

Courts and Social Context Theory: Philippine Judicial Reform as Applied to Vulnerable Sectors

Sedfrey M. Candelaria

Carissa Agnes L. Olmedo

50 ATENEO L.J. 823 (2006)

SUBJECT(S): CIVIL LAW, CONSTITUTIONAL LAW

*KEYWORD(S): SOCIAL CONTEXT THEORY, SOCIAL JUSTICE,
PHILIPPINE JUDICIAL REFORM*

The 1987 Constitution ushered in Social Justice as a mandate in favor of those who are underprivileged. This Article examines the impact of this provision on reform measures beyond congressional or executive initiatives. It inquires into the contributions of the Judiciary in implementing the constitutional mandate, particularly the challenge to the Judiciary in sensitizing its members to the plight of vulnerable sectors, applying the Social Context Theory as an aid in exercising judicial functions. This Paper shall focus on three vulnerable sectors: women, children, and indigenous peoples.

The Constitution expressly recognizes the vital role of women and the youth in nation-building. It also recognizes the right of the indigenous people to be protected. These changes in the Constitution paved the way for the Judiciary to decide cases in favor of women, children, and indigenous people in recognition of the Constitutional mandate to uphold their rights. The Judiciary had a two-tier response in addressing societal concerns involving these three sectors. First, institutional reforms were made which covers both the structure of the Judiciary and its personnel. Second, individual reforms for the members of the Judiciary were also established. Under the first institutional reform, the Judiciary strengthened the Barangay Justice System, promulgation of New Code of Judicial Conduct and the Code of Conduct for Court Personnel, increase in appointment of women judges, program for Reform Support Systems, and the creation of supplements to the Rules of Court such as Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Minors, Rule on Examination of Child Witness, and Rule on Juveniles in Conflict with the law. As for the individual reforms, the Judiciary implemented judicial education with the creation of the Philippine Judicial Academy (PhilJa). The PhilJa works in conjunction with the Supreme Court in training and educating aspirants to the Judiciary and newly appointed judges.

The Article also discusses the Author's proposed framework that reflects a Social Context Theory. This framework includes models of impartiality, namely, blind-folded Themis, Relationalist Model, and the Situational

Approach. The Article also applies this approaches in the Philippine setting to three sectors specifically women, children, and indigenous peoples.

The Author concludes that addressing the challenges and concerns involving these sectors requires a multi-pronged approach. The growing number of judicial reforms and judicial decisions that recognize the rights of women, children, and indigenous peoples are to be commended. This merely shows the important role the Judiciary plays in giving life to constitutional mandates.