



THE BAR

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CHALLENGES TO JURISPRUDENCE IN THE EMERGING ENVIRONMENT OF FREEDOM OF EXPRESSION

Senior Associate Justice Marvic M.V.F. Leonen Highlights Emerging Threats and the Role of the Judiciary in Safeguarding Fundamental Freedoms

Delivering a thought-provoking message at the symposium "Rethinking Adjudication in a 21st Century Democracy: Symposium on Contemporary and Enduring Challenges to the Philippine Judiciary on Questions Involving Freedom of Expression," Senior Associate Justice (SAJ) Marvic M.V.F. Leonen underscored the urgent challenges facing the legal landscape in an era of rapid technological and societal change.

SAJ Leonen's message, titled Challenges to Jurisprudence in the Emerging Environment of Freedom of Expression, delved into three major threats that impact fundamental freedoms: climate change, big data and artificial intelligence, and the global decline of democratic institutions. These, he argued, serve as critical contexts in reexamining legal doctrines, particularly those that shape freedom of expression.

A Judiciary in the Midst of Crisis

SAJ Leonen opened by framing the symposium as an essential forum for critical reflection, inviting scholars and legal practitioners to rigorously examine current doctrines. He emphasized that while the judiciary remains bound by precedent, it must also evolve to respond to contemporary realities. **"The time is right for us to reexamine what appears to be the bedrock themes and doctrines related to freedom of expression,"** he asserted, warning that failing to do so may render legal protections ineffective in the face of modern challenges.

The Climate Crisis and the Fight for Expression

Among the emerging threats, SAJ Leonen highlighted climate change as a fundamental issue that intersects with human rights. Citing the Philippines' ranking as the most at-risk country for climate disasters, he stressed that **"climate justice is about accountability and the fair distribution of burdens and benefits."** He further warned of the dangers posed by misinformation and disinformation campaigns that give disproportionate platforms to climate change deniers, thus skewing public discourse.

CHALLENGES TO JURISPRUDENCE

CHALLENGES TO JURISPRUDENCE IN THE EMERGING ENVIRONMENT OF FREEDOM OF EXPRESSION



The Digital Age and the Erosion of Privacy

SAJ Leonen then turned to the perils of big data and artificial intelligence, raising concerns about mass surveillance, the commodification of personal information, and the manipulative power of algorithmic propaganda. He cited the use of “neurotargeting,” a practice that leverages vast data sets to influence political opinions through emotionally charged messaging, often bypassing rational debate. **“Some mobile apps may even contain backdoor secrets or hidden behaviors that users are never privy to,”** he warned, emphasizing the need for stronger data privacy protections. In a striking analogy, he likened the potential of artificial superintelligence to an intelligence gap so vast that its relation to us will be our current relation to cockroaches—they will not care about us unless we challenge their existence. This stark warning underscored the urgency of regulating artificial intelligence before it surpasses human control.

Democracy Under Siege

Discussing the deteriorating state of democracies worldwide, SAJ Leonen cautioned against the growing influence of misinformation and the vulnerability of low-information voters. He pointed to the role of social media algorithms in exacerbating political divisions, creating what he called an “epistemic bubble” that reinforces biases and fosters authoritarian tendencies. He challenged the conventional belief in the free marketplace of ideas, stating that “some of those in our marketplace of ideas may have more resources and therefore significantly impact our culture.”

A Call for Judicial and Social Reform

SAJ Leonen urged the legal community to take a more active role in protecting fundamental rights. He emphasized that the judiciary must not merely be reactive but must anticipate and address systemic inequalities that shape access to justice. **“Human rights are supposed to be the foundation of our democracy,”** he stated, adding that legal frameworks must evolve to better protect the most vulnerable members of society.

In closing, SAJ Leonen issued a powerful call to action: **“All meaningful reforms cause discomfort. If it does not, it is not meaningful as a reform.”** He implored the audience not to be passive observers but active participants in the fight for justice, warning that silence and complicity only enable oppression.

With these compelling insights, SAJ Leonen’s message set the tone for an intellectually rigorous symposium, pushing the boundaries of legal thought and challenging the judiciary to meet the demands of a rapidly changing world.



COMMUNITY CORNER

PLENARY SESSIONS AND BREAKOUT ROOM DISCUSSIONS

ADVANCING LEGAL DISCOURSE ON FREEDOM OF EXPRESSION

The recently concluded symposium, **Rethinking Adjudication in a 21st Century Democracy: Symposium on Contemporary and Enduring Challenges to the Philippine Judiciary on Questions Involving Freedom of Expression**, served as a dynamic platform for legal professionals, academics, and policymakers to engage in critical discussions on the evolving landscape of freedom of expression in the Philippines.

The plenary sessions featured distinguished justices and legal experts who provided invaluable insights into the challenges and opportunities surrounding the protection of free speech in contemporary society. Senior Associate Justice Marvic M.V.F. Leonen underscored the judiciary's role in balancing constitutional freedoms with national security and public order concerns. Chief Justice Alexander G. Gesmundo highlighted the digital age's impact on the judiciary, emphasizing the need for judicial adaptability to safeguard free expression online while mitigating risks associated with misinformation and digital manipulation.



Breakout Sessions

The breakout sessions facilitated in-depth discussions on critical issues surrounding freedom of expression, focusing on legal and policy challenges. One of the notable discussions was on red-tagging and its chilling effect on free speech, highlighting the dangers of labeling individuals and organizations as threats to national security based on their political beliefs or affiliations. Legal experts examined how red-tagging has been weaponized to suppress dissent and intimidate journalists, activists, and human rights defenders. The session emphasized the need for clear legal protections and judicial safeguards against the misuse of anti-terrorism laws, calling for stricter oversight and remedies for individuals wrongly accused or targeted.

Another crucial breakout session centered on the right to be forgotten in the digital age, which explored privacy concerns in an era of artificial intelligence and data commodification. The discussion analyzed how digital footprints, even those linked to past legal issues or controversial statements, can impact a person's rights, employment prospects, and reputation. Experts discussed the balance between free expression and privacy, particularly in the context of Philippine law, where no explicit legal framework currently exists to regulate digital erasure requests. The session also examined international approaches, such as the European Union's General Data Protection Regulation (GDPR), and how similar safeguards might be implemented in the country to ensure individuals have greater control over their personal data online.

Other discussions covered press freedom and censorship, particularly in the context of an evolving media landscape shaped by political polarization and digital misinformation. Additionally, online platform regulation and intermediary liability were tackled, shedding light on the complexities of balancing platform self-regulation with government oversight. Cybersecurity and national security policies were also examined, focusing on the tension between digital rights and state security measures.

A Continuing Commitment to Legal Innovation

The plenary and breakout sessions reinforced the legal community's commitment to fostering a judiciary that upholds fundamental freedoms while responding to contemporary challenges. By facilitating these critical conversations, the symposium contributed to the ongoing development of jurisprudence that ensures freedom of expression remains a cornerstone of Philippine democracy.

As the Supreme Court and legal institutions continue to adapt to the demands of the digital age, the discourse initiated in this symposium will undoubtedly influence future legal reforms and policy directions. The Integrated Bar of the Philippines remains committed to supporting such initiatives, ensuring that legal professionals are equipped with the knowledge and tools necessary to champion human rights and judicial innovation.



THE ROLE OF INTERNATIONAL PARTNERSHIPS IN PROMOTING JUDICIAL REFORMS IN THE PHILIPPINES

The Philippine judiciary continues to evolve in response to the complexities of modern governance and human rights challenges, particularly in safeguarding freedom of expression. Key to these reforms are international partnerships that provide technical expertise, institutional support, and policy guidance. The Fostering Advancement of Inclusive and Rights-Based (FAIR) Justice Program, the European Union's Governance in Justice (EU-GOJUST) initiative, and The Asia Foundation (TAF) have played pivotal roles in strengthening the legal landscape by enhancing judicial capacity, institutional accountability, and access to justice.

FAIR Justice

A collaborative effort between Australia and the Philippines, FAIR Justice aims to improve judicial efficiency and accessibility. This five-year initiative (2024-2029) aligns with the Supreme Court's Strategic Plan for Judicial Innovation (SPJI) 2022-2027, focusing on judicial capacity strengthening, improved performance, and greater inclusivity. By supporting judicial training programs and law reform initiatives, FAIR Justice ensures that court personnel and legal practitioners are better equipped to handle cases involving freedom of expression while maintaining transparency and accountability in adjudication.



EU-GOJUST

EU-GOJUST, an initiative backed by the European Union, works closely with the Supreme Court, the Department of Justice, and the Commission on Human Rights to improve coordination among justice sector actors. Now in its second phase, the program enhances institutional efficiency, case management, and access to justice, particularly for marginalized sectors such as women, indigenous peoples, and persons deprived of liberty. By fostering evidence-based policy reforms and supporting grassroots legal initiatives, EU-GOJUST ensures that judicial reforms uphold fundamental freedoms, including the right to free speech.

The Asia Foundation

For over six decades, The Asia Foundation has been a committed partner in Philippine judicial reform, supporting legal education, access to justice, and alternative dispute resolution mechanisms. Through collaborations with law schools, civil society organizations, and the judiciary, TAF has helped institutionalize legal aid services, streamline court processes, and promote human rights advocacy. Its initiatives bolster judicial efficiency while ensuring that legal professionals are equipped with the tools needed to protect freedom of expression and other fundamental rights.

The continued engagement of these international partners underscores the importance of collective action in promoting judicial reforms. Their efforts not only improve the administration of justice but also reinforce the judiciary's commitment to upholding democratic principles and human rights. As the Philippine legal system navigates the challenges of the digital age and evolving security concerns, sustained collaboration with global institutions remains essential in shaping a judiciary that is transparent, accessible, and dedicated to protecting fundamental freedoms.



BREAKOUT SESSION SPOTLIGHT

ARTIFICIAL INTELLIGENCE AND THE PROBLEM OF ASSIGNING BLAME FOR AI-GENERATED SPEECH OR CONDUCT

Co-authored by Hon. Lady Ivy Vanity D. Velasco and Atty. Michael T. Tiu, Jr., this paper tackles the legal challenges posed by AI-generated content. It examines liability frameworks and the extent to which AI developers, users, and platforms should be held accountable.

THE RIGHT TO FREEDOM OF EXPRESSION AND STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION (SLAPP): REEXAMINING ANTI-SLAPP LEGISLATION IN THE PHILIPPINES

Mr. Arnel F. Murga critiques the use of SLAPPs to intimidate journalists and activists. The paper argues for comprehensive Anti-SLAPP legislation to protect free speech and civic engagement.

REDISCOVERING PRIVACY: HANNAH ARENDT'S PHILOSOPHY AND THE RIGHT TO BE FORGOTTEN IN THE DIGITAL AGE

Hon. Theodorick K. Ayungo applies Hannah Arendt's political theories to the right to be forgotten. The paper argues that individuals should have greater control over their digital footprint and explores the implications of Philippine data privacy laws.





Chief Justice Alexander G. Gesmundo delivered a powerful message on the judiciary's role in preserving and adapting the principles of free expression in the modern era.

ENSURING FREEDOM OF EXPRESSION IN THE DIGITAL FRONTIER

CHIEF JUSTICE GESMUNDO EMPHASIZES JUDICIARY'S ROLE IN SAFEGUARDING FREE SPEECH IN THE DIGITAL AGE

Tagaytay City—As digital technology continues to reshape public discourse, Chief Justice Alexander G. Gesmundo delivered a powerful message on the judiciary's role in preserving and adapting the principles of free expression in the modern era. Speaking at the symposium *Rethinking Adjudication in a 21st Century Democracy: Symposium on Contemporary and Enduring Challenges to the Philippine Judiciary on Questions Involving Freedom of Expression*, Chief Justice Gesmundo underscored the challenges and responsibilities facing the judiciary in the digital age.

"Our freedom of expression is not just another constitutional guarantee—it is the very foundation of our democracy,"

Chief Justice Gesmundo declared. He noted that while digital platforms have empowered individuals by breaking traditional barriers to expression, they have also introduced new threats, including misinformation, hate speech, and algorithmic manipulation.

The Double-Edged Nature of Digital Speech

Chief Justice Gesmundo highlighted the paradox of digital communication: while the internet has democratized access to information and amplified voices once marginalized, it has also become a breeding ground for disinformation and social division. Citing the landmark U.S. case *Buckingham v. North Carolina*, he acknowledged that social media platforms have become "perhaps the most powerful mechanisms available to a private citizen to make their voice heard."

However, he warned that algorithms designed to drive engagement often promote toxic and polarizing content. "Freedom in the digital age is no longer simply the freedom to speak—it necessarily includes the freedom to navigate a space increasingly shaped by processes that may manipulate what we see, hear, and even believe," he cautioned.

Judicial Adaptation to the Digital Landscape

Recognizing the evolving nature of speech in the digital age, Chief Justice Gesmundo called on the judiciary to remain vigilant and adaptable. He pointed out that traditional legal frameworks governing free speech—shaped over centuries—must now be reconsidered in light of the unique challenges posed by online platforms.

"[The Court] must be prepared to articulate and even expand principles that embrace the complexities of digital speech while remaining anchored in constitutional fidelity," he asserted. He cited the Court's ruling in *Disini v. Secretary of Justice*, which upheld key provisions of the Cybercrime Prevention Act of 2012 while reaffirming the constitutional protections afforded to online speech.

As part of this adaptation, Chief Justice Gesmundo emphasized the importance of judicial education and capacity-building. He stressed that judges must equip themselves with knowledge not only in law but also in emerging fields such as technology, business, and public administration to ensure well-informed adjudication.

Balancing Rights in a Digital Society

Chief Justice Gesmundo acknowledged that digital advancements have intensified the tension between competing rights and interests, including the right to free speech versus the right to privacy, and the freedom to share information versus the duty to prevent harm. "Our role as magistrates is to preserve the delicate equilibrium between these values," he stated.

He underscored the judiciary's responsibility in ensuring that the protections afforded to speech in the physical world remain just as robust in cyberspace. "The Constitution applies as much online as it does offline," he affirmed, adding that legal principles must evolve to promote a digital ecosystem that respects individual rights without unduly sacrificing collective welfare.

A Call to Action for a Resilient Judiciary

In closing, Chief Justice Gesmundo called on the judiciary to take a proactive stance in shaping the future of free expression. He cited *Ynot v. Intermediate Appellate Court*, reminding the audience that "the strength of democracy lies not in the rights it guarantees, but in the courage of the people to invoke them whenever they are ignored or violated."

"We will fail as the final arbiter of what is right and just if we merely react to the changes happening around us," he warned. "Instead, we must take the reins and actively shape our world toward a better tomorrow."

With this compelling message, Chief Justice Gesmundo reaffirmed the judiciary's role as both an anchor and a guide in the digital frontier, ensuring that freedom of expression remains vibrant, resilient, and firmly grounded in constitutional principles.

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