

Tipping the Scales in Favor of the Accused: the Implications of *People v. Sapla* on the Philippines' War Against Drugs

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I. THE DRUG SITUATION IN THE PHILIPPINES.....	831
II. REVISITING CONSTITUTIONAL STANDARDS OF SEARCHES AND SEIZURES.....	836
<i>A. Philippine Constitutional Standards</i>	
<i>B. Foreign Constitutional Standards</i>	
III. THE LANDMARK CASE OF <i>PEOPLE V. SAPLA</i>	855
<i>A. Background of the Case</i>	
<i>B. Peering into the Minds of the Justices; the Rationale Behind <i>People v.</i> <i>Sapla</i></i>	
<i>C. Analyzing the Divergent Jurisprudence</i>	
<i>D. The Ultimate Decision in <i>People v. Sapla</i></i>	
<i>E. Separate Opinions</i>	
IV. IMPLICATIONS OF <i>PEOPLE V. SAPLA</i> TOWARD THE PHILIPPINES' ANTI-DRUG CAMPAIGN.....	889

I. THE DRUG SITUATION IN THE PHILIPPINES

The use and abuse of illegal drugs are among the plagues that crept in and lingered within the Philippines for the past century. One would think that as time passes, society would find a remedy to this challenge. This, however, may not be the case for the Philippines.

Illegal drug trafficking is a lucrative business that continues to thrive in the country.¹ Drug groups and syndicates use innovative methods to evade

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arrest and expand their illegal drug activities despite aggressive enforcement efforts.²

In this day and age, the problem of substance use or abuse remains one of the major social problems in the country.³ In 2004, it was estimated that the nationwide number of drug users are at 3.4 million,⁴ despite the presence of

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Cite as 65 ATENEO L.J. 831 (2020).

1. Philippine Drug Enforcement Agency (PDEA), Annual Report 2018 at 17, *available at* <https://drive.google.com/file/d/15vzyVy2Iz6es1x0oQRLKBD0t6ADihSdb/view> (last accessed Nov. 30, 2020) [hereinafter Philippine Drug Enforcement Agency (PDEA) Annual Report 2018].
2. *Id.*
3. De Jesus, et al., Drug and Substance Use Among Filipino Street Children in an Urban Setting: A Qualitative Study (2009) at ★1, *available at* https://www.ddb.gov.ph/images/other_researches/07-DRUG_AND_SUBSTANCE_USE_AMONG_FILIPINO_STREET_CHILDREN_IN_AN_URBAN_SETTING.pdf (last accessed Nov. 30, 2020).
4. *Id.* (citing Christian Esguerra, *PNP OFFICIAL BARES 3.4 million Filipinos now use drugs*, INQ7.net, July 28, 2004, *available at* https://web.archive.org/web/20040805133220/http://beta.inq7.net/metro/index.php?index=1&story_id=881 (last accessed Nov. 30, 2020)).

the highest penalty — death.⁵ In 2019, the government estimated that there could be around eight million drug users in the country.⁶

A disturbing aspect of the drug problem is the fact that drug abusers are becoming more prevalent in the younger generations.⁷ The last decade revealed a trend towards a decreasing age.⁸ In the 1950s, the age of drug offenders ranged between 40–55 years old.⁹ In the 1980s, the average age of drug users was 25 years old.¹⁰ Yet data in the past decade indicate that initiation of drug use starts at the young age of eight to nine years old.¹¹

There is also an alarming increase in the use of minors as couriers, runners, and drug peddlers.¹² According to the Philippine Drug Enforcement Agency's (PDEA) report on the country's drug situation in 2012, “[i]t also appears that drug traffickers are targeting children of a considerably younger age bracket. In fact, there was one incident in 2012 where a one-year-old baby was used to conceal shabu being trafficked.”¹³

Drug abuse is mainly done for pleasure.¹⁴ Illegal drugs are also used by individuals to cope with the demands of their work, like those working in graveyard shifts, or working for long hours.¹⁵ Furthermore, the availability and accessibility of illegal drugs encourage them to take such illicit drugs, among other reasons.¹⁶

5. De Jesus, et al., *supra* note 3, at 1.

6. Jonathan de Santos, *PNP, PDEA, NBI agree: Duterte's estimate of 8M drug users has basis*, PHIL. STAR, Feb. 28, 2019, available at <https://www.philstar.com/headlines/2019/02/28/1897470/pnp-pdea-nbi-agree-dutertes-estimate-8m-drug-users-has-basis> (last accessed Nov. 30, 2020).

7. De Jesus, et al., *supra* note 3, at 1.

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. Philippine Drug Enforcement Agency, *The Philippine Drug Situation (2012)*, at 15, available at <https://pdea.gov.ph/images/AnnualReport/2012AR/2012PhilippineDrugSituation.pdf> (last accessed Nov. 30, 2020).

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

Illegal drugs have resulted in both direct and indirect irreparable damage to many Filipino families in the country. The enforcement of a “drug war” was one of President Rodrigo R. Duterte’s flagship platforms when he was campaigning for President, as he promised to “suppress crime, drugs[,] and corruption in government.”¹⁷ Millions of Filipinos echoed and supported his goals, believing that it was high time to put an end to this long-standing problem; hence, he was elected President in 2016.¹⁸

According to the PDEA’s 2018 Annual Report,¹⁹ the Philippines has accomplished the following:

- (1) Conduct[ed] 36,643 anti-drug operations by PDEA and other law enforcement agencies such as, Philippine National Police, National Bureau of Investigation, Bureau of Customs, and Armed Forces of the Philippines;
- (2) Conduct[ed] 475 high-impact operations, including the dismantling of four (4) clandestine laboratories, two (2) marijuana cultivating facilities and 119 drug dens, 123 high-volume seizures, 33 marijuana eradication operations, among others;
- (3) Arrest[ed] 48,077 drug personalities;
- (4) Fil[ed] 37,037 drug complaints at the Office of [the] City Prosecutor;
- (5) Confiscat[ed] 785.77 kilos of shabu, 96.85 kilos of cocaine, 16,713 pieces of ecstasy tablet, 258 kilos of marijuana, and others worth ₱6.72 billion; and clearing of 4,922 drug-affected barangays.²⁰

Truly, it cannot be gainsaid that the Philippines has been heavily impacted by President Duterte’s war against drugs. The country may have even reached significant milestones to such an end of curbing the drug problem. Even the most noble cause, alongside the actions that come with it, however, will reap its own consequences.

17. Joseph Hincks, *Philippines: Inside Duterte’s killer drug war*, AL JAZEERA, Sept. 8, 2016, available at <https://www.aljazeera.com/indepth/features/2016/09/philippines-duterte-killer-drug-war-160905094258461.html> (last accessed Nov. 30, 2020).

18. *Philippines election: Maverick Rodrigo Duterte wins presidency*, BBC NEWS, May 10, 2016, available at <https://www.bbc.com/news/world-asia-36253612> (last accessed Nov. 30, 2020).

19. Philippine Drug Enforcement Agency (PDEA) Annual Report 2018, *supra* note 1.

20. *Id.* at 8.

As of the time of writing of this Comment, the country is roughly five years into the drug war, and the PDEA, in December 2019, reported that its forces had killed 5,552 people during drug raids from 1 July 2016 to 30 November 2019.²¹ Yet, according to the United Nations (UN) Office of the High Commissioner for Human Rights, the number could be more than 27,000.²²

Among the most controversial of these anti-drug operations was the death of Kian delos Santos, a 17-year-old who was gunned down in August 2017.²³ Delos Santos' death triggered massive condemnation of President Duterte's war on drugs.²⁴

The war against drugs has caught the attention of the international community. According to Nick Aspinwall of *The Diplomat*, the UN High Commissioner for Human Rights claimed that the policy "had created a cycle of impunity and is responsible for systematic violence leading to thousands of extrajudicial killings since Duterte launched the nationwide campaign after being elected in 2016."²⁵ The UN Human Rights Council (UNHRC) even passed a resolution to examine the thousands of alleged extrajudicial police killings linked to the war on drugs in the Philippines, a campaign that human rights groups around the world have denounced as a "lawless atrocity."²⁶ Such resolution by the UNHRC was denounced by the Philippine government, through the words of Department of Foreign Affairs (DFA) Secretary Teodoro L. Locsin, Jr., claiming that it was a "travesty of human rights that 'came

21. Human Rights Watch, Philippines: No Letup in 'Drug War' Killings, *available at* <https://www.hrw.org/news/2020/01/14/philippines-no-letup-drug-war-killings> (last accessed Nov. 30, 2020).

22. *Id.*

23. Jodesz Gavilan, *TIMELINE: Seeking justice for Kian delos Santos*, RAPPLER, Nov. 28, 2018, *available at* <https://rappler.com/newsbreak/iq/timeline-justice-trial-kian-delos-santos> (last accessed Nov. 30, 2020).

24. *Id.*

25. Nick Aspinwall, *UN Rights Office Criticizes 'Impunity' and 'Systematic' Violence of Philippines Drug War*, THE DIPLOMAT, July 2, 2020, *available at* <https://thediplomat.com/2020/07/un-rights-office-criticizes-impunity-and-systematic-violence-of-philippines-drug-war> (last accessed Nov. 30, 2020).

26. Nick Cumming-Bruce, *U.N. Rights Council to Investigate Killings in Philippine Drug War*, N.Y. TIMES, July 11, 2019, *available at* <https://www.nytimes.com/2019/07/11/world/asia/philippines-duterte-killings-un.html> (last accessed Nov. 30, 2020).

straight from the mouth of the queen in Alice in Wonderland.”²⁷ DFA Secretary Locsin criticized the decision of the UNHRC, claiming that the UNHRC “[should] not presume to threaten states with accountability for a tough approach to crushing crime’ in which some countries were complicit and others tolerant[.]”²⁸

The war on drugs does not only impact the citizens but also the very foundation of the law. With the recent promulgation by the Supreme Court of *People v. Sapla*,²⁹ the populace will now be afforded more protection from arbitrary exercises of governmental power in the course of enforcing drug-related laws. Doubts toward the law enforcement will lessen, and hopefully in due time, most, if not all, citizens will have placed even greater faith towards them as they fulfill their noble duties for the country.

The Court has ultimately ruled upon an area of general confusion regarding searches and seizures. This Comment will enlighten the readers on the rights being heavily affected by the war against drugs, specifically the constitutional standards on searches and seizures. The Authors will expound upon the radical legal implications of *Sapla*, and how it will affect not only the legal community and the judiciary, but also the law enforcement authorities.

II. REVISITING CONSTITUTIONAL STANDARDS OF SEARCHES AND SEIZURES

Hence, government becomes the delicate art of balancing the power of government and the freedom of the governed.

— Fr. Joaquin G. Bernas, S.J.³⁰

A. Philippine Constitutional Standards

Almost a hundred years have passed since the Bill of Rights emerged from its cradle and unfolded upon the Pearl of the Orient, taking the form of written text in a legal document that is considered as the supreme law of the land.³¹

27. *Id.*

28. *Id.*

29. *People of the Philippines v. Jerry Sapla y Guerrero*, G.R. No. 244045, June 16, 2020, available at <http://sc.judiciary.gov.ph/12724> (last accessed Nov. 30, 2020).

30. JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 100 (2009 ed.).

31. *See id.*

Yet after all this time, the people may not have truly grasped how sacred these rights are.

As of 2018, a total of 152,741 drug cases have been filed in various courts since President Duterte assumed the presidency and launched a relentless war against illegal drugs.³² The National Prosecution Service has filed a total of 70,706 drug cases in courts, with 1,645 cases involving minors in 2017.³³

It is important to remember that these are not just numbers and figures, as they represent real people; they have hobbies and passions, loved ones, hopes and dreams, and they have their own story — they are alive. A substantial amount of these people may have experienced an invalidation of their constitutional rights.

Even during the birth of the 1935 Constitution, the framers had already bestowed the Bill of Rights upon the people. The Supreme Court, citing *People vs. Tudtud*,³⁴ in *Sapla* ruled that

‘the Bill of Rights is the bedrock of constitutional government. If people are stripped naked of their rights as human beings, democracy cannot survive, and government becomes meaningless. This explains why the Bill of Rights ... occupies a position of primacy in the fundamental law way above the articles on governmental power.’³⁵

The Authors will first lay down the relevant constitutional provisions caught in the crossfire within a war against drugs.

Searches and seizures are a necessity in such a war, for a law enforcer could not so easily determine if a person is carrying contraband. However, the declaration of a war against drugs as a paramount initiative of the government does not immediately make all searches and seizures valid. Article III, Section 2 of the 1987 Constitution specifically deals with the right of the people against unreasonable searches and seizures —

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the

32. Christopher Lloyd Caliwan, *Close to 153 K drug cases filed 2 years into Duterte’s drug war*, PHIL. NEWS AGENCY, July 31, 2018, available at <https://www.pna.gov.ph/articles/1043196> (last accessed Nov. 30, 2020).

33. *Id.*

34. *People v. Tudtud*, G.R. No. 144037, 412 SCRA 142 (2003).

35. *Sapla*, G.R. No. 244045, at 7 (citing *Tudtud*, 412 SCRA at 168 (2003)).

judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.³⁶

Fr. Joaquin G. Bernas, S.J., one of the esteemed framers of the 1987 Constitution, stated that “[t]he constitutional guarantee is *not a prohibition of all searches and seizures but only of ‘unreasonable’ searches and seizures.*”³⁷ This begs the question on the definition of “unreasonable” searches and seizures. Hence,

[f]or search or seizure to become unreasonable, there must be in the first place a search or seizure in the constitutional sense. The point at which seizure occurs is easily enough determined; but at what point does an inspection become a search in the sense of Section 2? This became an issue in cases involving police check points instituted at a time when the country was wracked by crimes and the government by coup attempts. ... For as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is limited to a visual search, said routine checks cannot be regarded as violative of an individual’s right against unreasonable searches and seizures.³⁸

Most noticeable in the statement above is the fact that this constitutional provision on unreasonable searches and seizures was most relevant during the time that there were attempts of a coup d’état. If one is to apply this in the modern-day scenario, this constitutional provision becomes increasingly important as the Philippines continues to brace itself for the ongoing war against drugs.

People v. Sapla also reexamined when a search and seizure operation is reasonable, to wit —

Hence, as a rule, a search and seizure operation conducted by the authorities is reasonable *only* when a court issues a search warrant after it has determined the existence of probable cause through the personal examination under oath or affirmation of the complainant and the witnesses presented before the court, with the place to be searched and the persons or things to be seized particularly described.

Because of the sacrosanct position occupied by the right against unreasonable searches and seizures in the hierarchy of rights, *any deviation or exemption from*

36. PHIL. CONST. art. III, § 2.

37. BERNAS, *supra* note 30, at 168 (emphasis supplied).

38. *Id.* (citing *Valmonte v. de Villa*, G.R. No. 83988, 178 SCRA 211 (1989)).

*the aforementioned rule is not favored and is strictly construed against the government.*³⁹

The requirement of a search or arrest warrant is not absolute. Every scenario must take into account the “uniqueness of circumstances involved including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured.”⁴⁰

The Philippines has jurisprudential instances of reasonable warrantless searches and seizures, viz.:

- (1) warrantless search incidental to a lawful arrest;
- (2) seizure of evidence in plain view;
- (3) search of a moving vehicle;
- (4) consented warrantless search;
- (5) customs search; and
- (6) stop and frisk; and exigent and emergency circumstances.⁴¹

It is also important to note that these jurisprudential instances demand their own requirements before such can be considered a reasonable warrantless search and seizure under each instance.

If there is unreasonableness in the warrantless search and seizure, despite the underlying circumstances that are present to warrant the search and seizure, the person searched or seized, no matter how suspicious, can never be judged guilty on the spot by the law enforcer.⁴²

Article III, Section 14 of the Constitution provides one of the heaviest constitutional rights of the accused, granting him or her the presumption of innocence, to wit:

- (1) *No person shall be held to answer for a criminal offense without due process of law.*
- (2) *In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and*

39. *Id.* at 7 (emphasis supplied).

40. *Id.* at 8 (citing *People v. Cogaed*, 740 Phil. 212, 228 (2014) (citing *Esquillo v. People*, 643 Phil. 577, 593 (2010)).

41. *Id.*

42. *See generally* *People v. Chua*, G.R. No. 136066-67, 396 SCRA 657 (2003).

counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.⁴³

As the government continues to wage its war against drugs, it is likewise essential that the rights of the people, and most especially the rights of the accused, are not trampled upon by law enforcement authorities. The government must strike a balance between the rights of the accused and the war against drugs so that it does not demolish the country that both the nation's Filipino predecessors and modern-day champions have fought so hard to protect.

In a war against drugs, it is not only the Constitution that operates. It is also of utmost importance to examine the legislative promulgation that pronounces which are to be considered illegal drugs, and that which outlines the procedure that must be strictly followed by law enforcement authorities in order to prevent or lessen the anomalies and violations that are being encountered today.

Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002,⁴⁴ as amended by Republic Act No. 10640,⁴⁵ is the prevailing special penal law pertaining to drugs in the Philippines; it is the government's blueprint against illegal drugs.⁴⁶ The Comprehensive

43. PHIL. CONST. art. III, § 14 (emphases supplied).

44. An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and for Other Purposes [Comprehensive Dangerous Drugs Act of 2002], Republic Act No. 9165 (2002).

45. An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 Of Republic Act No. 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act Of 2002", Republic Act No. 10640 (2014).

46. Rambo Talabong, *How an 'outdated' law is preventing PH drug war victory*, RAPPLER, Mar. 25, 2018, available at <https://rappler.com/newsbreak/in-depth/dangerous-drugs-act-outdated-war-victory> (last accessed Nov. 30, 2020).

Dangerous Drugs Act of 2002 also possesses its own Implementing Rules and Regulations.⁴⁷

At the time of the passage of the Comprehensive Dangerous Drugs Act of 2002,⁴⁸ the government estimated that there were only about 1.2 million drug users in the country.⁴⁹

Despite the promulgation and implementation of the law, the number of drug users and pushers have grown in the country, indicating that there may be a need to reexamine the country's laws on drugs, specifically the Comprehensive Dangerous Drugs Act of 2002.

As almost two decades have passed since the law's emergence, the social and political landscapes of the country have also changed. The law must adapt to the changing times, most especially if the next administrations decide to continue the initiative started by the Duterte administration.

The call for a reevaluation of the prevailing law on drugs was, in fact, echoed by Undersecretary Benjamin P. Reyes, a permanent board member of the Dangerous Drugs Board (DDB),⁵⁰ when he claimed that

[t]he law sets strict admission requirements for rehabilitation programs[] because there were fewer drug surrenderers when it was passed. It has lenient budget allocation requirements for local anti-illegal drugs programs. It imposes stringent penalties on violators, leaving little to no chance for rehabilitation. It gives too much room for the law enforcement-oriented Philippine National Police to intervene in the multifaceted drug war.⁵¹

Undersecretary Reyes also claimed that in 2002, the government was only looking at a few users nationwide, and currently, they are astonished to know that the law enforcers are estimating millions of drug users and pushers in the country, hence the need for a different approach in dealing with the matter.⁵²

Despite a board member of the DDB calling out for a more responsive legislation to address the issue on illegal drugs, the achievements of the government's anti-drug campaign seem to reflect the current administration's

47. Philippine Drug Enforcement Agency, Rules and Regulations Implementing Comprehensive Dangerous Drugs Act of 2002, Republic Act No. 9165 (2002).

48. Comprehensive Dangerous Drugs Act of 2002.

49. Talabong, *supra* note 46.

50. *Id.*

51. *Id.*

52. *Id.*

determination to rid society of this century-old plague, using whatever means they can to establish a drug-free Philippine society. Time will tell if these methods are to be either beneficial or inimical in the long run.

B. Foreign Constitutional Standards

The Philippines is not unique in having a drug problem in society; it is not the only country waging a war against illegal drugs, for other countries around the world also share the same challenges that the Philippines has.

The Authors will now probe into the legal framework of major areas of the international sphere where a war against drugs is likewise being waged. It is important to consider how other countries have dealt with and resolved their issues on illegal drugs because the Philippines' legislators, judges and justices, law enforcement officials, and other authorities can learn from their methods and drawbacks in order to craft the most viable approach for the Philippines.

1. United States

a. Drug Situation

The United States (U.S.) has been waging its war on drugs for almost 50 years.⁵³ According to Encyclopædia Britannica, “[t]he War on Drugs began in June 1971 when [] Pres[ident] Richard [M.] Nixon declared drug abuse to be ‘public enemy number one’ and increased federal funding for drug-control agencies and drug-treatment efforts.”⁵⁴ The war on drugs made its impact by “greatly increasing penalties[, and improving] enforcement[] and incarceration for drug offenders.”⁵⁵

It must also be taken into account that the U.S. is a country with a population of over 300 million people,⁵⁶ almost triple as that of the population

53. Britannica, War on Drugs: United States History, *available at* <https://www.britannica.com/topic/war-on-drugs> (last accessed Nov. 30, 2020).

54. *Id.*

55. *Id.*

56. Worldometer, United States Population (LIVE), *available at* <https://www.worldometers.info/world-population/us-population> (last accessed Nov. 30, 2020).

in the Philippines.⁵⁷ According to Michael Grossman of the City University of New York Graduate Center, Health Economics Program, the U.S., a developed country, “spends approximately [U.S.]\$26 billion a year on its war on drugs, whose aim is to apprehend and punish drug dealers and users.”⁵⁸ Data from the National Center for Health Statistics indicate that 11.2% of people aged 12 years and over had illicit drug use in the months spanning 2017.⁵⁹

As of 2015, 1.3 million arrests due to drug possession are made per year — an alarming number, as “the number of Americans arrested for possession has tripled since 1980.”⁶⁰ Black Americans are nearly six times more likely to be incarcerated for drug-related offenses than their white counterparts, despite equal substance usage rates.⁶¹ The Center for American Progress states that “[a]lmost 80[%] of people serving time for a federal drug offense are black or Latino ... [, and] in state prisons, people of color make up 60[%] of those serving time for drug charges.”⁶²

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57. Worldometer, Philippines Population (LIVE), available at <https://www.worldometers.info/world-population/philippines-population> (last accessed Nov. 30, 2020).
58. Michael Grossman, et al., *Illegal Drug Use And Public Policy*, 21 HEALTH AFF. 134, 134 (2002).
59. Center of Disease Control and Prevention, Illicit Drug Use, available at <https://www.cdc.gov/nchs/fastats/drug-use-illicit.htm> (last accessed Nov. 30, 2020).
60. Betsy Pearl, Ending the War on Drugs: By the Numbers, at 1, available at https://cdn.americanprogress.org/content/uploads/2018/06/26090511/EndingTheWarOnDurgs-factsheet.pdf?_ga=2.120209928.1061653915.1610973175-425914128.1610973175 (last accessed Nov. 30, 2020) (citing Wagner & Sawyer, Mass Incarceration: The Whole Pie 2018, available at <https://www.prisonpolicy.org/reports/pie2018.html> (last accessed Nov. 30, 2020)).
61. Pearl, *supra* note 60, at 2 (citing NAACP, Criminal Justice Fact Sheet, available at <http://www.naacp.org/criminal-justice-fact-sheet> (last accessed Nov. 30, 2020)).
62. Pearl, *supra* note 60, at 2 (citing Drug Policy Alliance, “Race and the Drug War,” available at <http://www.drugpolicy.org/issues/race-and-drug-war> (last accessed Nov. 30, 2020)).

In 1986, the U.S. Congress passed the Anti-Drug Abuse Act of 1986,⁶³ which allocated U.S.\$1.7 billion to the war on drugs and established a series of mandatory minimum prison sentences for various drug offenses.⁶⁴

According to Encyclopædia Britannica,

[a] notable feature of mandatory minimums was the massive gap between the amounts of crack and of powder cocaine that resulted in the same minimum sentence: possession of five grams of crack led to an automatic five-year sentence while it took the possession of 500 grams of powder cocaine to trigger that sentence. Since approximately 80% of crack users were African American, mandatory minimums led to an unequal increase of incarceration rates for nonviolent Black drug offenders, as well as claims that the War on Drugs was a racist institution.⁶⁵

As the years have passed since the enactment of the Anti-Drug Abuse Act of 1986, the war against drugs has received less support from the public, mainly of its “draconian aspects.”⁶⁶ The effectiveness of the government’s advocacy was questioned as the general public also slowly came to realize the presence of “racial disparity [in the meting out] of [] punishments[.]”⁶⁷ Due to this growing injustice, reforms, “such as the legalization of recreational marijuana[.]”⁶⁸ were enacted in an increasing number of states, in addition to the Fair Sentencing Act of 2010.⁶⁹ These progressive legislations “reduced the discrepancy of crack-to-powder possession thresholds for minimum sentences from 100-to-1 to 18-to-1.”⁷⁰ As the government eventually saw the need to

63. An Act to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes. [U.S. Anti-Drug Abuse Act of 1986], 100 STAT 107 (1986).

64. History, Just Say No, *available at* <https://www.history.com/topics/1980s/just-say-no> (last accessed Nov. 30, 2020).

65. Britannica, *supra* note 53.

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.* & An Act To restore fairness to Federal cocaine sentencing [Fair Sentencing Act of 2010] 124 STAT. 2372, § 1 (2010) (U.S.).

70. Britannica, *supra* note 53.

supplement the laws on drugs, prison reform legislation was enacted in 2018.⁷¹ The prison reform “further [cut down] the sentences for some [] cocaine-related convictions.”⁷² The U.S. war on drugs is still being pursued, though because of how their drug laws have evolved, it is proceeding at a significantly “less intense level than it was during its peak in the 1980s.”⁷³ It could even be said that the U.S. was finally able to strike the balance between the government and the nation’s interests and the rights of the people it holds dear.

It can be gleaned from data that the U.S. war on drugs has more effects on a specific type of racial class. In the past, or perhaps even until now, the U.S. criminal justice system tends to swing against people of color, hence requiring the citizens to be more vigilant and law enforcers to keep them under strict and constant surveillance, even when they are released from incarceration.⁷⁴

The reason for this discrimination as to color stretches very long history. It is rooted in centuries of racialized slavery, segregation and settler colonialism productive of and sustained by an ideology of white supremacy. The history of these practices and such an ideology continue to be deeply entrenched and institutionalized in militarized modes of policing which have emerged since the 1970s in response to urban insurgencies in U.S. cities.⁷⁵ The history of policing in America finds its origins in “slave patrols [formed by] bands of armed white men [who are] employed by slave holders”⁷⁶ in order to ensure that those of black ethnicity will not commit defiant acts.⁷⁷ These slave patrols are also tasked with “search[ing] for runaways”⁷⁸ among those of black ethnicity.⁷⁹ It may also come as a surprise to the modern-day reader that this racial supremacist ideology finds its roots in a vast “history of local codes

71. *Id.*

72. *Id.*

73. *Id.*

74. Vicente Rafael, *Comparing extrajudicial killings in the Philippines and US*, RAPPLER, July 17, 2016, available at <https://rappler.com/voices/thought-leaders/comparing-extrajudicial-killings-philippines-united-states> (last accessed Nov. 30, 2020).

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

[intended] to criminalize the *mere presence* of Native Americans and immigrants of color [with]in urban areas.”⁸⁰

b. Constitutional Standards

The reader now has a better understanding of the historical landscape of the drug situation in the U.S. and the Authors will now shift the view to the pertinent constitutional provisions of the U.S. and how it executes its role within the drug war.

In the U.S., “the rules governing searches and seizures by the police or other law enforcement agents arise from the Fourth Amendment [of] the U.S. Constitution.”⁸¹

Similar to the Philippines, this provision

protects the privacy rights of citizens against excessive intrusions by the government. However, law enforcement has a right to conduct searches and seizures that are reasonable. A search or seizure is reasonable if the police have a warrant from a judge based on probable cause to believe that a suspect has committed a crime. ... Also, a search may be reasonable without a warrant if an exception applies under the circumstances ...

Protections under the Fourth Amendment apply only to items and locations in which a citizen has a legitimate expectation of privacy. Determining whether an expectation of privacy existed requires a court to consider subjective and objective expectations. In other words, it must decide whether the person actually expected privacy and also whether a reasonable person would expect privacy. There is no expectation of privacy when an item or location is in plain view; however, there may be a strong expectation of privacy in a person’s home or in a space that society traditionally considers to be private, such as a restroom.⁸²

Also similar to Philippine jurisdiction, there are two main legal doctrines that can apply when a search or seizure is invalid: the exclusionary rule and the fruit of the poisonous tree.⁸³

80. Rafael, *supra* note 74 (emphasis supplied).

81. Justia, Search and Seizure Rules, *available* at <https://www.justia.com/criminal/procedure/search-and-seizure-rules> (last accessed Nov. 30, 2020).

82. *Id.*

83. *Id.*

The exclusionary rule provides that

[a]ny evidence obtained through an unreasonable search or seizure cannot be introduced against a defendant at a criminal trial.

...

It may seem counterintuitive or unnecessarily lenient to allow a defendant to escape liability for a crime that they committed, based on a procedural error. The justification for the exclusionary rule is that the police would have an incentive to conduct unconstitutional searches and seizures if they could introduce the evidence anyway. This would undermine the privacy of many citizens.⁸⁴

It is notable that “the prosecution [can] sometimes [] use the unconstitutionally seized evidence to impeach the credibility of the defendant as a witness at trial. If the prosecution is able to get a conviction without that evidence, the judge may still consider the evidence in determining the sentence.”⁸⁵

The fruit of the poisonous tree doctrine affects unconstitutionally seized evidence obtained by law enforcement.⁸⁶ “The evidence is also not admissible against the defendant under the fruit of the poisonous tree doctrine [because t]he idea is that the tree is the unconstitutionally seized evidence and that the fruit is the evidence obtained through it.”⁸⁷

An exception to the fruit of the poisonous tree doctrine is when law enforcement would have actually found the evidence.⁸⁸

Also, if an officer does not have a legitimate reason to stop and search someone, but a legitimate reason arises during the stop, evidence that they find may be admissible in some situations. There is another exception for voluntary statements [provided] by defendants ... provided without Miranda warnings[: w]hile the statements cannot be admitted because of the Miranda violation, evidence obtained from the statements can be admitted.⁸⁹

There are different opinions as to the constitutional standards of the U.S. on searches and seizures. Some argue that the exclusionary rule only protects

84. *Id.*

85. *Id.*

86. *Id.*

87. Justia, *supra* note 81.

88. *Id.*

89. *Id.*

criminals,⁹⁰ similar to how several human rights advocates are growled at in the Philippines. Its supporters, however, argue that it serves as an “effective deterrent to police misconduct, and that use of illegally obtained evidence would harm the integrity of the judicial system.”⁹¹ In fact, a past survey in the U.S. concluded that its citizens are incredibly desperate to put criminals behind bars, even if it means that the very constitutional rights that are inherent among these alleged criminals are to be sacrificed, as long as every nook and cranny will be even just a little bit out of harm’s way.⁹²

2. Latin America and Mexico

a. Drug Situation in Latin America

The Authors now turn the page to another land that has endured immeasurable damage and suffered terrible consequences under a relentless war on drugs.

Latin America has been ravaged by the U.S. drug war for decades.⁹³ Fortunately, efforts to achieve “less punitive measures that would reduce the economic, social, and human costs of the war are currently being explored.”⁹⁴

The Drug Policy Alliance further explains the role of Latin America in the global regime of drugs, in such that

Latin America is a crucial geographic zone for drug production and trafficking. The Andean countries of Colombia, Peru, and Bolivia are the world’s main cocaine producers[;] while Central America, Mexico and the Caribbean have become the principal corridors for transporting drugs into the [U.S.] and Europe.⁹⁵

90. Lee Arbetman & Michelle Perry, Search and Seizure: The Meaning of the Fourth Amendment Today, *available at* <http://www.socialstudies.org/sites/default/files/publications/se/6105/610507.html> (last accessed Nov. 30, 2020).

91. *Id.*

92. *Id.* (citing JAMES PATTERSON & PETER KIM, THE SECOND AMERICAN REVOLUTION 165 (1994)).

93. Drug Policy Alliance, The International Drug War, *available at* <https://www.drugpolicy.org/issues/international-drug-war> (last accessed Nov. 30, 2020).

94. *Id.*

95. *Id.*

As a result, the countries of Latin America have suffered much upheaval due to drug trafficking and U.S. eradication and interdiction efforts.⁹⁶ In countries with major drug production, these include environmental and community damage from forced eradication of coca crops, such as aerial spraying and the funding of guerrilla insurgent groups through illicit crop cultivation and sale, most notably, the Revolutionary Armed Forces of Colombia (FARC) and the Shining Path in Peru.⁹⁷

Throughout the entire region, in the aspects of both drug production and trafficking areas, there has been an upsurge of violence, corruption, impunity, erosion of the rule of law, and human rights violations caused by the emergence of powerful organized crime groups and drug cartels.⁹⁸

b. Drug Situation in Mexico

Among the many countries in Latin America, Mexico has become one of the most infamous havens for these drug-related illegal activities.

Mexico, a developing country like the Philippines, also has its own war against drugs. According to Ana Paula Hernández, “Mexico is currently undergoing one of the worst crises in its history in terms of violence and insecurity.”⁹⁹

Former Mexican President Felipe Calderón initiated the Mexican drug war in 2006, with the aim of fighting against cartels and drug-related violence.¹⁰⁰ Private security firm GardaWorld reports that “[s]ince then, more

96. *Id.*

97. *Id.*

98. *Id.*

99. Ana Paula Hernández, *Drug legislation and prison situation in Mexico*, *Systems Overload: Drugs and Prisons in Latin America*, in *SYSTEMS OVERLOAD: DRUG LAWS AND PRISONS IN LATIN AMERICA* 60 (Pien Metaal & Coletta Youngers eds., 2011). Hernández “has been a consultant of the Office in Mexico of the United Nations High Commissioner for Human Rights.” *Id.*

100. Nina Lakhani & Erubiel Tirado, *Mexico's war on drugs: what has it achieved and how is the US involved?*, *GUARDIAN*, Dec. 8, 2016, available at <https://www.theguardian.com/news/2016/dec/08/mexico-war-on-drugs-cost-achievements-us-billions> (last accessed Nov. 30, 2020).

than 275,000 people have been killed, with 34,608 murders recorded in 2019, the highest number since 1997.”¹⁰¹

Former President Enrique Peña Nieto, who was president from 2012 to 2018, continued the drug war started by President Calderón.¹⁰² Over the past five years from 2007, nearly 48,000 people have been killed in suspected drug-related violence in Mexico.¹⁰³ Almost 13,000 people have died in the first three quarters of 2011.¹⁰⁴ According to Mexico’s National Human Rights Commission, the death toll does not include the more than 5,000 people who have disappeared, in addition to the tens of thousands of children orphaned by the violence.¹⁰⁵ As of April 2020, the Mexican government announced that a total of 61,637 people are reported missing.¹⁰⁶ According to Paulina Villegas of *The New York Times*, “[m]ore than half of the overall reported disappearance cases were of young people between 15 and 34 years old, 74% of whom were men.”¹⁰⁷ Authorities have also reported that “drug cartels have been responsible for the vast majority of these crimes and typically use unmarked pits to dispose of the corpses of victims, making it difficult for authorities to retrieve and identify the bodies, as well as accurately count the number of deaths.”¹⁰⁸ Villegas further states that “[t]he cases of disappeared people surged more recently amid raging violence as drug cartels battled each other over territory and trafficking routes.”¹⁰⁹

101. GardaWorld, Mexico: Highest daily number of homicides in 2020, recorded on April 19, available at <https://www.garda.com/crisis24/news-alerts/335046/mexico-highest-daily-number-of-homicides-in-2020-recorded-on-april-19> (last accessed Nov. 30, 2020).

102. Ashley Fantz, *The Mexico drug war: Bodies for billions*, CNN, Jan. 20, 2020, available at <https://edition.cnn.com/2012/01/15/world/mexico-drug-war-essay> (last accessed Nov. 30, 2020).

103. *Id.*

104. *Id.*

105. *Id.*

106. Garda World, *supra* note 101.

107. Paulina Villegas, *A New Toll in Mexico’s Drug War: More Than 61,000 Vanished*, N.Y. TIMES, Jan. 6, 2020, available at <https://www.nytimes.com/2020/01/06/world/americas/mexico-drug-war-death-toll.html> (last accessed Nov. 30, 2020).

108. Garda World, *supra* note 101.

109. Villegas, *supra* note 107.

Drug Policy Alliance echoed the reported data, as

Mexico's drug war has turned incredibly violent in recent years, resulting in tens of thousands of deaths. Law enforcement attempts to put cartels out of business by arresting key figures have led not to the demise of the drug trade, but to bloody struggles for control. With prohibition propping up drug prices, it is inevitable that the drug trade will continue, no matter how risky or violent it gets.¹¹⁰

Mexican drug trafficking organizations pose the greatest crime threat to the U.S., and they have the "greatest drug trafficking influence," according to the U.S. Drug Enforcement Administration's annual National Drug Threat Assessment.¹¹¹ A 2018 Congressional Research Service Report reported that 150,000 intentional homicides since 2006 were organized crime-related.¹¹² CNN reports that "Mexican drug cartels take in between [U.S.]\$19 billion and [U.S.]\$29 billion annually from drug sales in the [U.S.]."¹¹³

b. Mexico's Search and Seizure Standards

The complexity of the web of illegal drugs in Latin America and Mexico shows that it cannot be so easily purged by less aggressive law enforcement tactics and lenient illegal drug laws. At least, based on the data presented, that is how the Mexican government seems to operate in dealing with the drug situation.

As compared to the U.S. or the Philippines, the Mexican situation is more dire. It has been reported that Mexican law enforcement authorities barge "into homes, plant evidence[,] and take people's possessions" on a regular basis.¹¹⁴ It is distressing to know that not only is this the norm, but that it

110. The International Drug War, *supra* note 94.

111. June S. Beittel, Mexico: Organized Crime and Drug Trafficking Organizations (A Report by the U.S. Congressional Research Service), at *2, *available at* <https://fas.org/sgp/crs/row/R41576.pdf> (last accessed Nov. 30, 2020).

112. *Id.* at 6 (citing LAURA Y. CALDERÓN, ET AL., ORGANIZED CRIME AND VIOLENCE IN MEXICO 6-7 & 39 (2019)).

113. CNN Editorial Research, Mexico Drug War Fast Facts, CNN, Apr 3, 2020, *available at* <https://edition.cnn.com/2013/09/02/world/americas/mexico-drug-war-fast-facts/index.html> (last accessed Nov. 30, 2020).

114. The Associated Press, *Mexican Panel Finds Law Enforcement Violations in Drug War*, N.Y. TIMES, Aug. 12, 2011, *available at* <https://www.nytimes.com/2011/08/13/world/americas/13mexico.html> (last accessed Nov. 30, 2020).

continues to even worsen as violations continue to increase as the warmongering intensifies.¹¹⁵

Mexican poet Efraín Bartolomé was involved in an experience where force was used by law enforcement authorities.¹¹⁶ It was also reported that force was used by law enforcement authorities against victims to coerce them into confession and gag orders were given by means of threats.¹¹⁷

The Associated Press through *The New York Times* reports that “[d]espite such threats, the complaints about illicit searches increased to 946 in 2008 from 234 in 2006, when President Felipe Calderón began the offensive against drug cartels.”¹¹⁸ Furthermore, “[t]he number of complaints dipped slightly in 2009 to 947 and 826 in 2010, but it increased again by 422 in the first five months of 2011, a pace that would yield more than 1,000 such complaints by the end of [2011].”¹¹⁹

It seems that even if coercive measures are used in an attempt to silence those who will speak against the government, it is clear that the people will still cry foul when injustice finds its way in the people’s doorsteps.

The Authors will now analyze the legal regime that governs the rights of Mexican citizens, starting with the Mexican Constitution and then moving towards the applicable laws that deal with the drug situation.

Article 16 of Mexico’s Constitution¹²⁰ provides the foundation of a Mexican citizen’s right to privacy, to wit —

No person shall be disturbed in his private affairs, his/her family, papers, properties or be invaded at home without a written order from a competent authority, duly explaining the legal cause of the proceeding.

...

In cases of flagrante delicto, any person may arrest the offender, turning him over without delay to the nearest authorities, which in turn, shall bring him before the Public Prosecution Service. A record of such arrest must be done immediately.

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. MEXICO CONST. art. 16.

The Public Prosecution Service may order arrest of the accused, explaining the causes of such decision, only under the following circumstances all together: (a) in urgent cases, (b) when dealing with serious offence, (c) under reasonable risk that the accused could evade the justice and, (d) because of the time, place or circumstance, accused cannot be brought before judicial authority.

In cases of urgency or flagrancy, the judge before whom the prisoner is presented shall immediately confirm the arrest or order his release, according to the conditions established in the law.

...

The judiciaries shall have control judges who shall immediately and by any means solve the precautionary measures requests and investigation techniques, ensuring compliance with the rights of the accused and the victims. An authentic registry of all the communications between judges and the Public Prosecution Service and other competent authorities shall be kept.¹²¹

Administrative authorities are granted powers to search private households only to enforce sanitary and police regulations.¹²² Administrative authorities can require the accounts books and documents to corroborate compliance with fiscal provisions, following the procedures and formalities established for search warrants.¹²³

Likewise, Article 20 of the Mexican Constitution provides the universal provision on the presumption of innocence — “[t]he defendant is innocent until proven guilty through a sentence issued by a judge.”¹²⁴

In 2009, Mexico enacted the decree, *Ley de narcomenudeo*, or the Law against Small-Scale Drug Dealing.¹²⁵ Its main objective is precisely to “combat the retail mode of trading in drugs.”¹²⁶ The decree determines maximum quantities of the various drugs permitted for personal use and establishes the scope of authority of the various levels of government in the drug control

121. MEXICO CONST. art. 16.

122. MEXICO CONST. art. 16.

123. MEXICO CONST. art. 16.

124. MEXICO CONST. art. 20.

125. The Law against Small-Scale Drug Dealing [*Ley de narcomenudeo*] (2009) (Mex.).

126. Hernández, *supra* note 99.

effort.¹²⁷ Previously, “only federal authorities had jurisdiction over these offenses, but the new law intends that state and municipal authorities also participate actively.”¹²⁸ Also, the changes in the law made it easier for the police to obtain search warrants, permitting officers to ask judges for them in e-mails or by other electronic means, despite Mexico’s National Human Rights Commission’s urge that search warrants be printed out and shown to homeowners.¹²⁹

In 2018, the Mexican Supreme Court of Justice of the Nation “approved amendments on various provisions of the National Code of Criminal Procedure[.]”¹³⁰ The Mexican Supreme Court effectively “declared it constitutional for police to perform inspections of a person or their vehicle without a judicial or ministerial order.”¹³¹ Despite arguments from Mexico’s National Human Rights Commission, claiming that it “violated individual rights[. The ability of police] to carry out searches of people or vehicles without the order of a judge violates the rights to personal freedom and freedom of movement, legal security, privacy, private life, personal integrity[,] and arbitrary non-interference.”¹³² The Mexican Supreme Court deemed that “police inspections constitute preventive and provisional controls authorized under the Amparo as well as the prevention and prosecution of crimes and their investigation.”¹³³

The Mexican Supreme Court further justified that the inspections “are to be carried out only in the case of reasonable suspicion or flagrancy.”¹³⁴ The flagrancy of a crime can be revealed in two ways: “when the crime is evident in the eyes of the police[,] or when the inspection reveals it.”¹³⁵

127. *Id.*

128. *Id.*

129. *Id.*

130. Riviera Maya News, *Mexico Supreme Court rules police searches without warrant constitutional*, RIVIERA MAYA NEWS, Mar. 15, 2018, available at <https://www.riviera-maya-news.com/mexico-supreme-court-rules-police-searches-without-warrant-constitutional/2018.html> (last accessed Nov. 30, 2020).

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

Former Chief Justice of the Mexican Supreme Court Luis María Aguilar Morale, affirmed the necessity of the order and the Mexican government's actions.¹³⁶ The Former Chief Justice reasoned out that the inspections are not only a proportional and suitable measure to curb the drug problem, but it also has a “valid purpose [—] to protect the public safety and the rights of the victims of crimes.”¹³⁷

Ana Paula Hernández concludes in her report —

Based on [this analysis], two situations stand out in Mexico. The first is that although the number of persons detained and imprisoned has been an indicator used by the government to show that its efforts to fight crime[,] especially organized crime[,] are working, there are hundreds of thousands of detentions that do not result in charges being filed and fewer still in convictions. These figures suggest that a large number of innocent people are being detained and that there is a lack of professional investigations to produce the necessary evidence to allow judges to reach a guilty verdict. The second is that a large number of those who do end up in prison are hardly dangerous and that their role in drug trafficking is relatively insignificant.¹³⁸

The Mexican government's approach is more at odds with the populace in general, being aggressive in nature. Mexico is one of the countries wherein the State has sacrificed a substantial portion of the people's freedom with the end goal of curbing a behemoth that has long smothered their society — illegal drugs and its wide-ranging criminal network.

III. THE LANDMARK CASE OF *PEOPLE V. SAPLA*

The laws and constitutional standards of the Philippines relevant to the war against drugs, as well as those of several prominent areas in the world, have now been made known to the reader. The Authors will now transition the perspective back to the Philippines and proceed to discuss a significant decision that has recently become a part of the forest of jurisprudence.

The Supreme Court, in June 2020, promulgated *People v. Sapla*, a case that decisively answers the question, “[C]an the police conduct a warrantless intrusive search of a vehicle *on the basis of an unverified tip relayed by an*

136. Riviera Maya News, *supra* note 130.

137. *Id.*

138. Hernandez, *supra* note 99, at 70.

*anonymous informant?*¹³⁹ After divisive rulings on the matter throughout the years, the Court now lays the question to rest.

Before discussing the main points of the Court, the case, as penned by Justice Alfredo Benjamin Caguioa, the ponente, first reminded everyone that

[i]n threshing out this issue, it must be remembered that in criminal prosecutions, including prosecutions for violations of the law on dangerous drugs, our constitutional order *does not adopt a stance of neutrality*[. T]he law is heavily in favor of the accused. By constitutional design, the accused is afforded the presumption of innocence[. I]t is for the State to prove the guilt of the accused. Without the State discharging this burden, the Court is given no alternative but to acquit the accused.¹⁴⁰

As the Philippine government continues to clash against the looming threat, the Court recognized “the necessity of adopting a decisive stance against the scourge of illegal drugs, but the eradication of illegal drugs in [Philippine] society cannot be achieved by subverting the people’s constitutional right against unreasonable searches and seizures.”¹⁴¹ The Court stressed that “*the Constitution does not allow the end to justify the means*”; or else] ... a deadlier and more sinister one is cultivated[, specifically,] the trampling of the people’s fundamental, inalienable rights.”¹⁴²

A. Background of the Case

Noteworthy is that *Sapla* is a case that does not have any special or distinguishing facts, as compared to other search and seizure cases that have reached the Court. The case does not stand out among a plethora of jurisprudence that talks about searches and seizures, it does not, in itself, warrant the Court to resolve the confusion in jurisprudence. The Court simply took notice of the persisting question regarding an unverified tip and decided that they must conclusively rule upon the matter.¹⁴³ Upon an examination of the conflicting line of cases by the Court and then putting the disparity in the context of the government’s ongoing war against drugs, the Court deemed it necessary to be decisive as to this issue.¹⁴⁴

139. *Sapla*, G.R. No. 244045, at 1 (emphasis supplied).

140. *Id.* (citing PHIL. CONST. art. III, § 14 (2)).

141. *Sapla*, G.R. No. 244045, at 2.

142. *Id.*

143. *Id.* at 1.

144. *Id.* at 2.

Sapla is similar as to the facts and the issues of most related cases. The case involves a confidential informant who gave an anonymous tip, pointing that the accused would be arriving later in the day, riding a jeepney.¹⁴⁵ The police officers then acted upon this information, and a few hours after the receipt of the tip, they arrested the accused, who was not flagrantly suspicious, had they not received the tip from the anonymous informant.¹⁴⁶ The pertinent facts of the case are as follows —

‘That at around 1:20 in the afternoon of January 10, 2014 at Talaca, Agbannawag, Tabuk City, Kalinga and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and knowingly have in his possession, control and custody four (4) bricks of marijuana leaves, a dangerous [drug], with a total net weight of 3,9563.11[1] grams and transport in transit through a passenger [jeepney] with Plate No. AYA 270 the said marijuana without license, permit or authority from any appropriate government entity or agency.

...

The evidence for the Prosecution established that on 10 January 2014, at around 11:30 in the morning, an officer on duty at the RPSB office received a phone call from a concerned citizen, who informed the said office that a certain male individual [would] be transporting marijuana from Kalinga and into the Province of Isabela. ...

At around 1:00 in the afternoon, the RPSB hotline received a text message which stated that the subject male person who [would] transport marijuana [was] wearing a collared white shirt with green stripes, red ball cap, and [was] carrying a blue sack on board a passenger jeepney, with plate number AYA 270 bound for Roxas, Isabela. Subsequently, a joint checkpoint was strategically organized at the Talaca command post.

The passenger jeepney then arrived at around 1:20 in the afternoon, wherein the police officers at the Talaca checkpoint flagged down the said vehicle and told its driver to park on the side of the road. Officers Labbutan and Mabiasan approached the jeepney and saw [accused-appellant Sapla] seated at the rear side of the vehicle. The police officers asked [accused-appellant Sapla] if he [was] the owner of the blue sack in front of him, which the latter answered in the affirmative. The said officers then requested [accused-appellant Sapla] to open the blue sack. After [accused-appellant Sapla] opened the sack, officers Labbutan and Mabiasan saw four (4) bricks of suspected dried marijuana leaves, wrapped in newspaper and an old calendar. PO3 Labbutan subsequently arrested [accused-appellant Sapla], informed

145. *Id.* at 3-4.

146. *Id.* at 4 & 28.

him of the cause of his arrest and his constitutional rights in [the] Ilocano dialect. PO2 Mabiasan further searched [accused-appellant Sapla] and found one (1) LG cellular phone unit. Thereafter, PO2 Mabiasan seized the four (4) bricks of suspected dried marijuana leaves and brought [them] to their office at the Talaca detachment for proper markings.

...

Also, further investigation revealed that [accused-appellant Sapla] tried to conceal his true identity by using a fictitious name – Eric Mallari Salibad. However, investigators were able to contact [accused-appellant Sapla's] sister, who duly informed the said investigators that [accused-appellant Sapla's] real name is Jerry Guerrero Sapla.¹⁴⁷

The defense denied the charges, claiming that the accused “had no baggage [with him] at the time,”¹⁴⁸ and that the law enforcers “were looking for [someone] wearing fatigue pants[.]”¹⁴⁹ To wit —

The [accused-appellant Sapla] denied the charges against him and instead, offered a different version of the incident. He claimed that on 8 January 2014, he went to Tabuk City to visit a certain relative named Tony Sibal. Two days later, [accused-appellant Sapla] boarded a jeepney, and left for Roxas, Isabela to visit his nephew. Upon reaching Talaca checkpoint, police officers flagged down the said jeepney in order to check its passenger[s'] baggages and cargoes. The police officers then found marijuana inside a sack and were looking for a person who wore fatigue pants at that time. From the three passengers who wore fatigue pants, the said police officers identified him as the owner of the marijuana found inside the sack. [Accused-appellant Sapla] denied ownership of the marijuana, and asserted that he had no baggage at that time. Thereafter, the police officers arrested [accused-appellant Sapla] and brought him to the Talaca barracks, wherein the sack and marijuana bricks were shown to him.¹⁵⁰

The essential issue in the case is “whether there was a valid search and seizure conducted by police officers.”¹⁵¹ The Court ruled that the search and seizure conducted by the police officers was invalid; hence, Sapla must be released from incarceration.¹⁵²

147. *Sapla*, G.R. No. 244045, at 3-5.

148. *Id.* at 5.

149. *Id.*

150. *Id.*

151. *Id.* at 6.

152. *Id.* at 33.

Sapla touches on the topic of a search of a moving vehicle, and jurisprudence recognizes that

[w]arrantless search and seizure of moving vehicles are allowed in recognition of the impracticability of securing a warrant under said circumstances as the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant may be sought. Peace officers in such cases, however, are limited to routine checks where the examination of the vehicle is limited to visual inspection.

On the other hand, an extensive search of a vehicle is permissible, but only when ‘the officers’ made it upon probable cause, i.e., upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains [an] item, article, or object which by law is subject to seizure and destruction.¹⁵³

However, the situation in the case cannot be considered as a valid search of a moving vehicle.¹⁵⁴

B. Peering into the Minds of the Justices; the Rationale Behind People v. Sapla

It is important to examine the line of cases that the Court had based its decision on in order to better understand what led to the schism in its previous rulings, and how *Sapla* has ultimately resolved this problem.

The 2018 case of *People v. Comprado*¹⁵⁵ “is controlling [] as the facts of the [] case are virtually identical to [*Sapla*].”¹⁵⁶ The only difference as to the factual precedents of the case is the vehicle use, which is a bus in this case, viz.

—

In *Comprado*, a confidential informant (CI) sent a text message to the authorities as regards *an alleged courier of marijuana who had in his possession a backpack containing marijuana and would be traveling from Bukidnon to Cagayan de Oro City*. The CI eventually called the authorities and informed them that the alleged drug courier had boarded a bus with body number 2646 and plate number KVP 988 bound for Cagayan de Oro City. The CI added that the *man would be carrying a backpack in black and violet colors with the marking ‘Lowe Alpine.’* With this information, the police officers put up a checkpoint, just as what the authorities did in the instant case. *Afterwards, upon seeing the*

153. *Sapla*, G.R. No. 244045, at 8 (citing *People v. Comprado*, G.R. No. 213225, 860 SCRA 420, 440 (2018)).

154. *Sapla*, G.R. No. 244045, at 8 (emphasis omitted).

155. *People v. Comprado*, G.R. No. 213225, 860 SCRA 420 (2018).

156. *Sapla*, G.R. No. 244045, at 9 (emphasis omitted).

bus bearing the said body and plate numbers approaching the checkpoint, again similar to the instant case, the said vehicle was flagged down. The police officers boarded the bus and saw a man matching the description given to them by the CI. The man was seated at the back of the bus with a backpack placed on his lap. The man was asked to open the bag. When the accused agreed to do so, the police officers saw a transparent cellophane containing dried marijuana leaves.¹⁵⁷

The Court in *Comprado* held that the search conducted “*could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person.*”¹⁵⁸ The Court further distinguished by saying that

*[i]n search of a moving vehicle, the vehicle was intentionally used as a means to transport illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus.*¹⁵⁹

Applying *Comprado* to *Sapla*, “*the target of the search was not the passenger jeepney boarded by [] Sapla[,] nor the cargo or contents of the [] vehicle. The target of the search was the person who matched the description given by the [confidential informant].*”¹⁶⁰

Comprado also emphasized the danger of extending

‘the scope of searches on moving vehicles would open the floodgates to unbridled warrantless searches which can be conducted by the mere expedient of *waiting for the target person to ride a motor vehicle, setting up a checkpoint along the route of that vehicle, and then stopping such vehicle when it arrives at the checkpoint in order to search the target person.*’¹⁶¹

The Court notes that “even if the search conducted can be characterized as a search of a moving vehicle, the operation undertaken by the authorities

157. *Id.* (emphasis supplied).

158. *Id.* (citing *Comprado*, 860 SCRA at 440-41).

159. *Sapla*, G.R. No. 244045, at 9 (citing *Comprado*, 860 SCRA at 441) (emphases supplied).

160. *Sapla*, G.R. No. 244045, at 9 (emphasis supplied).

161. *Id.* (citing *Comprado*, 860 SCRA at 441) (emphasis supplied).

in the case cannot be deemed a valid warrantless search of a moving vehicle.”¹⁶²

The Court explains, through *People v. Manago*,¹⁶³ the necessity of setting-up checkpoints, which are “not illegal per se for as long as its necessity is justified by the exigencies of public order and conducted in a way least intrusive to motorists.”¹⁶⁴ If the conditions are met, a warrantless search of a moving vehicle may be valid.¹⁶⁵

Furthermore, in *Manago*, the Court lays down the conditions for the search of vehicles in a checkpoint —

[I]n order for the search of vehicles in a checkpoint to be non-violative of an individual’s right against unreasonable searches, the search must be limited to the following:

- (a) Where the officer merely draws aside the curtain of a vacant vehicle which is parked on the public fair grounds;
- (b) Where the officer simply looks into a vehicle;
- (c) Where the officer flashes a light therein without opening the car’s doors;
- (d) Where the occupants are not subjected to a physical or body search;
- (e) Where the inspection of the vehicles is limited to a visual search or visual inspection; and
- (f) Where the routine check is conducted in a fixed area.¹⁶⁶

In *Manago*, the Court also expounded that

[r]outine inspections do not give the authorities carte blanche discretion to conduct intrusive warrantless searches in the absence of probable cause. When a vehicle is stopped and subjected to an extensive search, as opposed to a mere routine inspection, ‘such a warrantless search has been held to be valid only as long as the officers conducting the search have reasonable or probable cause to believe before the search that they will find the instrumentality or evidence pertaining to a crime, in the vehicle to be searched.’¹⁶⁷

162. *Sapla*, G.R. No. 244045, at 10.

163. *People v. Manago*, G.R. No. 212340, 801 SCRA 103 (2016).

164. *Sapla*, G.R. No. 244045, at 10.

165. *Id.*

166. *Id.* (citing *Manago*, 801 SCRA at 117–118) (emphasis omitted and supplied).

167. *Sapla*, G.R. No. 244045, at 10 (citing *Manago*, 801 SCRA at 118) (emphasis omitted).

Hence, “a more extensive and intrusive search that goes beyond a mere visual search of the vehicle *necessitates probable cause* on the part of the apprehending officers.”¹⁶⁸

The 1989 case of *Valmonte v. de Villa*¹⁶⁹ was the first case wherein the Court held that “vehicles can be stopped at a checkpoint and extensively searched only when there is ‘probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law offender or the contents of the vehicle are or have been instruments of some offense.’”¹⁷⁰

The doctrine laid down in *Valmonte* was not carved out from a bare stone block by the Court, but rather “this doctrine was directly adopted from [U.S.] jurisprudence, specifically from the pronouncement of the Supreme Court of the United States (SCOTUS) in *Dyke v. Taylor*.”¹⁷¹

The term “probable cause” has been mentioned numerous times by the Court every time there is a search and seizure case, and it is important to once again be enlightened by this vital concept.

As [] explained ... in *Caballes v. Court of Appeals*, probable cause means that there is the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles, or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched[.]¹⁷²

To wit —

[A] reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man’s belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched. *The required*

168. *Sapla*, G.R. No. 244045, at 10 (emphasis supplied).

169. *Valmonte v. de Villa*, G.R. No. 83988, 178 SCRA 211 (1989).

170. *Sapla*, G.R. No. 244045, at 10-11 (citing *Valmonte*, 178 SCRA at 266).

171. *Sapla*, G.R. No. 244045, 11 (citing *Dyke v. Taylor Implement Mfg. Co.*, 391 U.S. 216 (1968)).

172. *Sapla*, G.R. No. 244045, at 11 (citing *Caballes*, *Caballes v. Court of Appeals*, G.R. No. 136292, 373 SCRA 221, 233 (2002)).

*probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of each case.*¹⁷³

Applying this to *Sapla*, “[d]oes the mere reception of a text message from an anonymous person suffice to create probable cause that enables the authorities to conduct an extensive and intrusive search without a search warrant?”¹⁷⁴ The Court answered this with a “*resounding no.*”¹⁷⁵ The Court cited *Veridiano v. People*¹⁷⁶ in saying that “‘*law enforcers cannot act solely on the basis of confidential or tipped information[, for] a [‘tip[’] is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion.*’”¹⁷⁷

A better understanding of the existence of probable cause vis-à-vis tipped information received from confidential information can be established by examining U.S. jurisprudence, the source where the Philippines rooted its search and seizure requirements.¹⁷⁸

Sapla cited the 1964 case of *Aguilar v. Texas*,¹⁷⁹ where “the SCOTUS delved into the constitutional requirements for obtaining a state search warrant.”¹⁸⁰ In the said case

two Houston police officers applied to a local Justice of the Peace for a warrant to search for narcotics in the petitioner’s home based on ‘reliable information’ received from a supposed credible person that the ‘heroin, marijuana, barbiturates and other narcotics and narcotic paraphernalia are being kept at the above described premises for the purpose of sale and use contrary to the provisions of the law.’

...

[T]he SCOTUS held that a *two-pronged test* must be satisfied in order to determine whether an informant’s tip is sufficient in engendering probable cause:

173. *Id.* (emphasis supplied).

174. *Sapla*, G.R. No. 244045, at 11.

175. *Id.*

176. *Veridiano v. People*, G.R. No. 200370, 826 SCRA 382 (2017).

177. *Sapla*, G.R. No. 244045, at 16 (citing *Veridiano*, 826 SCRA at 411) (emphasis supplied).

178. *Sapla*, G.R. No. 244045, at 12.

179. *Aguilar v. Texas*, 378 U.S. 108 (1964).

180. *Sapla*, G.R. No. 244045, at 12.

- (1) The informant's 'basis of knowledge' must be revealed; and
- (2) Sufficient facts to establish either the informant's 'veracity' or the 'reliability' of the informant's report must be provided[.]¹⁸¹

The Court cited the case of the 1983 case of *Illinois v. Gates*,¹⁸² where "the police received an anonymous letter alleging that the respondents were engaged in selling drugs and that the car of the respondents would be loaded with drugs. Agents of the Drug Enforcement Agency searched the respondents' car, which contained marijuana and other contraband items."¹⁸³ The Court explained the *Gates* ruling in the following wise —

In finding that there was probable cause, the SCOTUS adopted the *totality of circumstances test* and held that tipped information may engender probable cause under a 'balanced assessment of the relative weights of all the various indicia of reliability (and unreliability) attending an informant's tip.' It is important to note that the SCOTUS found that the *details of the informant's tip were corroborated by independent police work*.¹⁸⁴

However, the SCOTUS emphasized that

*standing alone, the anonymous letter sent to the Bloomingdale Police Department would not provide the basis for a magistrate's determination that there was probable cause to believe contraband would be found in the Gateses' car and home Something more was required, then, before a magistrate could conclude that there was probable cause to believe that contraband would be found in the Gateses' home and car.*¹⁸⁵

Hence, it is important to keep in mind that a *search and seizure based merely on tipped information, and nothing more, would not warrant a valid warrantless search and seizure*.¹⁸⁶

This conclusion is further bolstered by a long line of local jurisprudence in the past, wherein as early as 1988, the Court "had ruled that an extensive warrantless search and seizure conducted on the sole basis of a confidential tip is tainted with illegality."¹⁸⁷

181. *Id.* (citing *Aguilar*, 378 U.S. at 109 & 115) (emphasis supplied).

182. *Illinois v. Gates*, 462 U.S. 213 (1983).

183. *Sapla*, G.R. No. 244045, at 12.

184. *Id.* at 13.

185. *Id.* (emphasis omitted and supplied).

186. *Id.* at 26.

187. *Sapla*, G.R. No. 244045, at 13.

Analogous to *Sapla* is *People v. Aminnudin*,¹⁸⁸ where the accused was apprehended despite not giving any hints of suspicion, and the law enforcers only acted on a tip, to wit —

[T]he authorities acted upon an information that the accused would be arriving from Iloilo on board a vessel. The authorities waited for the vessel to arrive, accosted the accused, and inspected the latter's bag wherein bundles of marijuana leaves were found. The Court declared that the search and seizure was illegal, holding that, at the time of his apprehension, Aminnudin was not 'committing a crime nor was it shown that he was about to do so or that he had just done so. [...] *To all appearances, he was like any of the passengers innocently disembarking from the vessel. It was only when the informer pointed to him as the carrier of the marijuana that he suddenly became suspect and so subject to apprehension.*'¹⁸⁹

Several years after the ruling in *Aminnudin*, *People v. Cuizon*¹⁹⁰ was promulgated. The case shares the same fact pattern as the others: no signs of suspicion, and merely acting on a tip.¹⁹¹ The Court, through former Chief Justice Artemio V. Panganiban, held that

the warrantless search and subsequent arrest of the accused were deemed illegal because 'the prosecution failed to establish that there was sufficient and reasonable ground for the NBI agents to believe that appellants had committed a crime at the point when the search and arrest of Pua and Lee were made.' In reaching this conclusion, the Court found that the authorities merely relied on the 'alleged tip that the NBI agents purportedly received that morning.' *The Court characterized the tip received by the authorities from an anonymous informant as 'hearsay information' that cannot engender probable cause.*¹⁹²

A year after *Cuizon*, *People v. Encinada*¹⁹³ was decided. Bearing the same similarity as to facts, here,

the authorities acted solely on an informant's tip and stopped the tricycle occupied by the accused and asked the latter to alight. The authorities then

188. *People v. Aminnudin*, G.R. No. 74869, 163 SCRA 402 (1988).

189. *Sapla*, G.R. No. 244045, at 13 (citing *Aminnudin*, 163 SCRA at 409) (emphasis supplied).

190. *People v. Cuizon*, G.R. No. 109287, 256 SCRA 325 (1996).

191. *Id.* at 333 & 341.

192. *Sapla*, G.R. No. 244045 at 14 (citing *Cuizon*, 256 SCRA at 341 & 343) (emphasis supplied).

193. *People v. Encinada*, G.R. No. 116720, 280 SCRA 72 (1997).

rummaged through the two strapped plastic baby chairs that were loaded inside the tricycle. The authorities then found a package of marijuana inserted between the two chairs. The Court, again through former Chief Justice Artemio V. Panganiban, held that '*raw intelligence*' was not enough to justify the warrantless search and seizure. 'The prosecution's evidence did not show any suspicious behavior when the appellant disembarked from the ship or while he rode the *motorela*. No act or fact demonstrating a felonious enterprise could be ascribed to appellant under such bare circumstances.'¹⁹⁴

Subsequently, in *People v. Aruta*,¹⁹⁵ the Court held that

'it was only when the informant pointed at [Aling Rosa] and identified her to the agents as the carrier of the marijuana that she was singled out as the suspect ...' Hence, the Court ruled that the search conducted on the accused based solely on the pointing finger of the informant was '*a clear violation of the constitutional guarantee against unreasonable search and seizure.*'¹⁹⁶

Additionally,

an informant had told the police that a certain 'Aling Rosa' would be transporting illegal drugs from Baguio City by bus. Hence, the police officers situated themselves at the bus terminal. Eventually, the informant pointed at a woman crossing the street and identified her as 'Aling Rosa.' Subsequently, the authorities apprehended the woman and inspected her bag which contained marijuana leaves.

...

The NARCOM agents would not have apprehended [Aling Rosa] were it not for the furtive finger of the informant because, as clearly illustrated by the evidence on record, there was no reason whatsoever for them to suspect that [Aling Rosa] was committing a crime, except for the pointing finger of the informant.¹⁹⁷

*People v. Cogaed*¹⁹⁸ was ruled upon just recently in 2014, and the case involved a search conducted through a checkpoint put up after an

194. *Sapla*, G.R. No. 244045, at 14 (citing *Encinada*, 280 SCRA at 87) (emphasis supplied).

195. *People v. Aruta*, G.R. No. 120915, 288 SCRA 626 (1998).

196. *Sapla*, G.R. No. 244045, at 14 (citing *Aruta*, 288 SCRA at 643).

197. *Id.*

198. *People v. Cogaed*, G.R. No. 200334, 731 SCRA 427 (2014).

“unidentified civilian informer” shared information to the authorities that a person would be transporting marijuana.¹⁹⁹ To wit —

In finding that there was no probable cause on the part of the police that justified a warrantless search, the Court, through Associate Justice Marvic Mario Victor F. Leonen, astutely explained that in cases finding sufficient probable cause for the conduct of warrantless searches, ‘the police officers using their senses observed facts that led to the suspicion. Seeing a man with reddish eyes and walking in a swaying manner, based on their experience, is indicative of a person who uses dangerous and illicit drugs.’ However, the Court reasoned that the case of [Cogaed] was different because ‘he was simply a passenger carrying a bag and traveling aboard a jeepney. There *was nothing suspicious, moreover, criminal, about riding a jeepney or carrying a bag. The assessment of suspicion was not made by the police officer but by the jeepney driver. It was the driver who signaled to the police that Cogaed was ‘suspicious.’*’²⁰⁰

In *Cogaed*, the Court further stressed the responsibilities of a law enforcer in engendering probable cause that justifies a valid warrantless search —

It is the police officer who should observe facts that would lead to a reasonable degree of suspicion of a person. The police officer should not adopt the suspicion initiated by another person. This is necessary to justify that the person suspected be stopped and reasonably searched. Anything less than this would be an infringement upon one’s basic right to security of one’s person and effects. The Court explained that the ‘police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act,’ and not merely rely on the information passed on to him or her.²⁰¹

The Court, in *Cogaed*, adopted the dissenting opinion of former Chief Justice Lucas P. Bersamin in *Esquillo v. People*,²⁰² where it was emphasized that

reliance on only one suspicious circumstance or none at all will not result in a reasonable search. The Court emphasized that the matching of information transmitted by an informant still remained only as one circumstance. This

199. *Sapla*, G.R. No. 244045, at 14.

200. *Id.* at 14-15 (citing *Cogaed*, 731 SCRA at 443 & 444) (emphasis supplied).

201. *Sapla*, G.R. No. 244045 at 15 (citing *Cogaed*, 731 SCRA at 444) (emphasis supplied).

202. *Sapla*, G.R. No. 244045 at 15 (citing *Cogaed*, 731 SCRA at 446 (citing *Esquillo*, 643 Phil. at 606 (2010) (J. Bersamin, separate opinion))).

should not have been enough reason to search Cogaed and his belongings without a valid search warrant.²⁰³

Then, in *Veridiano v. People*,²⁰⁴ the Court once again held that “law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstances that will arouse suspicion.”²⁰⁵ In this case,

the accused was a ‘mere passenger in a jeepney who did not exhibit any act that would give police officers reasonable suspicion to believe that he had drugs in his possession. [...] There was no evidence to show that the police had basis or personal knowledge that would reasonably allow them to infer anything suspicious.’²⁰⁶

Subsequently, the Court decided the case of *Comprado* “[a] year after [its ruling in] *Veridiano*[.]”²⁰⁷ The Court remained steadfast and decided not to break the chain of decisions they had as to the mere basis of acting on a tip.²⁰⁸ It was further discussed that “the sole information relayed by an informant was not sufficient to incite a genuine reason to conduct an intrusive search on the accused.”²⁰⁹ In this case, the Court found “*no overt physical act [to raise any form of] suspicion ... that [the accused] had just committed, was committing, or was about to commit a crime.*”²¹⁰ The Court further stressed that there should be the “*presence of more than one seemingly innocent activity from which, taken together, warranted a reasonable inference of criminal activity.*”²¹¹

In 2019, yet another similar and analogous case was promulgated, *People v. Yanson*.²¹² The Court supplemented their logic in previous decisions,

203. *Sapla*, G.R. No. 244045, at 15 (citing *Cogaed*, 731 SCRA at 448).

204. *Veridiano v. People*, G.R. No. 200370, 826 SCRA 382 (2017).

205. *Sapla*, G.R. No. 244045, at 16 (citing *Veridiano*, 826 SCRA at 411) (emphases omitted).

206. *Id.*

207. *Sapla*, G.R. No. 244045, at 16.

208. *Id.*

209. *Id.*

210. *Id.* (citing *Comprado*, 860 SCRA at 435).

211. *Sapla*, G.R. No. 244045, at 16 (citing *Comprado*, 860 SCRA at 438).

212. *People of the Philippines v. Jaime Sison, Leonardo Yanson, and Rosalie Bautista*, G.R. No. 238453, July 31, 2019, available at <http://sc.judiciary.gov.ph/8657> (last accessed Nov. 30, 2020).

declaring that “a solitary tip hardly suffices as probable cause that warrants the conduct of a warrantless intrusive search and seizure.”²¹³ The Court proclaimed that “in determining whether there is probable cause that warrants an extensive or intrusive warrantless searches of a moving vehicle, ‘bare suspicion is never enough.’”²¹⁴ To wit —

The Court [also] explained that in prior cases wherein the Court validated warrantless searches and seizures on the basis of tipped information, ‘the seizures and arrests were not merely and exclusively based on the initial tips. Rather, they were prompted by other attendant circumstances. Whatever initial suspicion they had from being tipped was progressively heightened by other factors, such as the accused’s failure to produce identifying documents, papers pertinent to the items they were carrying, or their display of suspicious behavior upon being approached.’ In such cases, the finding of probable cause was premised ‘on more than just the initial information relayed by assets. It was the confluence of initial tips and a myriad of other occurrences that ultimately sustained probable cause.’²¹⁵

However, the search, seizure, and arrest in *Yanson* were merely based on a solitary tip.²¹⁶

Likewise, in 2019, the Court promulgated its decision in *People v. Gardon-Mentoy*,²¹⁷ which has a similar factual milieu as *Sapla*. Once again, the Court held that “a tip, in the absence of other circumstances that would confirm their suspicion coming from the personal knowledge of the searching officers, was not yet actionable for purposes of conducting a search[.]”²¹⁸ To wit —

[N]either should the officers rely on the still-unverified tip from the unidentified informant, without more, as basis to initiate the search of the personal effects. The officers were themselves well aware that the tip, being actually double hearsay as to them, called for independent verification as its substance and reliability, and removed the foundation for them to rely on it even under the circumstances then obtaining. In short, the tip, in the absence of other circumstances that would confirm their suspicion coming

213. *Sapla*, G.R. No. 244045, at 16.

214. *Id.* at 17 (citing *Yanson*, G.R. No. 238453, at 10) (emphasis supplied).

215. *Sapla*, G.R. No. 244045, at 17 (citing *Yanson*, G.R. No. 238453, at 1) (emphasis supplied).

216. *Sapla*, G.R. No. 244045, at 17 (citing *Yanson*, G.R. No. 238453).

217. *People of the Philippines v. Rosemarie Gardon-Mentoy*, G.R. No. 223140, Sept. 4, 2019, available at <https://sc.judiciary.gov.ph/9885> (last accessed Nov. 30, 2020).

218. *Sapla*, G.R. No. 244045, at 18 (citing *Gardon-Mentoy*, G.R. No. 223140, at 8).

to the knowledge of the searching or arresting officer, was not yet actionable for purposes of effecting an arrest or conducting a search.²¹⁹

However, in *Saluday v. People*,²²⁰ “a bus inspection conducted by Task Force Davao at a military checkpoint was considered valid.”²²¹ Though, the Court stressed its striking dissimilarity to *Sapla*.²²² In *Saluday*, the authorities merely conducted a “‘visual and minimally intrusive inspection’ of the accused’s bag’ [] by simply lifting the bag that noticeably appeared to have contained firearms.”²²³ In *Sapla*, “the search conducted entailed the probing of the contents of the blue sack allegedly possessed by accused-appellant Sapla.”²²⁴

There is a great difference between the essential facts of *Saluday* vis-à-vis *Sapla*. To make sense of the difference between the two cases, let us focus on the case of *Saluday*, as it has not been as expounded as much as *Sapla*. First and foremost, there was no such confidential informant or tipped information used by the law enforcement.²²⁵ Second, the acts involved in this case were the lifting of the bag possessing the firearm, and the “suspicious looks [] given by the accused[,]”²²⁶ all of which are products of a law enforcer’s own senses.²²⁷ The established facts of *Saluday* show a great contrast already because of these pieces of the case, much unlike the facts in *Sapla*.

The Court in *Saluday* also laid down the following conditions in allowing a reasonable search of a bus while in transit:

- (1) The manner of the search must be least intrusive;
- (2) The search must not be discriminatory;
- (3) As to the purpose of the search, it must be confined to ensuring public safety; and

219. *Sapla*, G.R. No. 244045, at 19 (citing *Gardon-Mentoy*, G.R. No. 223140, at 7-8) (citing *Veridiano*, 826 SCRA at 411) (emphasis omitted).

220. *Saluday v. People*, G.R. No. 215305, 860 SCRA 231 (2018).

221. *Sapla*, G.R. No. 244045, at 19.

222. *Id.*

223. *Id.* (emphasis supplied and omitted).

224. *Id.*

225. *Id.*

226. *Id.*

227. *Sapla*, G.R. No. 244045, at 19.

- (4) The courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.²²⁸

The Court “stressed that none of these conditions exists in [*Sapla*,]²²⁹ giving a more extensive analysis —

First, unlike in *Saluday*, wherein the search conducted was merely visual and minimally intrusive, the search undertaken on accused-appellant Sapla was extensive, reaching inside the contents of the blue sack that he allegedly possessed.

Second, the search was directed exclusively towards accused-appellant Sapla; it was discriminatory. Unlike in *Saluday* where the bags of the other bus passengers were also inspected, the search conducted in the instant case focused exclusively on accused-appellant Sapla.

Third, there is no allegation that the search was conducted with the intent of ensuring public safety. At most, the search was conducted to apprehend a person who, as relayed by an anonymous informant, was transporting illegal drugs.

Lastly, the Court is not convinced that sufficient precautionary measures were undertaken by the police to ensure that no evidence was planted against accused-appellant Sapla, considering that the inventory, photographing, and marking of the evidence were not immediately conducted after the apprehension of accused-appellant Sapla at the scene of the incident.²³⁰

Hence, the Court ruled in favor of Sapla.²³¹

C. Analyzing the Divergent Jurisprudence

The line of jurisprudence holding that information received by the police provides a valid basis for conducting a warrantless search traces its origins to the 1990 cases of *People v. Tangliben*,²³² *People v. Maspil, Jr.*,²³³ and *People v. Bagista*.²³⁴

228. *Id.* (citing *Saluday*, 860 SCRA at 256).

229. *Sapla*, G.R. No. 244045, at 20 (emphasis omitted).

230. *Id.*

231. *Id.* at 33.

232. *People v. Tangliben*, G.R. No. L-63630, 184 SCRA 220 (1990).

233. *People v. Maspil*, G.R. No. 85177, 188 SCRA 751 (1990).

234. *People v. Bagista*, G.R. No. 86218, 214 SCRA 63 (1992).

It is important to revisit the cases cited by the Court in order to better understand the rationale behind the ruling.

The Court differentiated *Sapla* from *Tangliben* by “stress[ing] that in *Tangliben*, the authorities’ decision to conduct the warrantless search did not rest solely on the tipped information supplied by the informants. *The authorities, using their own personal observation, saw that the accused was acting suspiciously.*”²³⁵

As explained in the *Sapla* Decision,

[s]imilar to *Tangliben*, in the *great majority* of cases upholding the validity of a warrantless search and seizure on the basis of a confidential tip, *the police did not rely exclusively on information sourced from the informant. There were overt acts and other circumstances personally observed by the police that engendered great suspicion.*²³⁶

Among these include *People v. Malmstedt*,²³⁷ where

authorities set up a checkpoint in response to some reports that a Caucasian man was coming from Sagada with dangerous drugs in his possession. At the checkpoint, the officers intercepted a bus and inspected it. Upon reaching [Malmstedt], the police *personally observed that there was a bulge on the accused’s waist*. The accused then failed to provide identification papers, and then the police asked to reveal what was bulging on his waist which turned out to be hashish, a derivative of marijuana. The Court ruled that the probable cause justifying the warrantless search was *based on personal observations of the authorities and not solely on the tipped information.*²³⁸

Another case would be *People v. Tuazon*,²³⁹ where authorities did not solely rely on confidential information, as the “*police personally saw a gun tucked on the accused’s waist*” as they conducted a visual search of the motor vehicle.²⁴⁰ “[T]he accused was [also] not able to produce any pertinent document related to the firearm.”²⁴¹

235. *Sapla*, G.R. No. 244045, at 21 (emphasis omitted).

236. *Id.* (emphasis supplied).

237. *People v. Malmstedt*, G.R. No. 91107, 198 SCRA 401 (1991).

238. *Sapla*, G.R. No. 244045, at 21 (citing *Malmstedt*, 198 SCRA at 409) (emphases supplied).

239. *People v. Tuazon*, G.R. No. 175783, 532 SCRA 152 (2007).

240. *Sapla*, G.R. No. 244045, at 20.

241. *Id.*

Likewise, in *People v. Quebral*,²⁴² “the authorities did not solely rely on the police informer’s report[,] ... [as they] *conducted a surveillance operation and personally saw the accused handing out a white envelope to her co-accused, a person included in the police’s drug watch list.*”²⁴³

In *People v. Saycon*,²⁴⁴ the Court explained that “probable cause was not engendered solely by the receipt of confidential information. Probable cause was produced because *a prior test-buy was conducted by the authorities, which confirmed that the accused was engaged in the transportation and selling of shabu.*”²⁴⁵

Furthermore, in *Manalili v. Court of Appeals*,²⁴⁶ the person was “*observed by the police to have reddish eyes and to be walking in a swaying manner.*”²⁴⁷ It was also observed that he was

trying to avoid the policemen[, and w]hen approached and was asked what he was holding in his hands, he tried to resist. The Court held that the police had sufficient reason to determine if he was actually ‘high; on drugs due to his suspicious actuations, *coupled with the information the area was a haven for drug addicts.*”²⁴⁸

In *People v. Solayao*,²⁴⁹ the “police [] noticed a man ... ‘wearing a camouflage uniform or a jungle suit[, who appeared drunk.] *Upon seeing the police, the man fled.* His flight added to the suspicion. *After stopping him, the police found an unlicensed ‘homemade firearm’ in his possession.*”²⁵⁰

Lastly, in *People v. Lo Ho Wing*,²⁵¹

the authorities did not rely on an anonymous, unverified tip. Deep penetration agents were recruited to infiltrate the crime syndicate. *An undercover agent actually met and conferred with the accused, personally confirming*

242. *People v. Quebral*, G.R. No. 46094, 606 SCRA 247 (2009).

243. *Sapla*, G.R. No. 244045, at 21–22 (citing *Quebral*, 606 SCRA at 252) (emphasis supplied).

244. *People v. Saycon*, G.R. No. 110995, 236 SCRA 325 (1994).

245. *Sapla*, G.R. No. 244045, at 22 (emphasis supplied).

246. *Manalili v. Court of Appeals*, G.R. No. 113447, 280 SCRA 400 (1997).

247. *Sapla*, G.R. No. 244045, at 22 (emphasis supplied).

248. *Id.* (emphasis supplied).

249. *People v. Solayao*, G.R. No. 119220, 262 SCRA 255, 257 (1996).

250. *Sapla*, G.R. No. 244045, at 22 (citing *Solayao*, 262 SCRA at 257).

251. *People v. Lo Ho Wing*, G.R. No. 88017, 193 SCRA 122 (1991).

the criminal activities being planned]; i]n fact, The agent regularly submitted reports of his undercover activities on the criminal syndicate.²⁵²

The jurisprudence cited by the Court of Appeals in *Sapla* mainly relied on *People v. Tampis*,²⁵³ which held that “tipped information is sufficient to provide probable cause to effect a warrantless search and seizure.”²⁵⁴

In *Tampis*, however,

*the police did not merely rely on information relayed by an informant. Prior to the warrantless search conducted, the police actually ‘conducted a surveillance on the intended place and saw both appellants packing the suspected marijuana leaves into a brown bag with the markings ‘Tak Tak Tak Ajinomoto’ inscribed on its side.’ [Hence, i]n Tampis, the authorities were able to personally witness the accused packing illegal drugs into the brown bag prior to the warrantless search and seizure.*²⁵⁵

The Court further reviewed the decision in *Tampis* and the ruling that “‘tipped information is sufficient to provide probable cause to effect a warrantless search and seizure’ [which was based on] the case of *Aruta*.”²⁵⁶ Yet, the Court in *Sapla* declared that *Aruta* “*did not hold that tipped information in and of itself is sufficient to create probable cause ... despite the fact that the apprehending officers already had prior knowledge from their informant regarding Aruta’s alleged activities, the warrantless search conducted on Aruta was deemed unlawful for lack of probable cause.*”²⁵⁷

The Court also explained that

*the earliest case ... which upheld the validity of an extensive warrantless search based exclusively on a solitary tip is the case of Maspil, Jr., where the authorities set-up a checkpoint, flagged down the jeep driven by the accused, and examined the contents thereof on the sole basis of information provided by confidential informers.*²⁵⁸

252. *Sapla*, G.R. No. 244045, at 22 (emphasis supplied).

253. *People v. Tampis*, G.R. No. 148725, 407 SCRA 582, 590 (2003).

254. *Sapla*, G.R. No. 244045, at 23 (citing *Tampis*, 407 SCRA at 590).

255. *Sapla*, G.R. No. 244045, at 23 (citing *Tampis*, 407 SCRA at 589) (emphasis omitted and supplied).

256. *Sapla*, G.R. No. 244045, at 23 (citing *Tampis*, 407 SCRA at 590).

257. *Sapla*, G.R. No. 244045, at 23 (emphasis supplied).

258. *Id.* See also *People v. Maspil, Jr.*, G.R. No. 85177, 188 SCRA 751 (1990).

The Court here heavily “depended on the [] case of *Valmonte*, which delved into the constitutionality of checkpoints set-up in Valenzuela City.”²⁵⁹

The Court expounded that

the Court in *Valmonte* never delved into the validity of warrantless searches and seizures on the pure basis of confidential information. *Valmonte did not hold that in checkpoints, intrusive searches can be conducted on the sole basis of tipped information. Valmonte merely stated that checkpoints are not illegal per se.* In fact, in *Valmonte*, the Court stressed that “[f]or as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is limited to a visual search, said routine checks cannot be regarded as violative of an individual’s right against unreasonable search.”²⁶⁰

Hence, the Court concluded that “the jurisprudential support of the Court’s holding in *Maspil, Jr.* is[] at best[] frail.”²⁶¹

The Court also examined *Bagista*, where the Court held “that the authorities had probable cause to search the accused’s belonging without a search warrant based solely on information received from a confidential informant.”²⁶²

The Court’s examination yielded that

Bagista heavily relied on the SCOTUS’ decision in *Caroll v. U.S.* in holding that “[w]ith regard to the search of moving vehicles, this had been justified on the ground that the mobility of motor vehicles makes it possible for the vehicle to be searched to move out of the locality or jurisdiction in which the warrant must be sought.”²⁶³

However,

in *Caroll*, the probable cause justifying the warrantless search was not founded on information relayed by the confidential informants; there were no informants involved in the case ... Probable cause “*existed because the state*

259. *Sapla*, G.R. No. 244045, at 23.

260. *Sapla*, G.R. No. 244045, at 23 (citing *Valmonte*, 178 SCRA at 216) (emphasis supplied).

261. *Sapla*, G.R. No. 244045, at 23.

262. *Sapla*, G.R. No. 244045, at 23.

263. *Sapla*, G.R. No. 244045, at 24 (citing *Caroll v. U.S.*, 267 U.S. 132 (1925) & *Bagista*, 214 SCRA at 69).

*authorities themselves had personally interacted with the accused, having engaged with them in an undercover transaction.*²⁶⁴

Due to this, the Court then concluded that “the jurisprudential support upon which *Bagista* heavily relies on is not strong.”²⁶⁵ The Court also noted that the case was “not decide[d] with unanimity.”²⁶⁶

The Court mentioned the Dissenting Opinion of Associate Justice Teodoro R. Padilla, where it was said that “the information alone received by the NARCOM agents, without other suspicious circumstances surrounding the accused, did not give rise to a probable cause justifying the warrantless search made on the bag of the accused.”²⁶⁷

An examination of these cases reveal that their relevant facts were mixed in with other factors which led to the Court’s decision. The confidential informant may have played a role in several of these cases, but it was not the sole basis for the search and seizure — probable cause materialized for their different acts to confirm the tip. The decisions seemed to appear flip-flopping, however, and such only needed careful perusal and a more thorough analysis by the Court, which has now been made clear in *Sapla*.

As the line of divergent jurisprudence has now been expounded upon one by one, it is a wise move for the Court to have gone through these cases and resolve this question with utmost finality for the benefit of the country and its people.

D. The Ultimate Decision in People v. Sapla

As the vital points of the rationale and jurisprudence have been tackled in this Comment, the Authors now proceed to the final and conclusive parts of the case.

The Court points out that “[i]t is not hard to imagine the horrid scenarios if the Court were to allow intrusive warrantless searches and seizures on the solitary basis of unverified, anonymous tips.”²⁶⁸

264. *Sapla*, G.R. No. 244045, at 25 (emphasis supplied).

265. *Id.*

266. *Id.* (emphasis omitted).

267. *Id.* (emphasis omitted). See also *Bagista*, 214 SCRA 63 at 71 (J. Padilla, dissenting opinion).

268. *Sapla*, G.R. No. 244045, at 27.

As stated by the Court,

[a]ny person can easily hide in a shroud of anonymity and simply send false and fabricated information to the police. Unscrupulous persons can effortlessly take advantage of this and easily harass and intimidate another by simply giving false information to the police, allowing the latter to invasively search the vehicle or premises of such person on the sole basis of a bogus tip.

On the side of the authorities, *unscrupulous law enforcement agents can easily justify the infiltration of a citizen's vehicle or residence*, violating his or her right to privacy, by merely claiming that raw intelligence was received, even if there really was no such information received or if the information received was fabricated.²⁶⁹

The Court also found increasingly relevant the Concurring and Dissenting Opinion of former Chief Justice Artemio V. Panganiban in *People v. Montilla*,²⁷⁰ where it was explained that the people would be “at the mercy of [these] informants”²⁷¹ and “allowing warrantless searches and seizures based on tipped information alone places the sacred constitutional right against unreasonable searches and seizures in great jeopardy[,]”²⁷² to wit —

Everyone would be practically at the mercy of so-called informants, reminiscent of the *Makapilis* during the Japanese occupation. Any one whom they point out to a police officer as a possible violator of the law could then be subject to search and possible arrest. *This is placing limitless power upon informants who will no longer be required to affirm under oath their accusations*, for they can always delay their giving of tips in order to justify warrantless arrests and searches. *Even law enforcers can use this as an oppressive tool to conduct searches without warrants, for they can always claim that they received raw intelligence information only on the day or afternoon before*. This would clearly be a circumvention of the legal requisites for validly affecting an arrest or conducting a search and seizure. Indeed, the majority's ruling would open loopholes that would allow unreasonable arrests, searches and seizures.²⁷³

The Court ultimately decided that there shall be no “erosion of the Bill of Rights.”²⁷⁴ The people's right against unreasonable searches and seizure, a

269. *Id.* (emphasis supplied).

270. *People v. Montilla*, G.R. No. 123872, 285 SCRA 703 (1998).

271. *Sapla*, G.R. No. 244045, at 27 (citing *Montilla*, 285 SCRA at 734 (C.J. Panganiban, concurring and dissenting opinion)) (emphasis omitted).

272. *Id.*

273. *Id.* (emphasis omitted and supplied).

274. *Sapla*, G.R. No. 244045, at 28.

right so sacred and “heavily []protected[.]”²⁷⁵ shall not be “rendered hollow and meaningless.”²⁷⁶

Hence, based on this comprehensive analysis and discussion of the Court in *Sapla*, the Court unmistakably pronounce that the “prevailing and controlling line of jurisprudence”²⁷⁷ shall be “cases adhering to the doctrine that exclusive reliance on an unverified, anonymous tip cannot engender probable cause that permits a warrantless search of a moving vehicle that goes beyond a visual search[.] which include both long-standing and the most recent jurisprudence[.]”²⁷⁸

E. Separate Opinions

With a vote of 11-3,²⁷⁹ it is likewise important to consider the reasoning of the other esteemed Justices of the Supreme Court. As emphasized in the case of *Sapla* they ruled upon, “[i]t is said that dissenting opinions often appeal to the intelligence of a future age.”²⁸⁰ As the tides may shift with each generation that passes, the minority opinion today may become the majority opinion in the future, and vice-versa, such can also be said for this case.

1. Concurring Opinion of Justice Leonen

In his Opinion, Justice Marvic Leonen

revisit[ed] the doctrines regarding [the] two [] exceptions often invoked to justify warrantless searches of passengers on moving vehicles, such as the one in this case: *first*, stop-and-frisk searches based on probable cause, genuine reason, or reasonable suspicion; and *second*, the search of a moving vehicle.²⁸¹

The Opinion begins with explaining the origin of Philippine doctrine on stop-and-frisk searches, and such lies with the American case of *Terry v.*

275. *Id.* at 27.

276. *Id.* at 27-28.

277. *Id.* at 26.

278. *Id.* (emphasis omitted).

279. *See id.* at 34-35.

280. *Id.* at 26 (citing Ruth Bader Ginsburg, *Remarks on Writing Separately*, 65 WASH. L. REV. 133, 144 (1990)).

281. *Sapla*, G.R. No. 244045, at 1 (J. Leonen, concurring opinion), available at <https://sc.judiciary.gov.ph/12728> (last accessed Nov. 30, 2020) (emphasis supplied).

Ohio.²⁸² In that case, it was decided that “a limited search was permissible when preceded by unusual conduct that, by virtue of a police officer’s experience, led him to reasonably conclude that criminal activity was afoot, and the person to be searched may have been armed and dangerous.”²⁸³

Later, “*Terry* was cited in *Posadas v. Court of Appeals*[.]”²⁸⁴ where the Court “held that to deem a warrantless search justified, a court must look into its reasonableness, which was, predicated on the presence of observable suspicious acts by the person to be searched[.]”²⁸⁵

Justice Leonen stated that “[a]pplying *Terry* to *Posadas*, the Court concluded that because of the petitioner’s suspicious actions, it was reasonable for the police officers to believe that he was concealing something illegal in his bag, and thus, reasonable for them to search it.”²⁸⁶

Justice Leonen also mentioned the rulings in *Solayao* and *Manalili*, as discussed previously in this Comment.²⁸⁷

The Opinion highlighted that *Malacat v. Court of Appeals*²⁸⁸ “emphasized that for a stop-and-frisk search to be reasonable, a police officer’s suspicion must be based on a ‘genuine reason.’”²⁸⁹ In such case, the Court ruled that “merely standing in a corner with [] eyes ‘moving very fast’ [] could not be considered [a] genuine reason.”²⁹⁰

The Opinion points out that “[t]he concept of genuine reason, as the basis for reasonable suspicion has been expounded upon further such that, in Philippine jurisprudence, an officer must observe *more than one* [] *circumstance*,

282. *Id.* & *Terry v. Ohio*, 392 U.S. 1, 30 (1968).

283. *Sapla*, G.R. No. 244045, at 1 (J. Leonen, concurring opinion) (citing *People v. Cristobal*, G.R. No. 234207, June 10, 2019, available at <https://sc.judiciary.gov.ph/6494> (last accessed Nov. 30, 2020)).

284. *Sapla*, G.R. No. 244045, at 1 (J. Leonen, concurring opinion) & *Posadas v. Court of Appeals*, G.R. No. 89139, 188 SCRA 288 (1990).

285. *Sapla*, G.R. No. 244045, at 1 (J. Leonen, concurring opinion) (citing *Posadas*, 266 SCRA at 294).

286. *Sapla*, G.R. No. 244045, at 2 (J. Leonen, concurring opinion).

287. *See id.*

288. *Malacat v. Court of Appeals*, G.R. No. 123595, 283 SCRA 159 (1997).

289. *Sapla*, G.R. No. 244045, at 2-3 (J. Leonen, concurring opinion).

290. *Id.* at 3.

which when taken alone is apparently innocent, but when taken together with other circumstances, arouse suspicion.”²⁹¹ Thus —

Considering [such] requirement, information provided by a confidential informant, without additional grounds for suspicion, is not enough to arouse suspicion that may be characterized as reasonable. That a person matches the informant’s tip is not an additional circumstance separate from the fact that information was given. They are part and parcel of one [] strand of information. Thus, assuming that a person arrives matching an informant’s description, for an officer’s suspicion of that person to be deemed reasonable, there must be another observed activity which, taken together with the tip, aroused such suspicion.²⁹²

Justice Leonen then proceeded to discuss searches of motor vehicles, and its validity only under specific circumstances, for exceptional reasons.²⁹³

The case of *Valmonte* was cited, as it “considered the constitutionality of warrantless searches of motor vehicles at military checkpoints.”²⁹⁴ In that case, the Court “concluded that searches at military checkpoints may be valid, provided that they are conducted ‘within reasonable limits.’”²⁹⁵ Hence, “to be deemed reasonable, a search of a motor vehicle at a checkpoint must be limited only to a visual search, and must not be extensive. A reasonable search at a routine checkpoint excludes extensive searches, absent other recognized exceptional circumstances leading to an extensive search.”²⁹⁶

The Opinion then explored the “concept of consent to extensive warrantless searches[,]”²⁹⁷ through *Dela Cruz v. People*,²⁹⁸ “which involved routine security inspections conducted at a seaport terminal.”²⁹⁹ The case cited *People v. Suzuki*,³⁰⁰ which

recognized the reasonableness of airport security procedures, and the Court ... likened seaports to airports and explained that the extensive inspections

291. *Id.*

292. *Id.* at 4.

293. *See id.*

294. *Id.*

295. *Sapla*, G.R. No. 244045, at 4 (J. Leonen, concurring opinion).

296. *Id.*

297. *Id.* at 6.

298. *Dela Cruz v. People*, G.R. No. 200748, 779 SCRA 34, 39 (2016).

299. *Sapla*, G.R. No. 244045, at 6 (J. Leonen, concurring opinion).

300. *People v. Suzuki*, G.R. No. 120670, 414 SCRA 43, 57 (2003).

regularly conducted there proceed from the port personnel's 'authority and policy to ensure the safety of travelers and vehicles within the port.'³⁰¹

The Opinion added that "*Saluday* ... extended this reasoning to cover warrantless searches of public buses."³⁰² Like in the two other mentioned cases, "the traveling public's safety is a concern in buses. This moderates the expectation of privacy a person may reasonably have in [this] space."³⁰³

Justice Leonen concludes that "[t]he facts in *Saluday* are not on all fours with [*Sapla*.] The initial search in [the former] was ... [a] routine inspection at a military checkpoint. [In the latter,] it is a targeted search of an individual on board a public vehicle based on an anonymous informant's tip."³⁰⁴

To quote —

The guidelines require that the manner of search be the least intrusive, yet the search here involved an intrusive probing of the bag. The guidelines also require that the search be conducted only to ensure public safety; however, the search here was unequivocally made to apprehend a person, who, as reported by an anonymous phone call and text message, was transporting marijuana. Finally, the guidelines require that 'courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused,' but there were no such measures here.³⁰⁵

2. Separate Concurring Opinion of Justice Gaerlan

Justice Samuel H. Gaerlan raised several points "regarding traffic stops and constitutionally permissible searches of a moving automobile."³⁰⁶

The Opinion states that —

American jurisprudence cites three bases for the constitutionality of a warrantless search of an automobile in motion. First, the 'ready mobility' of

301. *Sapla*, G.R. No. 244045, at 6 (J. Leonen, concurring opinion) (citing *Dela Cruz*, 779 SCRA at 39).

302. *Sapla*, G.R. No. 244045, at 7 (J. Leonen, concurring opinion) (citing *Saluday*, 860 SCRA).

303. *Sapla*, G.R. No. 244045, at 7 (J. Leonen, concurring opinion) (citing *Saluday*, 860 SCRA at 237).

304. *Sapla*, G.R. No. 244045, at 9 (J. Leonen, concurring opinion).

305. *Id.* at 10.

306. *Sapla*, G.R. No. 244045, at 1 (J. Gaerlan, concurring opinion), available at <https://sc.judiciary.gov.ph/12736> (last accessed Nov. 30, 2020).

automobiles, and the consequent utility thereof in the transport of contraband, makes it impracticable for police officers to secure a warrant prior to stopping and searching an automobile. Second, there is a lesser expectation of privacy with respect to an automobile as compared to a dwelling or an office; and third, related to the first two bases, is the 'pervasive regulation of vehicles capable of traveling on the public highways.' ... [P]erpetrators intentionally utilize these unique attributes of automobiles as a means for committing or concealing crimes.³⁰⁷

Justice Gaerlan also claimed that "an anonymous tip, standing alone, [does not] constitute[] probable cause sufficient to validate an automobile search."³⁰⁸ As most of Philippine jurisprudential doctrines are rooted from American jurisprudence, an examination of these American precedents is warranted.³⁰⁹

In *Lampkins v. White*,³¹⁰ the SCOTUS ruled that "an anonymous tip alone is not likely to constitute the reasonable suspicion necessary for a valid Terry stop. However, where significant aspects of the tip are corroborated by the police, it will likely be valid."³¹¹ The SCOTUS "required anonymous tips to either meet certain criteria of reliability or be corroborated by other police work."³¹²

Justice Gaerlan argues that "the *ponencia* has more than adequately shown that the anonymous tip relied upon by the police is utterly unreliable. Standing alone, it cannot validate the automobile search and subsequent arrest of Sapla."³¹³

307. *Id.* at 1-2 (citing *Carroll*, 267 U.S. at 156; *California v. Carney*, 471 U.S. 386, 391-393 (1985) & *South Dakota v. Opperman*, 428 U.S. 364, 368 (1976)).

308. *Sapla*, G.R. No. 244045, at 3 (J. Gaerlan, concurring opinion).

309. *Id.*

310. *Lampkins v. State*, 682 N.E.2d 1268 (1997) (U.S.).

311. *Sapla*, G.R. No. 244045, at 2 (J. Gaerlan, concurring opinion) (citing *Lampkins*, 682 N.E.2d at 1271).

312. *Sapla*, G.R. No. 244045, at 2 (J. Gaerlan, concurring opinion) (citing *Navarette v. California*, 134 S.Ct. 1683, 1693 (2014) (U.S.); *Florida v. J.L.*, 529 U.S. 266, 271-74 (2000); *Alabama v. White*, 496 U.S. 325, 329-30 (1990); & *Gates*, 462 U.S. at 230).

313. *Sapla*, G.R. No. 244045, at 3 (J. Gaerlan, concurring opinion).

3. Dissenting Opinion of Justice Lazaro-Javier

Justice Amy C. Lazaro-Javier begins her opinion by stating that the decision is essentially based on the “distrust in the reasonableness of the police officers’ on-the-spot judgment call.”³¹⁴

Justice Lazaro-Javier argues that

[t]he police officers did not conduct an intrusive search of the passenger jeepney, and that the *object of the surveillance and search was targeted to a very specific individual.*

Secondly, the *police officers did not rely on an unverified tip, as the tip was verified by a subsequent tip* describing in detail the person who was actually riding the passenger jeepney and the sack he was actually carrying. The *tip was likewise verified by the exact match of the tip* with the description of the passenger whom the police officers were targeting and actually approached.

Thirdly, the police officers *were not just relying on the []tip[, t]hey were acting as well on the bases of the exact match as stated and their professional experience* as regards the route plied by the passenger jeepney. The police officers relied upon their personal knowledge of what *they were then perceiving to be a suspicious bulky sack and the actual contents thereof through a visual and minimally intrusive observation.*

Fourthly, there was *urgency in conducting the search* because appellant was then a passenger in a passenger jeepney en route to another province. The same exceptional urgency involved in the warrantless search of a motor vehicle carries over to the search of a targeted passenger and a targeted baggage of the passenger in the moving vehicle. It is *not feasible to obtain a search warrant in the situation presented to the police officers, especially where the passenger jeepney is in the process of crossing boundaries of court jurisdictions.*³¹⁵

Hence, she further argues, that “the *police officers did not just rely upon one [] suspicious circumstance and certainly not just upon the []tip[]. ... A tip is not sufficient to constitute probable cause only in the absence of any other circumstance that will arouse suspicion[.]*”³¹⁶ but that is not the situation in this case, according to her.

314. *Sapla*, G.R. No. 244045, at 1 (J. Lazaro-Javier, dissenting opinion), available at <https://sc.judiciary.gov.ph/12730> (last accessed Nov. 30, 2020) (emphasis omitted).

315. *Id.* at 1-2 (emphasis omitted and supplied).

316. *Id.* at 2 (emphasis supplied).

Justice Lazaro-Javier does not agree that “[the] constitutional order does not adopt a stance of neutrality, [and most] especially [with] the statement [that] ‘the law is heavily in favor of the accused[.]’”³¹⁷ She argues that “the reference to the presumption of innocence is inappropriate,”³¹⁸ to quote —

We do not deal here with the calibration of evidence on the merits of the accusation against appellant. The right to be presumed innocent and the concomitant burden of the prosecution to prove guilt beyond a reasonable doubt do not therefore come into play.

The burden of the prosecution was only to prove the search to be reasonable — the standard of proof is simply one of probable cause. Probable cause requires a fair probability that contraband or evidence of a crime will be found — whether a fair-minded evaluator would have reason to find it more likely than not that a fact (or ultimate fact) is true, which is quantified as a fifty-one percent (51%) certainty standard (using whole numbers as the increment of measurement).³¹⁹

Justice Lazaro-Javier’s opinion likewise highlights that the “statement does disservice to years of jurisprudence[,] that[] while recognizing the Bill of Rights to be a check on government power, has taken stock of the varying interests that require balancing if not accommodation. *Effective law enforcement is a legitimate interest that is not less favored by the law.*”³²⁰

She further argues that

[t]he statement *chills our law enforcers from doing their job in good faith of enforcing the law and keeping peace and order, and emboldens criminally-disposed persons to commit crimes as they please*, because in any event, the law would lend these criminal enterprises the veneer of protection that law-abiding citizens do not have. We cannot nonchalantly refuse to see the totality of circumstances, and choose to close our eyes to the whole picture and the common sense conclusions about human behavior.³²¹

The dissent also points out that the decision “missed [] a golden opportunity to refine the motor vehicle exemption to the warrant

317. *Id.* (emphasis omitted).

318. *Id.*

319. *Id.* at 2 (citing *United States v. Sokolow*, 490 U.S. 1, 8 (1989)).

320. *Sapla*, G.R. No. 244045, at 3 (J. Lazaro-Javier, dissenting opinion) (emphasis supplied).

321. *Id.* at 4 (emphasis omitted and supplied).

requirement, ... as it has undergone refinements that [Philippine] jurisprudence has adopted implicitly[,] if not expressly.”³²²

*California v. Acevedo*³²³ was cited, where “the [SCOTUS] considered the motor vehicle exemption to the warrant requirement of its Fourth Amendment and its application to the search of a closed container within the motor vehicle.”³²⁴ It was pointed out that the *Acevedo* is relevant in the present case because “*the police targeted not exactly the passenger jeepney, but the transporter and more particularly the sack in which the four [] kilos of marijuana was being stored for transportation.*”³²⁵ The case

ruled that the motor vehicle exemption extends to containers carried by passengers inside a moving vehicle, *even if there is no probable cause to search the motor vehicle itself and the probable cause and the interest of the police officers has been piqued only by the circumstances of the passenger and the container* he or she is carrying and transporting.³²⁶

Justice Lazaro-Javier claims that the *Acevedo* doctrine has been “adopted in [Philippine] jurisprudence, consciously or unconsciously as a matter of common sense, under the rubric of a valid warrantless search of a *moving public utility vehicle.*”³²⁷ *Saluday* “confirms the validity of the ruling and reasoning in *Acevedo.*”³²⁸

The dissent also states that

[o]ur prevailing jurisprudence is, to be sure, contrary to what *Comprado* implies — which is that, as held in *Comprado*, if the confidential tip describes with particularity the person and the baggage to be searched, aside from giving a description of the vehicle, then the search conducted is no longer a search of a moving vehicle but a search of a particular person and his or her baggage, and that unless an accused is proved to have ‘intentionally used’ the vehicle to transport illegal drugs, the motor vehicle exemption would not apply.³²⁹

322. *Id.* (emphasis omitted).

323. *California v. Acevedo*, 500 U.S. 565 (1991).

324. *Sapla*, G.R. No. 244045, at 4 (J. Lazaro-Javier, dissenting opinion) (emphasis omitted).

325. *Id.* (emphasis supplied).

326. *Id.* (emphasis supplied).

327. *Id.* at 8 (emphasis omitted and supplied).

328. *Id.* (emphasis omitted).

329. *Id.* at 9 (emphasis omitted).

Justice Lazaro-Javier does not subscribe to the definition laid down in *Comprado* as she argues that “it ignores well-settled jurisprudence.”³³⁰ She adds

[T]he only case cited by *Comprado* in relation to searches of moving vehicles, *People v. Libnao*, in fact enumerates the varied types of situations that are considered valid searches of moving vehicles, including those involving persons ‘targeted’ based on a description given by an informant/agent[.]”³³¹

The dissent argues that “jurisprudence [] recognizes the validity of warrantless searches and arrests based on a tip from a confidential informant as a legitimate basis for a police officer’s determination of probable cause.”³³²

Notably, in this case, the tip is not just a whimsical tip but objectified by these circumstances:

- (1) The police officers’ long experience in dealing with marijuana coming from this route in Northern Luzon;
- (2) The fact that appellant was a passenger on board a moving public jeepney crossing provincial boundaries; and
- (3) Photographs of the bricks of marijuana show that they were of such size and bulk that they were readily the most conspicuous items in the blue sack, and therefore no “probing” of the sack’s contents would have even been necessary.³³³

According to the Opinion,

[t]he ponencia acknowledges that jurisprudence on this matter is divergent but *has now set in stone that a confidential tip is insufficient to establish probable cause to conduct a warrantless search. It holds that despite the detailed nature of a tip, it must be accompanied by other circumstances that come to the arresting officers’ personal knowledge, such as the observation that the person might be a drug user as in ... Manalili or was otherwise acting suspiciously as in ... Tangliben and the other cases cited in the ponencia.*³³⁴

The Ponencia’s reasoning is “based on the assumption that drug couriers are all drug users or would all act suspiciously while in the act of committing

330. *Sapla*, G.R. No. 244045, at 9 (J. Lazaro-Javier, dissenting opinion).

331. *Id.* (citing *People v. Libnao*, G.R. No. 136860, 395 SCRA 407, 414-15 (2003))

332. *Sapla*, G.R. No. 244045, at 10 (J. Lazaro-Javier, dissenting opinion) (emphasis omitted).

333. *Id.* at 10-11 (emphasis omitted).

334. *Id.* at 15 (emphasis omitted and supplied).

the crime of possession of illegal drugs.”³³⁵ Though it has long been recognized that “people may act differently in the same situation[, t]his is true not only in the case of victims but also of perpetrators.”³³⁶

Finally, while Justice Lazaro-Javier

agree[s] with the doctrine that in drug[] cases[,] [] the presumption of regularity accorded to acts undertaken by police officers in the pursuit of their official duties cannot be used to negate the constitutional presumption of innocence. The Court ... should not go so far as to presume at the outset that law enforcement officers are negligent or in bad faith. It chills [the] law enforcers from their important mission to preserve peace and order and to destroy the menace of illegal drugs. ... [Such] goes against [the] duty to judge cases with cold neutrality.³³⁷

To further quote —

Neither do I believe that the Court should undeservedly place a premium on the quantity of past precedents that have applied a certain principle, especially when a mechanical application of this principle would not only defeat the ends of justice but also resurrect and worse perpetuate a ruling and rationale that others whose interest in the right to privacy has been firm have long discarded.

*We must not evade our duty to revisit previously established doctrine, abandon or, perhaps, at least carve out exceptions or reconcile contradictory rulings when warranted.*³³⁸

3. Dissenting Opinion of Justice Lopez

Justice Mario V. Lopez argued that the circumstances surrounding *Sapla* constitute a “reasonable search of the vehicle and not a warrantless search[,]”³³⁹ one of the reasons was that “the law enforcers did not have sufficient time to obtain a search warrant[, as t]hey only [had] less than two hours between the receipt of the information and the arrival of the passenger jeepney.”³⁴⁰ However, the Opinion stated that “this does not necessarily mean

335. *Id.* (emphasis omitted).

336. *Id.* (citing *People v. Cabel*, G.R. No. 121508, 282 SCRA 410, 422 (1997)).

337. *Sapla*, G.R. No. 244045, at 18 (J. Lazaro-Javier, dissenting opinion) (emphasis omitted and supplied).

338. *Id.* (emphasis omitted and supplied).

339. *Sapla*, G.R. No. 244045, at 1 (J. Lopez, dissenting opinion) available at <https://sc.judiciary.gov.ph/12733> (last accessed Nov. 30, 2020).

340. *Id.* at 1–2.

that the authorities have no choice but to conduct a warrantless search.”³⁴¹ Though basing on jurisprudential distinction and Article III, Section 2 of the Constitution,

the general rule is that no search can be made without a valid warrant subject to certain legal and judicial exceptions. Otherwise, any evidence obtained is inadmissible in any proceeding. On the other hand, the recognized exceptions do not apply when the search is ‘reasonable’ simply because there is nothing to exempt.³⁴²

The dissent mentioned that *Saluday* “expounded as to what qualifies as a reasonable search[.]”³⁴³ to wit —

[T]he prohibition of unreasonable search and seizure ultimately stems from a person’s right to privacy. Hence, only when the State intrudes into a person’s expectation of privacy, which society regards as reasonable, is the Fourth Amendment triggered. Conversely, where a person does not have an expectation of privacy or one’s expectation of privacy is not reasonable to society, the alleged State intrusion is not a ‘search’ within the protection of the Fourth Amendment. More importantly, the reasonableness of a person’s expectation must be determined on a case-to-case basis since it depends on the factual circumstances surrounding the case.³⁴⁴

Justice Lopez also pointed out that in the same case, guidelines were formulated “in conducting reasonable searches of public transport buses and any moving vehicle that similarly accepts passengers at the terminal and along its route[.]”³⁴⁵ Upon applying these guidelines, Justice Lopez argued that a reasonable search was conducted in *Sapla*, to wit —

First, the accused is on board a passenger jeepney or a vehicle of public transportation where passengers have a reduced expectation of privacy. *Second*, the authorities properly set up a checkpoint. The guidelines in *Saluday* are explicit that upon receipt of information that a passenger is carrying contraband, the law enforcers are authorized to stop the vehicle *en route* to allow for an inspection of the person and his or her effects. *Third*, the police did not perform an intrusive search of the jeepney but merely inquired by asking about the ownership of the blue sack which the accused admitted. As such, Section 2, Article III of the Constitution finds no application in the reasonable search conducted in this case. Corollarily, there is no need to

341. *Id.* at 2.

342. *Id.*

343. *Id.*

344. *Id.* at 2-3 (emphasis omitted).

345. *Sapla*, G.R. No. 244045, at 3 (J. Lopez, dissenting opinion).

discuss whether the law enforcers have probable cause to search the vehicle. The requirement of probable cause is necessary in applications for search warrant and warrantless searches but not to a reasonable search. Otherwise, to require probable cause before the authorities could conduct a search, no matter how reasonable, would cripple law enforcement resulting in non-action and dereliction of duty. It must be emphasized that police officers are duty bound to respond to any information involving illegal activities. But the involution of intelligence materials obliges them to be discerning and vigilant in scintillating truthful information from the false ones.³⁴⁶

Montilla was also cited, where the relevant portions call on the courts of justice to be “more understanding to law enforcement agencies, and to adopt a realistic appreciation of the physical and tactical problems, instead of critically viewing them from the placid and clinical environment of judicial chambers.”³⁴⁷

Justice Lopez also said that

[t]o hold that no criminal can, in any case, be arrested and searched for the evidence and tokens of his crime without a warrant, *would be to leave society, to a large extent, at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances, even exploiting public utility vehicles to boost their nefarious activities.*³⁴⁸

Finally, the dissent ended by stating that

[t]o invalidate a mere request to open the sack on the ground that it created a coercive and intimidating environment is taking the provisions of [Article III,] Section 2 ... of the Constitution too far in favor of the accused. ... *The constitutional guarantee protects only against an unreasonable search, it does not cover a reasonable search, nor is it intended to discourage honest police work.*³⁴⁹

IV. IMPLICATIONS OF *PEOPLE V. SAPLA* TOWARD THE PHILIPPINES’ ANTI-DRUG CAMPAIGN

The Philippines’ war against drugs is a newborn, compared to those in other countries in the world with a prominent drug war. As the Duterte

346. *Id.* at 4-5 (emphasis omitted).

347. *Id.* at 5.

348. *Id.* at 5 (citing *People v. Malasugui*, 63 Phil. 221, 228-29 (1936)) (emphasis supplied).

349. *Sapla*, G.R. No. 244045, at 6 (J. Lopez, dissenting opinion).

administration comes to its last year, one must contemplate on the acts of the government that first declared the war.

Based on the data that was presented and discussed, the law enforcement and government officials are truly unyielding with this advocacy. With the alleged number of human rights violations in the country and the people's call for a more respectful approach towards the accused and the victims, it was a wakeup call by the Court to have stepped in and thus, put their foot down in *Sapla*.

The presentation of the drug situation and the war against drugs in both the U.S. and Mexico showed two sides of the same coin, where they share the similarity of having waged a war for a long time, but their essential difference lies at the execution and the balancing of the rights of the citizens vis-à-vis the government's plan to slay the massive beast lurking within their society.

The U.S. may have begun with an unstable start, but as the years have passed, the government actively sought to curb the problems that have arisen from the waging of the war against drugs. The U.S. government changed their approach throughout the decades, and they have passed subsequent legislative reforms to achieve the balance between the citizens' rights and the government's initiative. Even until today, improvements are still being made.

The Philippines may not be sharing only the U.S. constitutional standards on searches and seizures, but also the situation and initial outcome of the U.S. War on Drugs, with a residual effect on the exercise of constitutional rights by the alleged accused.

On the other hand, Mexico started their war against drugs with unrelenting force and after more than a decade, their aggressive approach is still unyielding. The reforms being taken are those in favor of law enforcement and the war being fought, with perhaps little benefit to the rights of the citizens. Mexico took a different approach and this may be because of them being one of the major hotspots, if not the most prominent, for the drug trade in the entire world. The Mexican government shows no sign of stopping, even if it means trampling on the rights of the citizens it vowed to secure.

The Court's decisive stance in *Sapla* has a major impact not only towards the citizens of the country, but also towards the law enforcement authorities and the judiciary.

This Comment is for the guidance of policymakers and the courts, as the decision sets only a precedent. It is important to examine the decision's practical value to those who would implement the anti-drug campaign, and

as well as the courts for evaluating evidence received, not to mention the ruling's implication on the judicial training of the members of the judiciary. Aside from the discussion of *Sapla* and the different lines of cases, the different socio-political landscapes of the world, such as the U.S. and Mexico as discussed previously, should be used as a framework for the guidance of those in the seats of power.

Throughout the discussion of this Comment, both the positive and negative effects of the current administration's war against drugs were established. Perhaps it can only be hoped that the alleged incidents of violations of fundamental human rights in the course of the anti-drug campaign be further avoided and closely monitored by law enforcement authorities.

From one perspective, the country's law enforcement authorities, namely the DDB, PDEA, and the PNP, could see this as an opportunity to improve the enforcement of the campaign against illegal drugs. The ruling will decrease controversial cases among their ranks, and this will allow law enforcers to further obtain the trust of the citizens and improve their reputation among the people.

In another perspective, however, the statement of Justice Lazaro-Javier in her dissent becomes particularly relevant, “[i]t is my hope that the decision reached in this case does not dishearten the legitimate enthusiasm of our police forces in law enforcement.”³⁵⁰

The decision might send a chilling effect to government policy makers and those who genuinely wish to address the continuous drug problem in the country.

It is undeniable that conducting warrantless searches and seizures will become more challenging, especially if the sole basis is the tip of a confidential informant, and even more so when the tip requires the law enforcers to move with haste, else they lose the suspected person. The ruling can be used as a shroud by criminals, as Justice Lopez stated that it “would be to leave society, to a large extent, at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances, even exploiting public utility vehicles to boost their nefarious activities.”³⁵¹

350. *Sapla*, G.R. No. 244045, at 1 (J. Lazaro-Javier, dissenting opinion) (emphasis supplied).

351. *Sapla*, G.R. No. 244045, at 5 (J. Lopez, dissenting opinion) (citing *Malasugui*, 63 Phil. at 228–29).

Then again, the law can be abused not only by evil minds, but also by the vanguards who have sworn to protect and uphold the law.

It is equally important for the members of the judiciary to analyze the ruling in *Sapla* as the judges and justices who sit at the bench wield the fearsome power to decide on either releasing an incarcerated criminal or imprisoning an innocent person. The evidence would pass through the judges and justices, and they would exercise their wise discretion in order to make the just decision.

The Authors intended that this Comment may provide a vantage point for the judiciary and the executive branches, in addressing the present administration's anti-drug campaign in a balanced manner. The comparison of the Philippines' anti-drug campaign with other countries, such as the U.S. and Mexico, taking into consideration the unique individual circumstances is likewise equally essential. The improvement of the drug war's implementation is sought, though the Court also recognized that "adopting a resolute and aggressive stance against the menace of illegal drugs"³⁵² is important and that "the maintenance of peace and order and the promotion of the general welfare are essential for the enjoyment by all people of the blessings of democracy."³⁵³ The authorities should strike a balance between the people's rights and the implementation of the campaign against illegal drugs.

To conclude, these words of the Court, lifted from the case, are of utmost importance as a reminder to law enforcement authorities and members of the judiciary: "[a] battle waged against illegal drugs that tramples on the rights of the people is not a war on drugs; it is a war against the people. The Bill of Rights should never be sacrificed on the altar of convenience"³⁵⁴

The reader has seen the approach and the progress of both the U.S. and the Mexican government. One could wonder — what path could the Philippines be taking?

352. *Sapla*, G.R. No. 244045, at 33 (majority opinion).

353. *Id.* (citing *People of the Philippines v. Armie Narvas y Bolasoc*, G.R. No. 241254, July 8, 2019, at 16, available at <https://sc.judiciary.gov.ph/8092> (last accessed Nov. 30, 2020)).

354. *Id.*