

RESEARCH BRIEF

The Teehankee Center for the Rule of Law, under the auspices of the Chief Justice Claudio Teehankee Foundation, seeks to promote the Rule of Law in the Philippines and the ASEAN region through academic scholarship and research according to international best practices anchored on three foundational Rule of Law Pillars:



Pillar 1 – Rule of Law and Good Governance

Pillar 2 – Rule of Law and the Private Sector

Pillar 3 – Rule of Law and Sustainable Development

HISTORY OF DEATH PENALTY IN THE PHILIPPINES

1. Spanish Period (1521-1898). During the Spanish era, the Spaniards took with them the penal system of medieval Europe that included executions in the form of burning, decapitation, drowning, flaying, garrote, hanging, shooting, and stabbing, among others. Capital punishment was part of the 1848 Spanish *Codigo Penal* and was imposed mostly on the locals who challenged the authority of the Crown.

2. American Period (1898-1934). Adopting most provisions of Spain's 1848 *Codigo Penal*, the Americans retained capital punishment in the country. In 1932, the *Codigo* was revised wherein the crimes of parricide, piracy, kidnapping, murder, rape, and robbery with homicide were considered capital offenses which were met with death penalty. Several laws – The Sedition Law in 1901, Brigandage Act in 1902, Reconciliation Act in 1903 and the Flag Law in 1907 – were enacted by the Americans to sanction death against nationalist Filipinos. For most part, the death penalty was an essential part of the pacification process to suppress those who resisted the American authority.

3. Japanese Occupation (1941-1945) and Post World War II. During the Japanese invasion, there were no records of execution by death penalty. A peasant rebellion, said to be communist-inspired known as the *Hukbalahap*, then emerged and started the resistance movement against Japanese forces. As a measure against the communists, the Anti-Subversion Law that sanctioned death penalty came into effect. During the Post World War II period, espionage was also added to the list of capital offenses.

PILLAR 1: DEATH PENALTY SERIES

Death penalty has been a part of Philippine history dating back to the Spanish era. While prohibited by law in 2006, the re-imposition of death penalty is now slowly gaining ground before Congress. Last March 7, 2017, House Bill No. 4727 that re-imposes the death penalty passed the third reading of the House of Representatives, completing one of the required steps before the measure can be passed into law.

4. Marcos Administration (1965-1986). During these years, including the declaration of Martial Law in 1972, “deterrence” justified the imposition of death penalty. Through the enactment of laws and decrees, the punishment of death was allowed for a number of crimes such as subversion, possession of firearms, arson, hijacking, embezzlement, drug-related offenses, and unlawful possession of firearms, among others.

5. Cory Aquino Administration (1986-1992) and the 1987 Constitution. Under the Cory Aquino Presidency, a new Constitution emerged that “abolished” the imposition of the death penalty but left its re-imposition to the wisdom of Congress, as stated in Article III, Section 19(1) of the 1987 Constitution: “xxx Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it.”

6. Ramos Administration (1993-1998). In 1993, a series of crimes described as ‘heinous’ arose during the early parts of the Ramos administration. President Ramos, to address the increasing number of crimes, re-imposed the death penalty by signing into law Republic Act No. 7659. Through Republic Act No. 8177, it was mandated that death be carried out through lethal injection.

Sometime in 1994, a scandal rocked the country. A certain Leo Echegaray was accused and charged by government prosecutors of raping his 10-year old daughter/step-daughter at least five (5) times.

After trial, the Regional Trial Court found Echegaray guilty of the crime charged and sentenced him to death. On 25 June 1996, on automatic appeal, the Supreme Court affirmed the decision of the Regional Trial Court.

On 09 July 1996, Echegaray moved for the reconsideration of the decision. He then discharged the services of his lawyer and retained the services of the Anti-Death Penalty Task Force of the Free Legal Assistance Group of the Philippines (FLAG). On 23 August 1996, the FLAG filed a Supplemental Motion for Reconsideration.

In a landmark decision released on 07 February 1997, the Supreme Court affirmed the death sentence and, more importantly, affirmed the validity of Republic Act No. 7659, or the Death Penalty Act, saying, "Nothing in [Article III, Section 19(1) of the 1987 Constitution] imposes a requirement that for a death penalty bill to be valid, a positive manifestation in the form of a higher incidence of crime should first be perceived and statistically proven following the suspension of the death penalty. Neither does the said provision require that the death penalty be resorted to as a last recourse when all other criminal reforms have failed to abate criminality in society."

7. Estrada Administration (1998-2001). The year 1999 was said to be a "bumper year for executions which were intended to abate criminality." The year started with the execution of Leo Echegaray on 05 February 1999, the country's first execution since 1976. As a major news agency reported, "To dramatize his vow to see the execution through, Estrada ordered... that a telephone hot line between his office and the prison be removed so there will be no expectation of a reprieve. 'I've got to be firm, to send a message to future rapists that we mean business,' the president said. 'No one will change my mind.'"

After the execution, however, agreeing to the appeals of the anti-death penalty groups, President Estrada

ABOUT THE CENTER : The Teehankee Center for the Rule of Law is a non-partisan "think tank" based in the Ateneo de Manila University School of Law in Rockwell, Makati. It is operated by Claudio Teehankee Foundation Inc., a PCNC-accredited non-government organization (NGO) under the stewardship of its Executive Director Amb. Manuel A.J. Teehankee before he turned over the position to Atty. Joseph R. Migriño in 2016.

TCRL RESEARCH BRIEF: The Teehankee Center for the Rule of Law (TCRL) Research Brief is a bi-monthly publication featuring edited summaries of research papers commissioned or published through the Center. For more information, please contact us at:

CLAUDIO TEEHANKEE FOUNDATION INC.

Room 402, Ateneo Professional Schools,
Rockwell Drive, Rockwell Center, Makati City
Tel. Nos. 899-7691 locals 2416 and 2417
<http://teehankeeruleoflaw.org/>
teehankeecenterateneolaw@gmail.com

JOSEPH R. MIGRIÑO
Executive Director / Head, Editorial Board

DIANA ROSELLE V. BAUTISTA
MILAGROS MAE B. VILLAROSA
Associate Editors

issued a *de facto* moratorium on execution in observance of the Jubilee Year.

8. Macapagal-Arroyo Administration (2001-2010).

In 2003, President Macapagal-Arroyo lifted the moratorium on executions due to the increase in drug trafficking and kidnappings. The plan to resume the death penalty, however, did not push through because of the reopening of the case of *People vs. Licayan*, where the Supreme Court vacated the lower court decision and allowed the admission of newly discovered evidence, including testimonial evidence, which exonerated Lara and Licayan from culpability. In 2006, President Macapagal-Arroyo signed Republic Act No. 9346 abolishing the death penalty.

On 20 September 2006, the Philippines signed the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty, which states that "no one within the jurisdiction of a State Party to the present Protocol shall be executed" and that "each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction." The Philippines ratified the same on 20 November 2007.

9. Noynoy Aquino Administration (2010-2016).

In 2014, to answer proposals of reviving the death penalty, President Aquino stated that it is more important to first improve the justice system of the country, finding the justice system still imperfect and flawed. The death penalty has not yet been re-imposed since.

Sources:

Gervacio, Belinda G. *The Death Penalty Debate: The Effectiveness of Capital Punishment in Curtailing Crimes in the Philippines*. TCRL Library. 2016

<http://edition.cnn.com/WORLD/asiapcf/9902/05/philippines.execution.02/> (Accessed: March 22, 2017)