become an autonomous element essential in a civic republican system" – intersecting Sen's framework of *capabilities* with Panganiban's concept of *liberty and prosperity*.

"A Critique of *Lagman v. Executive Secretary*: Analyzing the Justiciability of the President's Power to Declare Martial Law or to Suspend the Privilege of the Writ of *Habeas Corpus* as Regards its Territorial Scope and to Provide Standards Therefor" by Arvin Paolo D. Cortez (Ateneo De Manila University) shed light on how in the absence of any express limitation of its function, the Philippine Supreme Court "has the power to review the sufficiency of the factual basis of all three components of martial law, namely: material, durational, and geographical scope". Cortez proposed that while the highest court of the land "correctly laid down the two standards in declaring martial law, namely: (1) the existence of actual rebellion or invasion and (2) the requirement of public safety, it erred in characterizing the question of the territorial scope of martial law as a political question". •

The Law School as Generative Social Field for Cultivating Liberty, Prosperity, and the Rule of Law

*Atty. Ma. Tanya Karina A. Lat
Adjunct Faculty, University of the Philippines and Ateneo De Manila University*

On 25 November 2019, CJ Panganiban Professorial Chair Holder Atty. Ma. Tanya Karina A. Lat delivered a lecture on her paper titled “The Law School as Generative Social Field for Cultivating Liberty, Prosperity, and the Rule of Law” at the 1st Floor Lecture Room, Bocobo Hall, UP Law Complex, University of the Philippines-Diliman, Quezon City.

Atty. Lat posed the main research question: “Are our law schools fostering liberty, prosperity, and the rule of law?” Citing the ongoing UP Law Center study on the state of the legal education in the Philippines, she argued that: “law students are generally idealistic and optimistic about their ability to make a difference in the world”, which, according to the study, is especially true the moment they enter law school.

“ what if, instead, we were to create the kind of society that we want, starting in our classrooms and law schools? ”

Furthermore, her lecture emphasized the vital role of the law in the development of the country as exemplified by how lawyers “serve as intermediaries between the public and the legal system, and exert significant influence on the public life of the nation”. As such, lawyers and legal educators must recognize the way they can influence the future of the country through the following:

(1) the law school, which has the potential to serve as a “seedbed and incubator of liberty, prosperity, and the rule of law”. Unfortunately,



Professor Ma. Tanya Karina A. Lat

the Philippine legal education system has also exemplified the dysfunctions of Philippine society, “replicating and reinforcing the social dynamic of hierarchy and elitism, and creating lawyers who profess democratic values but practice an authoritarian way of life”.

(2) a transformation of individual and collective consciousness, which can be cultivated primarily by law schools

(3) a willingness to transform existing mental models to recognize the principles of liberty and prosperity under the rule of law.

Atty. Lat emphasized the need for “spaces to see and sense the system”, which is accessible to all and designed for free expression. She cited examples such as spaces of experiential learning, exposure and feedback mechanisms, and immersion. These will encourage the boldness of law students to be more creative, follow their curiosity, and take risks. In a way, these spaces act as “pressure valves” to improve the design of the legal education system in response to the changing times. •

Parents and Children: When Law and Technology Unbundle Traditional Identities

*Professor Elizabeth H. Aguilino-Pangalangan
 University of the Philippines*



instruments that protect the family and the rights of children. She cited cases relevant to biotechnology such as regulating surrogacy. For instance, using one case as an example, she argued that in the absence of a Philippine law prohibiting surrogacy agreements and there being no coercion to enter into the contract, *lex loci contractus* is valid. While the surrogate is not the mother of the child, the commissioning couple must be considered the parents of the child in accordance with the manifest intentions of the parties. From a human rights perspective, the Court may uphold the contract to protect the economic rights of the surrogate and at the same time ensure the best interests of the child to grow up where his needs will be taken care of amply by his family. By using the lens of human rights, the parents' (and surrogate's) as well as the child's liberties and access to the economy easily come into question.

For Pangalangan, the country's legislature must catch up with these challenges brought about by advancements in science.

The whole lecture may be accessed and downloaded from the FLP Website. •

“The challenge in this era of globalization—for countries and individuals—is to find a healthy balance between preserving a sense of identity, home and community, and doing what it takes to survive within the globalization system. Otherwise stated, the need of the hour is to balance national interest with international survival.”

- CHIEF JUSTICE PANGANIBAN

Newly-appointed Professorial Chair Holder Professor Elizabeth Aguilino-Pangalangan delivered her first lecture “Parents and Children: When Law and Technology Unbundle Traditional Identities” on March 28, 2019, at the University of the Philippines College of Law.

Her lecture is part of a series of public lectures sponsored by the FLP and Metrobank Foundation to encourage educational institutions and law schools to research and propagate the philosophy of safeguarding of liberty and nurturing of prosperity under the rule of law.

According to her lecture, examining the concepts of liberty and prosperity within the realm of family law is not common:

“In the Philippines, the subject matter of each case falls under a specific substantive area of law. Family law is regarded as a Civil law subject while human rights is a matter within the purview of Constitutional and international law.”

By way of viewing family law from the lens of human rights, the professor argued that the country's legal framework should account for human rights

9th Annual Report of FLP

An Overview

(January 1, 2019 to December 31, 2019)

Ongoing Programs and Projects

The Foundation for Liberty & Prosperity (FLP) was established nearly a decade ago to promote and propagate the judicial philosophy of our former chief justice, summed up as “Liberty and Prosperity under the Rule of Law”. Its main agenda is to create programs that will support the country’s government and business sectors in ensuring inclusive economic growth and expansion. The FLP believes that the economic pie must not only be fairly divided but must also be enlarged so that more benefits could be spread to more people under the social justice principle of giving more law to those who have less in life. At the same time, the FLP also asserts that promoting and developing the country’s economy must be the primary responsibility of its political leaders. In many ways, these perspectives entail paradigm shifts that are necessary to attain the full potential of the Philippines as a rapid developing nation. The FLP focused on the following activities since its incorporation: (1) legal education programs – the *Chief Justice Panganiban Professorial Chairs on Liberty and Prosperity*, the FLP *Legal Scholarship Program*, and the FLP *Dissertation Writing Contest*; and (2) information projects – through the *Liberty & Prosperity Journal* (e-newsletter) and the official FLP Website (www.libpros.com).

Professorial Chairs Program

The “Chief Justice Panganiban Professorial Chairs on Liberty and Prosperity” is being implemented since 2012 in partnership with the Metrobank Foundation which has so far donated a total of One Million Four Hundred Thousand Pesos (PhP1,400,000) in co-sponsorship of the program. The total funds for the project, including FLP’s co-sponsorship fund, amounts to Two Million Eight Hundred Thousand

Pesos (PhP2,800,000). The main objective is to get educational institutions and law schools to research and propagate the philosophy at the level of the academia (including training of students, professors, lawyers, and judges.)

The outputs varied in form from traditional lectures, debates, as well as moot court competitions. The written lectures from the chair holders have been uploaded to the FLP website and published in the Liberty & Prosperity e-newsletter. These shall be compiled and will eventually be published in a book form as well as other modes of communications under the information, education and communication projects of the FLP.

In 2019, the following professorial lectures were completed:

28 March 2019

Professor Elizabeth Aguilin-Pangalangan (UP)
“Parents and Children: When Law and Technology Unbundle Traditional Identities”

25 November 2019

Professor Ma. Tanya Karina A. Lat (UP/ADMU)
“The Law School as Generative Social Field for Cultivating Liberty, Prosperity, and the Rule of Law”

A complete list and report of the professorial lectures are available on the official FLP website.

Legal Scholarship Program (AY 2018-2019)

The Foundation once again sponsored a unique, merit-based Legal Scholarship Program. Funded by the Tan Yan Kee Foundation since 2016, and also undertaken in cooperation with PALS, the program aims to look for the best and the brightest law students in the country.

There are twenty (20) scholars for each academic year, ten slots of which are for third-year law students and the other ten for fourth-year students. The program is open to all law schools that have obtained a passing percentage above the overall passing percentage for the bar exams of the relevant year based on the statistical data from the Supreme

Court Office of the Bar Confidant. No law school shall have more than three (3) awardees in a year.

Awardees must agree to the terms and conditions of the FLP Scholarship Program, including but not limited to, the requirement to provide volunteer services for the Foundation as well as giving back to the FLP Scholarship Program to ensure its sustainability such as teaching law subjects that espouse the philosophy of liberty and prosperity, developing a concept/program along the philosophy of the FLP and commitment to mentoring other law students, subject to institutional arrangements with partner law schools. Awardees must likewise agree to enter into a formal commitment agreement with FLP and the pertinent academic institution for this purpose.

The Tan Yan Kee Foundation has provided a total of Ten Million Four Hundred Thousand Pesos (PhP10,400,000) for the first three academic years of the legal scholarship program.

2018-2019 Dissertation Writing Contest

The FLP Dissertation Writing Contest is a five-year program which aims to augment the Foundation's first project by incorporating new, dynamic and perhaps more profound input to the body of works discussing FLP's core philosophy. The Foundation believes that the fresh insight and unique perspective of law students will provide bold, novel and innovative avenues for the development of the Foundation's tenets. FLP will look for the best thesis and/or dissertation - or its equivalent in law schools not offering the Juris Doctor program - that espouses the philosophy of liberty and prosperity under the rule of law. The contest is funded by the Ayala Corporation and implemented in cooperation with the Philippine Association of Law Schools (PALS).

The FLP Education Committee Chair initiated discussions with some law school deans and Holders of the Chief Justice Panganiban Professorial Chairs to get the views of the Deans on how to improve the number and the quality of the dissertations submitted to the FLP. The Education Committee

also wanted an opportunity to understand the research priorities of the country's best law schools and how the FLP, through the awards competition and its other programs, might be able to help them achieve their objectives.

The full report on the FLP Dissertation Writing Contest is available on the official website of the Foundation.

Awards Ceremony for FLP Programs AY 2018-2019

The awarding for FLP Programs in AY 2017-2018 was held on May 18, 2018 at the APS Auditorium of the Ateneo de Manila, Rockwell Drive, Makati City. Gov. Amando M. Tetangco, Jr. and Mrs. Marixi Prieto, Trustees of Tan Yan Kee Foundation, led the presentation of the awards to the 20 scholarship awardees. Meanwhile, retired Chief Justice Artemio V. Panganiban, Professor Leni Panganiban, Trustee of the FLP, and Atty. June Monteclaro-Navarro, General Counsel of Ayala Land presented the awards to the 10 dissertation contest winners.

As guest of honor, Dr. Raul C. Pangalangan (Judge at the International Criminal Court at The Hague, The Netherlands) gave a brief motivational speech to laud the achievements of the awardees.

Information Platforms

To provide a regular written report on its projects to the wider public, the FLP has so far released thirteen (13) e-newsletters. These are all downloadable from the official FLP Website (www.libpros.com), which has remained consistent in the last 9 years. In addition to the e-newsletters, the guidelines and forms for the dissertation writing contest and the legal scholarship program are available on the website, to help reach interested parties regardless of geographical distance. The current composition of the Board of Trustees has also been updated. The FLP Secretariat continues to work with the website's administrator, Mr. Kristian Jeff C. Agustin, to further improve and enhance the website. A website upgrade is due on the 10th year of the FLP.

Future Plans and Direction

To further the targets of FLP, new plans and programs have been discussed by its board of trustees. These include supporting the judicial reform programs, legal education programs, teaching exemplars on the rule of law, production of coffee table books, a visual art competition, and the FLP museum.

To mark its 10th anniversary in 2021, the FLP has commenced planning and fundraising for a library and research center, as well as a futuristic museum that will benefit an even larger audience. In the last five years, through its professorial chair holders' lectures, dissertation writing contests, and scholarship programs, the Foundation has identified topics and areas of interest that can further its goals of (a) raising awareness on its core philosophy of protecting liberty and nurturing prosperity of the Filipino people under the rule of law; (b) generating continuing interest in the propagation of this philosophy; and (c) inspiring meaningful conversations on the said philosophy within and outside academia. Recognizing the potential for these scholarly contributions to become not only relevant to but also embedded into the experience of the general Filipino public, the FLP pursues a commemorative project: *Project 85th and Beyond*. This project marks the following milestones:

October 2021 - 10th Anniversary of the FLP

October 2021 -15th Anniversary of the Global Forum on Liberty & Prosperity

December 2021- 85th Birthday of FLP Chairman, Retired CJ Panganiban

As Project 85th and Beyond mainly aims to harness public engagement to reinforce the position of the Foundation as the main propagator of "liberty and prosperity under the rule of law", three main objectives have been identified:

1. To produce books and publications (i.e. coffee

table books, scholarly journals) that would serve as testament to the achievements of FLP during its first ten years, as well as provide future prospects

2. To innovate its public outreach efforts by instituting an interactive museum that will convey the Foundation's core philosophy into graspable ideas, presentations, and scenarios meant to inspire the general public

3. To involve new talented artists and performers in the Foundation's mission to empower the Filipino people by retelling a relatable narrative of struggle and success: the life story of its founder and chairman

Each objective shall be designed as a separate sub-project on its own, with specific targets and measurable outcomes.

To ensure that inclusive development is attained as it pursues its vision and mission, the Foundation must reinforce its current programs with an innovative IEC (Information, Education and Communication) plan that will engage and involve its stakeholders and the wider public. FLP will spearhead IEC projects that will not only promote the vision and mission within its current reach but also towards the arenas of media and museums. The construction of a museum space and curation of interactive exhibitions, production of books and publications, and staging of musical performances will pave the way for a measure of inclusivity in the FLP's expanding programs.

The two-year project will specifically focus on information dissemination, media penetration, and access to educational opportunities. As the FLP recognizes government, the academia, the business sector, and civil society as its main beneficiaries, delivering these new projects will significantly necessitate the support of the Supreme Court of the Philippines as well as various established development institution. •

2019 *in focus*

FLP receives the PEACE Award from Metrobank Foundation

In 2019, the FLP was conferred its first-ever award: Metrobank Foundation's Partner in Empowerment, Advocacy, and Commitment to Excellence (PEACE) Award 2019



FLP Executive Director Susana N. Gavino (center) with Metrobank Foundation Trustee Marixi R. Prieto (left) and Metrobank President Fabian S. Dee (right)

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