

SALIGAN Batas

Being a Human Rights Advocate Knows No Age

A feature on SALIGAN Paralegal Luz Domingo

“One is never too young nor too old to advocate for causes you believe in.”

This is the sentiment shared by Luzviminda Domingo, a paralegal under SALIGAN's Paralegal Formation Program to Stop Violence against Women in 2017. She is still actively involved in community organizing, legal education and policy advocacy while enjoying the perks of being a senior citizen.

Ate Luz, as she is fondly called, has a storied journey exposing her to harsh realities and injustices in life, particularly from the 1970s to the 1980s. At an early age, she helped augment her family's income by selling wooden clothes clips and paper bags out of the pages of a phone directory. She did this while going to school where she was involved in the music, drama and dance clubs. However, her father got sick by the time she was in her first year as an accountancy student. She quit school to help raise her family by working as a sewer in various garment factories. This exposed her to the working conditions of the many laborers like her, prompting her to join the union to fight for their rights. But it was also her engagement in union activities which also caused her her job.

Her advocacy for labor rights was further nurtured when she worked in manufacturing company for sports shoes. She became more involved with the union and networked with other labor groups. She is most proud for being able to successfully negotiate two collective bargaining agreements in favor of the workers. When the company had to close down, she also negotiated that their remaining 200 union members be absorbed by the parent company with the employees retaining their regular status.

It was not easy championing the rights of workers. While they had their victories, she also had to struggle as a young mother raising her own family in the picket lines. She survived gun fires, arrests by law... *(turn to page 2)*



Ms. Luz Domingo
(top image, rightmost in bottom image)

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enforcers and living the day-to-day through collection boxes. The alarming security concerns led her to resign from work and focus on her family.

Post-People Power Revolution, the spirit of civic engagement was high. For Ate Luz, it was also the start of her journey focusing on issues other than labor rights. She became part of the Samahan ng mga Kababaihan sa Malabon at Navotas (SAMAKANA), which looked into the welfare of battered women and issues on urban resettlement. She also became involved in another organization focusing on disaster risk management. Later, she was part of the administrative staff of the Coalition Against Trafficking of Women - Asia Pacific (CATW-AP) which deepened her understanding on gender sensitivity and women's issues. Following her stint in CATW-AP, she then joined

the Community Organizers Multiversity (COM) which reshaped her mindset on advocating issues close to her heart, from being the aggressive street parliamentarian to doing critical engagement through dialogues and consultation. While in COM, she became part of SALIGAN's Paralegal Formation Program which enriched her legal knowledge on women's issues and further honed her skills as a lecturer and facilitator in trainings. Upon graduation from the program in 2018, Ate Luz and her fellow paralegals conducted legal literacy sessions in different communities in Rizal, Laguna and Metro Manila to talk about gender sensitivity and the Anti-VAWC law. She also assisted barangay desks in handling VAWC complaints. The onslaught of pandemic didn't stop her from continuing what she loves to do of imparting lessons to the marginalized communities by learning how to

communicate using online platform. She was also at the forefront of another SALIGAN project on strengthened community responses to human rights violations during pandemic. And she continues to make valuable contribution to proposed legislations affecting women and children as part of the Women Advocacy Team of SALIGAN.

Currently, she leads in the promotion of children's rights and protection of children against trafficking as President of the Philippines Against Child Trafficking - Valenzuela Chapter. She also organized the senior citizens in Paso de Blas in Valenzuela, proposing and holding activities for the benefit of the elderly. At 63, she is not retiring anytime soon from advocating for the causes of the marginalized and vulnerable sectors. ■



Ms. Luz Domingo in action in her paralegal and advocacy work.

DEVELOPMENT IN LAW

Domestic Adoption Simplified by New Law

The domestic adoption of legally available children, relative, stepchild, and adult adoptees will now only require processing by an administrative office, the National Authority for Child Care (NACC), a one-stop quasi-judicial agency on alternative childcare, attached to the Department of Social Welfare and Development (DSWD). Petitions for domestic adoption that are currently pending in courts may now be withdrawn so that the parties involved in the petition may avail of the new processes.

This shift to administrative proceedings was mandated by the Republic Act No. 11642, or the Domestic Administrative Adoption and Alternative Child Care Act, signed into law on January 6, 2022, in line with the recognition that an adminis-

trative domestic adoption process is the most expeditious way of ensuring that the best interest of children is the paramount consideration in the enactment of alternative care, custody, and adoption policies.

The new law reorganized the Inter-Country Adoption Board (ICAB) into the NACC, which will have original and exclusive jurisdiction over “all matters pertaining to alternative child care, including declaring a child legally available for adoption; domestic administrative adoption; adult adoption; foster care under Republic Act No. 10165, otherwise known as the ‘Foster Care Act of 2012’; adoptions under Republic Act No. 11222, otherwise known as the ‘Simulated Birth Rectification Act’; and inter-country adoption under Republic Act No. 8043, otherwise known as the ‘Inter-Country Adoption Act of 1995’.”

The law also mandated the creation of a Regional Alternative Child Care Office (RACCO) in each region that will receive local petitions for certificates declaring a child legally available for adoption (CDCLAA) and petitions for adoption.

The NACC will decide adoption cases on the basis of all the documents presented to it and the evidence gathered during personal interviews conducted by the RACCO with the handling adoption social worker, the prospective adoptive parents, and the adoptee. The law provides that “[t]here shall be no adversarial proceedings and all domestic adoption cases shall be decided within sixty (60) calendar days” from the receipt of the recommendation of the RACCO on the petitions. The decision of the NACC will be final and executory unless appealed to the Court of Appeals within ten (10) days from the receipt of the decision by the interested party.

DSWD guidelines issued

Pending the issuance of implementing rules and regulations, which the DSWD and the ICAB have six months from the effectivity of the law to formulate, immediate implementation shall be based on DSWD Memorandum Circular No. 33, Series of 2022, issued on April 28, 2022. The Guidelines outline the implementing procedures for:



- adoption cases withdrawn from the court,
- new petitions for administrative adoption,
- child case management by DSWD Residential Care Facility (CRCF)/Child-Caring Agency (CCA) and Local Social Welfare and Development Office (LSWDO),
- new applications for adoptive parents in RACCO and child-placing agencies,
- matching and issuance of inter-country adoption clearance,
- foster care and simulated birth rectification,
- inter-country adoption,
- disrupted pre-adoptive placement,
- registration of the order of adoption,
- petition for rescission of the adoption, and
- travel clearance for cases under the NACC.

During the three-year transition period stated in the new law, a NACC transition team shall ensure

the implementation of the law and the procedures provided by the DSWD circular, and the functions of the RACCO shall be performed by the Adoption Resource and Referral Units in DSWD field offices.

While the schedule of fees for availing of administrative domestic adoption processes are not provided by the new law or the circular, the circular states that the fees will be covered in a separate issuance. The law also provides that socialized fees may be charged to indigent prospective adoptive parents who avail of the administrative adoption proceedings and that the Public Attorney's Office shall provide them legal assistance, including the notarization of documents related to administrative adoption whenever warranted.

Crimes penalized

The new law provides for the imposition of penalties on any person who obtains

consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts; does not comply with the procedures and safeguards provided by the law for adoption; subjects or exposes the child to be adopted to danger, abuse, or exploitation; causes the fictitious registration of the birth of a child under the name of a person who is not the child's biological parent; violates established regulations relating to the confidentiality and integrity of records, documents, and communications of adoption petitions, cases, and processes; and commits adoption discrimination acts, which include labelling, shaming, bullying, and negative stigma, among others. ■



DEVELOPMENT IN LAW

Department of Migrant Workers established, to be fully operational by 2023

On December 30, 2021, President Rodrigo Duterte signed into law Republic Act No. 11641, otherwise known as the "Department of Mig-

rant Workers Act." This created a new Department that will serve as a dedicated agency for all overseas Filipino workers' (OFWs')

concerns, such as recruitment, repatriation, reintegration, as well as emergency response.

The law consolidated and merged into the Department of Migrant Workers several government offices that were previously attached to or under various agencies: 1.) the Philippine Overseas Employment Administration (POEA); 2.) all Philippine Overseas Labor Offices (POLO), the International Labor Affairs Bureau (ILAB), and the National Maritime Polytechnic under the Department of Labor and Employment (DOLE); 3.) the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA) of the Department of Foreign Affairs (DFA); 4.) the National Reintegration Center for OFWs; and 5.) the Office of the Social Welfare Attaché under the Department of Social Welfare and Development (DSWD).

Displacement of OFWs

Based on the latest available survey on OFWs of the Philippine Statistics Authority, the total number of OFWs during the 2nd and 3rd quarters of 2019 is estimated at 2.2 million. When the COVID-19 pandemic hit in 2020, thousands lost their jobs and were displaced. It is reported that in 2021, more than 600,000 OFWs were repatriated by the government.

Since the domestic labor market was also ravaged by the pandemic, most OFW

returnees for the past two years experienced difficulties in securing a job. According to a working paper published by the Asian Development Bank, this was aggravated by the lack of reliable government data on OFWs which hampered reintegration efforts, including job matching and social assistance. Around 83% of the OFW returnees were found to remain unemployed three months after their arrival. Meanwhile, half of those who were able to land a job had to take large pay cuts, resulting in a 60% drop in their household incomes.

Functions of the new Department

Aside from displacement, it is common knowledge that migrant workers also go through many hardships such as employer abuse and maltreatment, racial discrimination, homesickness, and an unstable political environment. The creation of the Department of Migrant Workers is aimed at providing a more focused and speedier response to these concerns. Among the Department's powers and responsibilities are as follows:

- Formulation and implementation of national policies, plans, programs, and guidelines that will ensure the protection of OFWs;

- Regulation of the recruitment, employment, and deployment of OFWs;
- Requiring private recruitment and manning agencies to provide comprehensive insurance to OFWs they deploy;
- Establishment of a 24/7 Emergency Response and Action Center Unit to handle the emergency needs of OFWs and their families;
- Creation of a system for blacklisting natural and juridical persons involved in human trafficking; and
- Investigation, initiation, and prosecution of cases involving illegal recruitment and trafficking.

Government priority

On July 20, 2022, the Department of Migrant Workers launched its One Repatriation Command Center (ORCC) for distressed OFWs. It is a one-stop shop for keeping track of their cases until repatriation. Before its establishment, OFWs seek assistance from different Philippine government agencies. With the ORCC, it is expected that the previously convoluted process would be streamlined and the bureaucratic red tape will be cut.

During his first State of the

Nation Address, President Ferdinand Marcos, Jr. also ordered the Department of Migrant Workers to prioritize the automation of services such as contract verification and issuance of exit clearances to ease the burden on OFWs. The President also vowed to simplify the deployment processing period and shorten it from an average of three months to three weeks.

Full-Cycle National Integration Program

The Department of Migrant Workers Act also mandated the development and implementation of a full-cycle and comprehensive national reintegration program for both documented and undocumented OFWs.

This shall involve a set of measures for the mainstreaming and sustainable return of OFWs into Philippine society, including but not limited to livelihood projects, financial literacy training, and wellness activities.

The program shall cover the different dimensions of support needed by OFWs: economic, social, psychosocial, gender-responsive, and cultural, as well as skills certification and recognition of equivalency for effective employment services. It shall further promote access to social protection instruments and financial services, and the reintegration of survivors of violence against women and trafficking in persons.

The program shall be embedded in all stages of migration for work, beginning from pre-deployment, on-site during employment, and upon return, whether voluntary or involuntary.

Transition period

The Department of Migrant Workers is expected to be fully constituted and operational by 2023. The transfer of functions, assets, funds, equipment, properties, transactions, and personnel of the affected agencies, as well as the formulation of the internal organic structure, staffing pattern, operating system, and revised budget, shall be completed within this period. ■

DEVELOPMENT IN LAW

Criminalizing Child Marriage: Threat to Tradition or Triumph of Human Rights?

Anti-Child Marriage Law

On December 10, 2021, R.A. No. 11596, otherwise known as “An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof” was signed into law.

While the Family Code of the Philippines requires as a precondition for marriage that the contracting parties be at least eighteen (18)

years of age, with the capacity to give free and full consent, the Code of Muslim Personal Laws of the Philippines permitted marriages between a Muslim male who is at least fifteen (15) years of age and a Muslim female “of the age of puberty.”

The latter law presumes the age of puberty to be at fifteen (15) years but does not fix the same, therefore a

Muslim girl as young as thirteen (13) years of age can be married as long as she is menstruating, and a proper guardian or wali petitions the marriage. With the advent of R.A. No. 11596, all marriages thereafter contracted by persons below eighteen (18) years of age shall be void and without legal effect. While children’s rights advocates consider this a triumph of the constitutional mandate to

promote and protect the youth's physical, moral, spiritual, intellectual, and social well-being, some Muslim leaders urge the repeal of the law which according to them violated their customs.

Salient features of the law

"Child marriage" under R.A. 11596 is defined as any marriage entered into where one or both parties are either: 1.) under eighteen (18) years of age; or 2.) eighteen (18) years of age or above, but is unable to fully take care and protect oneself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition. It may be solemnized in civil or church proceedings, or in any recognized traditional, cultural, or customary manner. However, it also covers an informal union or cohabitation outside of wedlock between an adult and a child, or between children.



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There are three classes of persons who may be criminally liable under the law:

1. Persons who facilitate or arrange child marriage;
2. Persons who solemnize or officiate child marriage; and
3. Adults who cohabit with a child outside wedlock.

Notably, adults who marry a child in a civil or church proceeding, or in a traditional, cultural, or customary manner, are not penalized under the law unless it is established that they participated in causing or facilitating the marriage. Nonetheless, Article 350 of the Revised Penal Code which penalizes persons who contract marriage in disregard of a legal impediment may instead apply. In any case, the marriage shall be void *ab initio*, and the action to declare its nullity shall not prescribe.

Violators of the R.A. 11596 can be imprisoned for up to 10 years and pay fines amounting to P50,000 at most. Violators who are public officers are to be dismissed from service and be perpetually disqualified from holding office.

The unlawful acts under R.A. 11596 are considered public crimes and their prosecution may be initiated by any concerned individual.

Implications of child marriage

Based on a 2017 survey by the Philippine National Demographic and Health Survey, one in every six Filipino girls is married before they reach the age of eighteen. The practice is particularly prevalent among Muslim and indigenous communities in the country. The Philippines ranked 12th globally in having the highest number of children married before reaching the age of eighteen. Most registered child marriages in the Philippines are in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM).

The recent passage of an anti-child marriage law in the Philippines is seen as a beacon of hope for human rights. Child marriage carries with it an array of socioeconomic issues such as unwanted child pregnancy, lower educational attainment, higher unemployment of women, violence against women, and child abuse. Thus, Atty. Kristine Yuzon-Chaves, Executive Director of the Philippine Commission on Women (PCW), lauded the enactment of the law because it would make it easier to protect girls from being trapped in unwanted marriages and motherhood, domestic violence, and other violations of their human rights and dignity. Noraida

Abo, Executive Director of United Youth of the Philippines-Women (UnYPhil-Women), a women's organization based in Cotabato city, likewise noted that ending early and forced marriages is a huge win, especially for the future of Bangsamoro children.

Challenges

Although many human rights advocates and organizations lauded the approval of the new anti-child marriage law, there remains a strong call from Muslim leaders especially from the Bangsamoro community to repeal the law. In January 2022, the Bangsamoro Transition Authority (BTA)—the interim governing body of the BARMM—passed a resolution appealing to the President to stop the implementation of the law. According to the BTA, the concept of child marriage is already inculcated in their culture therefore it would be very difficult to change. Islam does not fix the marriageable age, and in cases where the bride is a child, she may opt to use contraceptives to delay pregnancy.

But the recitals of R.A. No. 11596 itself recognize that child marriage is a traditional and cultural practice that perpetuates discrimination, abuse, and exploitation of children.

Be that as it may, the law also recognizes that the practice is deeply rooted in culture. Hence, it provides a one-year transitory period for the relevant government agencies to extensively undertake measures in their respective jurisdictions to ensure full compliance with the prohibition against child marriages. During this transitory period, child marriage involving Muslim Filipinos and indigenous cultural communities / indigenous peoples shall not yet be considered a crime. It bears stressing, however, that this selective moratorium does not affect Section 6 of the law which provides that child marriage is void ab initio. All child marriages contracted after the effectivity of R.A. 11596 is without legal effect, regardless of culture and tradition.

Despite these legal and administrative mechanisms, the enforcement of the provisions of the anti-child marriage law will remain challenging. First, other underlying factors such as pervasive poverty and armed conflict perpetuate the practice. Families marry off daughters as early as possible to ease the financial burden of supporting a child. In conflict-ridden areas such as Marawi City in 2017, marrying off children is taken as means to create a sense of security amid displacement

of families and loss of homes. Second, there is a general lack of incentive to prevent, report, or initiate prosecution of child marriage within a community that treats it as the norm. Indeed, an extensive campaign and social service interventions would have to accompany the law to make it fully effective in toppling the tradition of child marriage.

Moving forward

To reinforce the criminalization of child marriage, R.A. No. 11596 seeks to create an enabling social environment where the practice of child marriage shall no longer thrive. For this purpose, the law directs that the following policies shall be implemented, particularly for girls: (a) empowerment of children through the provision of information, skills, and support networks; (b) enhancement of children's access to and completion of quality education; (c) provision of economic support and incentives to children and their families; and (d) application of strategic interventions to influence and empower parents and community leaders to discourage and eradicate the practice of child marriage.

That being said, the law designated the Department of Social Welfare and Development (DSWD) as the

implementing agency to come up with culturally appropriate and comprehensive programs, in coordination with other government agencies, concerned civil societies, and non-government organizations. The other government agencies expressly mandated to implement the law and coordinate with the DSWD include the Department of Justice (DOJ), Department of the Interior and the Local Government (DILG), Department of Education (DepEd), Department

of Health (DOH), and the Supreme Court (SC).

But despite the government being at the helm of these efforts, the law acknowledges that a change in deeply embedded culture requires leg work at the grassroots level. Thus, it guarantees the full and active participation of women, girls, youth organizations, and civil society organizations in every step and stage of the decision-making process. Although there is still a long way to go to eradicate the

harmful practice of child marriage, R.A. No. 11596 is, without doubt, a brave significant step toward that end. It complements and bolsters the existing laws on children, such as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act and the Anti-Trafficking in Persons Act, by appreciating the uniquely vulnerable position of children not just in relation to society at large but even at times to their own family. ■

ADVOCACY UPDATE

Putting the Informal Workers on the List: Magna Carta for Workers in the Informal Economy

According to the International Labour Organization, “The informal economy consists of independent, self-employed small-scale producers and distributors of goods and services.”

In the Philippines, workers of the informal economy are highly visible. In fact, it is impossible to step out of one’s home without encountering at least one worker from the informal economy. These people, the so-called “informals”, are those selling candies and bottled water in a busy boulevard, jeepney drivers and tricycle drivers in clogged up roads, and domestic helpers, to name a few.

The Philippine Commission on Women states that, “around two billion people aged 15 and over, representing 61.2% of the world’s employed population, earn their living in the informal economy” and this includes minors and women, who are even more vulnerable. “Work informality exists in all countries, although it is more prevalent in developing countries, which includes the Philippines.” In fact, according to the Philippine Star, the workers in the informal economy make up 85% of the country’s population, and this prevalence became fully evident when the Covid-19 pandemic hit (Simeon, 2021).

The jeepney drivers, vendors, and housekeepers, then became the homeless and those holding up cardboard signs explaining their plight and need for aid, because despite their hard and honest work, they are among



the most vulnerable citizens, and the effects of the pandemic has ravaged the informal economy on which their livelihood and very survival depended upon.

As a measure against the economic effects of the prolonged lockdown, the Bayanihan to Heal as One Act and the Social Amelioration Program (SAP) were put in place to extend aid where aid was needed. However, because the informal economy is highly visible physically yet non-existent in our laws and databases, the vulnerable workers from the informal economy were often over-looked. And so, not only did a majority of them lose their livelihood, they also failed to qualify for the SAP being handed out because the list in the LGUs, as provided by DSWD, do not match and represent the reality of the sheer number of informal workers that exist in our local economy (Ofreneo 2020). Indeed, workers in the informal economy are “twice as likely as formal workers to belong to low-income households and often live hand-to-mouth” (Chatterjee, 2020) and yet, despite working just as hard – arguably even harder due to manual labor – as the workers in the formal economy, the informals are the hardest hit not just in the rigors of day to day labor, but most especially when disasters and

emergencies strike. Where a worker from the formal economy has benefits and insurance to fall back on, an informal worker has no such luxury. The worker in the informal economy is not protected by basic labor laws, or any significant law that would serve to aid them in the everyday and in personal, national, or global emergencies.

Last 2020, the media and the people on social media were quick to document and speak up for the informals lying on the streets, often emaciated, and holding up placards calling for help. It could be said that we as a people have become more aware of the presence, size, and importance of the informal economy because of this, but a growing awareness to this group of marginalized and vulnerable individuals does little if the Philippine laws and local systems do not change to factor in and accommodate the informal workers, who make up a large majority of the Filipino workers. For what use is our own personal awareness of their existence and their plight if the law itself continues to keep a blind eye, denying them protection, safeguards, and the basic constitutional aim of social justice?

The Magna Carta for Workers in the Informal Economy would therefore be a pivotal

law in ensuring the protection of informal workers from abuse, and helping them rise out of the vulnerability they already experience due to their usually low socioeconomic standing, age, or gender. Beyond simply being a welfare or social protection program, the Magna Carta for Workers in the Informal Economy encompasses a wide range of provisions to help mitigate, if not address, the daily vulnerability these workers face, from the general need for accessible and affordable social security and healthcare benefits, to specific measures against the impounding of a pedicab (Ejercito, 2017).

But more than providing these workers with benefits and giving the marginalized a higher stepping stone to truly empower them, it also seeks to create a database



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for all workers in the informal economy, from the LGU level upwards. The Business Mirror aptly pointed out that in the distribution of government aid, “so many informals... have failed to receive government assistance simply because they are “not in the list.” (Ofreneo, 2020). By having a Magna Carta for Workers in the Informal Economy, the “informals” will finally be seen, acknowledged, and come one step closer to full empowerment. With a database in place that does not overlook the so-called informals, but rather puts them in the list, a list that

comprises the poorest of the poor, the marginalized, and those most in need of aid, government mechanisms in times of disasters and emergencies, such as the SAP, will become more effective, and aid and distribution be more equal and felt by the Filipino people.

Of course, the goal of the nation and the government should ultimately be to help the workers in the informal economy transition to the formal economy, empowering them as the true agents of development that they truly are. However, as we work towards that transition,

it must not be ignored that the majority of workers who are in the informal economy require protective safety nets especially for such a time as this pandemic. While workers in the informal economy exist, aid and legislation for their growth and benefit must exist as well, and a good starting point would be a Magna Carta that seeks to put their names on the list, along with every other Filipino citizen. ■

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