

A SPACE-FULL LAW FOR A LAWFUL SPACE

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It was a Tuesday night on the 26th of July 1955 in London when 4X-AKC was scheduled to fly from London to Lod. It was set to make stops to Vienna, and Paris before finally landing to Lod. The 4X-AKC aircraft was boarded by fifty-one passengers, and seven crew members of different nationalities. At around 9:22 PM, the aircraft made a stop to Paris then departed at 10:46 PM. The aircraft arrived at Vienna around 1:39 AM, then departed for Lod at 2:53 AM. 4X-AKC was expected to land at Lod at 9:25 on the 27th of July 1955. However, the 4X-AKC never arrived.

When 4X-AKC entered the Yugoslav-Bulgarian territory, two Bulgarian jet fighters attacked without any warning at 18,000 feet. The Bulgarian jet fighters fired 4X-AKC for three times, and when after the last round of firing, 4X-AKC was destroyed at mid-air, leaving all fifty-eight passengers, and crew members dead. The Government of Israel raised the matter to the International Court of Justice, for the Government of the People's Republic of Bulgaria to take responsibility and accountability. However, on 26th of May 1959, by twelve votes to four, the International Court of Justice upheld the Preliminary Objection raised by Bulgaria, that the court is without jurisdiction to adjudicate the dispute.

Perhaps, the importance of the study of law is derived from the catastrophic accidents that happen in everyday life, tragedies that could have been prevented if only the law was understood and scrutinized enough to serve its purpose. Perhaps, it could be surmised that the fundamental reason and importance of studying law draws from the tragedies happening without any immediate recourse to attaining accountability for those responsible for it, and without any immediate recourse to attain the comfort of justice by the victims who suffered loss and loss irreparably.

The study of law is essentially geared towards the administration of justice. Such goal has been hammered down into the very fabric of lawyers and law students since the inception of their pursuit to the legal profession. It is elementary for law students to easily understand why the lack of jurisdiction of the International Court of Justice favored Bulgaria in the abovementioned case, yet yields anxiety when asked why it is important to study it, at least for this author's part. Similarly, the question of the importance of studying law is seemingly uncomplicated, but when thinking about the answer to the question just renders flashbacks in bad class recitations.

The creation of the International Court of Justice as the United Nation's judicial organ is for the purpose of settling disputes between countries. Countries who have grievances against another, who believe that rights were breached and obligations were not performed, and who believe to the contrary, submit to the jurisdiction of the court. Thereafter, the Court renders its non-binding yet persuasive judgement and order which takes the issue to the very fiber of the law whether there really was an existing right or obligation, and whether what responsibilities must be performed by either party.

It is primary to assume that the treaties, laws, and agreements create a demarcation between the rights of other countries from ours. With the rights and obligations created by virtue of these laws, it is presumed that the country is protected and is represented in the international stage where our grievances may be expressed, and our rights be respected. In return it is reciprocal to perform the duties mandated by these laws, as it is only right and just to render our fair share to contribute to the ambition of attaining global justice.

The reciprocal obligation in contributing to attain global justice is no doubt achievable. It is innate for human beings to perform what is right, since it is as basic to follow our moral compass as to follow the north star in space. However, as to the means of achieving it, could not be relied in metaphors and poetic aphorisms, rather in the constant pursuit of knowing and understanding the very essence of the law's existence, and of employing its unchanging principles in changing times.

The changing times of the world come with changing problems by which often times is a grave consequence created by a past that did not know better. Yet we can only learn in hindsight. The very fact we strive to attain global justice is because there is an existence of injustice in many forms. The deprivation of the right of a country's own resources, the flexing of nuclear muscle to inculcate fear, the exploitation of resources that do not rightfully belong to another, the exploitation of working-class individuals to expand international business empires, and to set an unfair usage of machineries by first world countries that deprive the opportunity to expedite the development of third world countries, are merely some examples of injustices that are prevalent today.

In the international stage, the law affords protection to small countries like ours who are far different from the circumstances and realities compared to first world countries. Compared to other countries, ours is in its infancy in treading the path to an industrialization that could capacitate a sense of competition with those who have long fared for technological advances and development. International Law respects the sovereignty of nations, however, limits the actions of nations in their efforts to further advance their interests that prejudice the rights as well as the interests of others. It is because of these laws laid down by countries in the United Nations, give smaller countries who are scant in resources like ours the capacity to participate in the world markets, participate in agreements that give Filipinos a better opportunity to be employed abroad, participate in the discussion of food safety and security, health, and anti-terrorism efforts. International Law capacitates our small country to these essential activities for growth and development together with other countries anywhere on earth and even, ambitiously, anywhere in the solar system. It is essentially because of the law that makes our country capable in faring to space notwithstanding its limited resources, and it is because of the law that capacitated our country to participate in international discussions of space faring and exploration. Hence, it requires almost no thought that in the pursuit of exploring the outer space and cosmos, it comes with lawfully pursuing every fiber of the law through the rigorous study of every letter and spirit of the law.

In a recent vintage, the the 1973 Philippine Constitution had included the word "airspace" as part of the territory of the Philippines. Such inclusion sparked meticulous debate among the members of the 1986 Constitutional Commission whether such term diminishes or expands the territory by which was left by Spain to the United States of America, and thereafter, which was ceded to the Philippines as can be gleaned from the 1935 Philippine Constitution. During the June 30, 1986 session of the Constitutional Commission, Jose Nollado interpellated to answer the question of Ricardo Romulo of the meaning of the "airspace" as contemplated in the 1973 Constitution in relation to the Convention of the Law of the Sea. In such discussion, airspace which comes to simply mean as the atmosphere was elaborated as part of the Philippine territory as far as the territory of the country is concerned. Subsequently, on July 2, 1986 Jose Nollado addressed the members of the Constitutional Commission announcing for members who have proposals to meet together and consolidate the proposals. Thereafter, Adolfo Azcuna was recognized and presented his amendments to Section 1, Article 1 on the National Territory. In Commissioner Azcuna's rationale to the amendment, he

elaborated that the aerial domain which the present article in the Constitution contemplates comprises the air directly above the terrestrial and fluvial domains up to where the outer space begins.

It is most worthy to note that it is not only airspace that the Constitutional Commission had contemplated, in addition, the concept of outer space was also present in the lengthy discussions when they had crafted the present constitution. The concept of outer space is not alien to the Philippines. As can be culled from the records of the United Nations, the Philippines is a signatory to several treaties relative to the activities in outer space. The first treaty signed by the Philippines was the “Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies” or the Outer Space Treaty way back in 1967. It was subsequently followed by the signing and ratifying of other treaties and other agreements.

Not too long ago on August 8, 2019 Republic Act 11363 was signed into law, and thereafter its Implementing Rules and Regulations took its effectivity on May 4, 2021. The Philippine Space Act gave the country the opportunity to establish an agency that is mandated to fundamentally increase our capabilities not only to explore outer space, but also develop the technology that could enable this country to enhance telecommunications, agriculture, disaster and risk management, and ambitiously but plausibly, to access raw materials which subsequently be exploited and used to enhance the quality of life of each Filipino. Shriya Yarlagadda’s article from the Harvard International Review titled, “*Economics of the Stars: The Future of Asteroid Mining and the Global Economy*,” describes a hypothetical scenario whereby the depletion of the earth’s resources would result to asteroid mining that would sustain humanity. Futuristic and alien as it is, the possibilities may be a thing of the past in reference to the future.

The idea of exploration to unknown terrain to exploit and develop resources for the benefit of mankind is not avant-garde. It can be recalled that in 1982, the Convention for the Law of the Sea was crafted by the United Nations to delineate territories of maritime states, to give guidelines on the unexplored and unexploited marine resources that belong to everyone, and to afford protection to countries of their right to exercise their sovereignty to the maritime territories as defined in the United Nations Convention for the Law of the Sea (UNCLOS) among others. At the time of UNCLOS’ inception, the Philippines was at the forefront and did not shy away from its participation. When the UNCLOS was created in December 10, 1982, the Philippines was one of its original signatories at Montego Bay. Thereafter, the country ratified the UNCLOS on May 8, 1984. Executive Order 1034 was even enacted on June 25, 1985 that reorganized the cabinet committee on the Law of the Sea which was created by virtue of Executive Order 738 on October 3, 1981. The UNCLOS gives protection and assurance to those who voyage at sea and those who depend on it for their daily sustenance.

Notwithstanding such treaty, it is however unfortunate that the country still suffers aggressive and violent claims relative to the maritime territories elucidated in the UNCLOS from another country that signed and ratified the same. Additionally, notwithstanding the supposed equal playing field that international law affords, the playing field is far from equal in a multitude of aspects. From advanced technological navigation devices to a sea vessel capable of faring the entire oceans of the world, our skiffs and cosmological techniques of navigation are still no match for such gargantuan and browbeat country. The aggressive and violent disposition is far from being settled, and unfortunately, not until international law grows teeth and not until a dire pursuit for the law be realized, the very people

providing wildlife from sea to our tables will continue to be oppressed without those who eat at the table knowing the danger to obtain them and the peril at our very own sea.

Territorial delineation to exercise sovereignty is a common subject of dispute between countries. Bulgaria's defense of shooting down 4X-AKC was because it was merely protecting its borders from threats, and it is imperative for them to protect their territorial integrity and sovereignty. This is not different from the excuses of given when the fishermen and maritime officers at the West Philippine Sea were assaulted. As mentioned above, perhaps, this is the fundamental reason why the study of law is important, that injustices happen too often with meager options and scant knowledge to what course of action to take in order to hold the people responsible for such circumstances accountable. The victims of 4X-AKC and their families could have only hoped to receive an ounce of relief from the International Court of Justice, yet technicalities have prevented the scales of justice to favor them. On the other hand, the Filipinos whose livelihood depend on faring the sea may just have to hold their patience a little longer since the maritime disputes would not yet end soon. Indeed, no person would want to wish that anything like the ones mentioned above or any tragedy that puts the lives of people at stake to happen.

As promising as faring the outer space is, and as hopeful one could ever be for the country to be a space cable nation, it comes with legal repercussions that have to be given utmost importance both in national and international laws. To be represented in the international stage in matters of concern relative to outer space, to be at the forefront of gathering information and collaborating with other countries in matters of technology and development, necessitates a careful study of the legal repercussions that is accompanied with it. The study of law is important for this country to be capable of faring outer space because the law capacitates us to participate and engage in international discussions and collaborations that enhances the knowledge to set our feet on space. It equips this country with the necessary protection from unwanted circumstances, and provides the necessary network for collaboration and capacity building.

The pursuit for justice whether here on earth or on outer space necessitates a rigorous study of the law down to its very last fiber. Currently, there appears to be various treatises, and agreements with regard to the laws in outer space as culled from the documents of the United Nations, and as to the national laws pertaining to outer space, definitely, their existence could not be ignored. The study of these laws holds utmost importance for a nation to be capable of faring outer space, and what we can further hope is for more legislation to be studied and passed that could deliver the promise of justice, that it be governed by laws and not of men and that it be just and liberating, a space-full law for a lawful space.