

Unlawful Aggression in Self-Defense: Person Attacked Test

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The Article turns on the issue of determination of the existence of unlawful aggression at the time of defense. Said issue emanates from the fact that the law contemplates not merely actual but even imminent aggression, the latter receiving no specific definition from the Revised Penal Code, which, in turn, leads to conflicting decisions rendered by courts. The Author mentions an array of certain acts that can be considered as unlawful aggression, some constituting actual physical assault, others just indicative of threat to inflict real injury. However, other acts, which represent mere insult uncorroborated by some external and material attack, are said to be not tantamount to unlawful aggression. Thus, self-defense in said cases is unjustifiable. Similarly, instances where the aggression arises from a mutual agreement to fight and where subsequent thereto the aggressor flees – all preclude resort to self-defense. Jimenez also exhibits the apparent lack of standard with which to judge the imminence of unlawful aggression. He surveys American and Philippine jurisprudence alike and arrives at the conclusion that the matter is still largely unsettled, shifting as the courts do from one standpoint (slayer, court, or reasonable man) to another.