Social Justice in Limbo: Unjust Legislation, an Evasive Court, and its Painful Consequences on OFWs

Through the doctrine of separation of powers, the three branches of government are able to act independent of each other. However, a problem arises when there is a contradiction between the laws passed by the Legislature, on one hand, and the decisions promulgated by the Supreme Court, on the other hand.

Section 10 of the Migrant Workers Act of 1995 has been declared unconstitutional by the Court in its ruling in *Serrano v. Gallant Maritime Services, Inc.*, however said provision has been reinstated as Section 7 of Republic Act No. (R.A.) 10022. With the enactment of R.A. 10022 in 2010, the injustice suffered by migrant workers, which was cured in *Serrano* has resurfaced.

This Essay discusses the following points: (1) how Section 10 of the Migrant Workers act violate the Constitution, such as the right to equal protection, and the guarantee of protection to laborers, both local and overseas; (2) how the Court evaded deciding on the same provision after it has been reinstated as Section 7 of R.A. 10022, and the negative consequences brought about it; and (3) how, in promoting social justice, the Court's act of deciding on the constitutionality of a provision of law does not violate the doctrine of separation of powers, but instead adheres to the duty of the Judiciary granted by the Constitution.

The Author recognized the independent and co-equal powers of both the Legislature and the Judiciary, however, in her conclusion, she proposes that the issues on the constitutionality or unconstitutionality of laws be decided with certainty since such are not merely for academic purposes, but affects people. Leaving a law's constitutionality an unsettled issue may cause injustice to those directly affected by said law, in this case, migrant workers.