

Keeping Up with the Times: A Critique of *Corpuz v. People* and the Imposition of Penalties for Value-based Crimes under the Revised Penal Code

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I. INTRODUCTION.....	247
II. THE CURIOUS CASE OF <i>CORPUZ V. PEOPLE</i>	250
A. <i>Factual Antecedents</i>	
B. <i>Issue on the Penalty Imposed</i>	
C. <i>Ruling of the Court</i>	
III. <i>CORPUZ V. PEOPLE</i> SETS A DANGEROUS PRECEDENT.....	257
A. <i>Judicial Interpretation Rather than Judicial Legislation</i>	
B. <i>Right to Liberty Trumps Doctrine of Separation of Powers</i>	
IV. RELATIVE CONSTITUTIONALITY.....	264
A. <i>Violates One's Right to the Equal Protection of Laws</i>	
B. <i>Proportionality and Cruel, Degrading, or Inhuman Punishment</i>	
V. CONCLUSION.....	273

*Come gather 'round people
Wherever you roam
And admit that the waters around you have grown
And accept it that soon you'll be drenched to the bone.
If your time to you is worth savin'
Then you better start swimmin' or you'll sink like a stone
For the times they are a-changin'.*

— Bob Dylan¹

I. INTRODUCTION

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1. BOB DYLAN, *THE TIMES THEY ARE A-CHANGIN'* (Columbia Records 1964).

They say that time heals all wounds. Yet, wounds, no matter how small, when left untended or untreated, fester. If one is fortunate, the infection can be cured, and one can go about and live life until the end of his or her days. If not, gangrene could set in; worse, death.

In a much larger scale, laws, especially those penal in nature, are intended to cure or, better yet, prevent society's ills. When society is afflicted with lawless elements, Criminal Law is "that branch of law which defines crimes, treats of their nature, and provides for their punishment."² Undeniably, as an attribute of sovereignty, each State has "the right to prosecute and punish crimes[.]"³ In the Philippines, the exercise of this sovereign function is vested in Congress, the legislative branch of Government.⁴ Moreover, its power to enact criminal laws is plenary.⁵

Currently, the foremost penal statute in the Philippines is the Revised Penal Code (RPC) which was approved by the Philippine Legislature on 8 December 1930 and took effect on 1 January 1932, thereby replacing the *Codigo Penal* which took effect on 14 July 1887.⁶ As of this writing, the RPC has been in effect for a period of more than 84 years from the time it was approved.

Be that as it may, once enacted, the enforcement of criminal laws is not without limits. The law must first hear before it condemns.⁷ In other words, the prosecution of crimes and/or offenses, as well as its punishment, must be through a judicial proceeding, and in accordance with the fundamental right of due process.⁸

For the prosecution thereof, it must be borne in mind that "*nullum crimen, nulla poena sine lege*," that is, there is no crime where there is no law punishing it.⁹ Not only must there be a law punishing violations of penal laws, but it must also be in accordance with the procedure set by law which "lays down the processes by which an offender is made to answer for the violation of criminal laws."¹⁰

2. 1 LUIS B. REYES, *THE REVISED PENAL CODE* 1 (18th ed. 2012).

3. *People v. Santiago*, 43 Phil. 120, 127 (1922).

4. JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 676 (2009 ed.).

5. *Id.* at 677.

6. FLORENZ D. REGALADO, *CRIMINAL LAW CONSPECTUS* 2 (2009 ed.). *See also* 1 REYES, *supra* note 2, at 22.

7. *Perez v. People*, 544 SCRA 532, 554 (2008).

8. PHIL. CONST. art. III, § 1.

9. 1 REYES, *supra* note 2, at 36.

10. WILLARD B. RIANO, *CRIMINAL PROCEDURE (THE BAR LECTURE SERIES)* 1 (2011 ed.).

As regards the punishment for violations thereof, it must also be justified by law.¹¹ The RPC provides for the classification, duration, effect, and application of penalties for every felony defined therein, and the execution and service of such penalties.¹² However, legal justification for the imposition of penalties is not enough. Another dimension that must be taken into consideration is society's moral justification for the imposition of a particular penalty against an offender.¹³ To this, Aristotle said that "what is just ... is what is proportional, and what is unjust is what violates the proportion."¹⁴ More on this point, French Enlightenment thinker Baron de Montesquieu exclaims that "there should be a certain proportion in punishments [] because it is essential that a great crime should be avoided rather than a smaller [one], and that which is more pernicious to society rather than that which is less."¹⁵

Otherwise put, the justness or fairness of the punishment imposed against an offender must be *proportional* to the offense and, as it happens, the standards of determining what is proportional does not operate in a vacuum and, thus, must always keep up with the times, so to speak. This means that the surrounding circumstances must be taken into consideration, examples of which include the prevailing standards of decency, historical context, or, particularly in this Comment, the change in the value of money as it is affected by the passage of time.

In the recently decided case of *Corpuz v. People*,¹⁶ the issue on the imposition of the proper penalty for the felony of *estafa* under the RPC was squarely presented before the Supreme Court.¹⁷ Under the RPC, the impossible penalties for the crime of *estafa* is dependent on the value of the amount defrauded as fixed by the statute which, as mentioned previously, is

11. Article 21 of the RPC states that "[n]o felony shall be punishable by any penalty not prescribed by law prior to its commission." An Act Revising the Penal Code and Other Penal Laws [REVISED PENAL CODE], Act No. 3815, art. 21 (1932).

12. See generally REVISED PENAL CODE, Book 1, Chapters 2-5.

13. See CYNDI BANKS, CRIMINAL JUSTICE ETHICS: THEORY AND PRACTICE 103 (3d ed.).

14. James Headley, *Proportionality Between Crimes, Offenses, and Punishments*, 17 ST. THOMAS L. REV. 247, 249 (2004) (citing ARISTOTLE, THE NICHOMACHEAN ETHICS 113 (J.A.K. Thomson trans., 2004)).

15. *Id.* at 249 (citing BARON DE MONTESQUIEU, THE SPIRIT OF THE LAWS 89-91 (Franz Neumann trans., 1949)).

16. *Corpuz v. People*, G.R. No. 180016, Apr. 29, 2014, available at <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/april/2014/180016.pdf> (last accessed July 12, 2014).

17. *Id.*

based on the values set by the Philippine Legislature in 1930.¹⁸ The effect of this is that the continued imposition of the 84-year old penalties for *estafa* generated a perceived injustice against those convicted of such felony. This injustice is borne out of the fact that the fixed values set forth in the law did not adapt to the increase of prices throughout the years caused by economic inflation.¹⁹

In reality, the values of money and property are in a “state of constant change, and sways with the wind of economic change, primarily with the rate of inflation from year to year.”²⁰ The Court had the opportunity to remedy certain social ills caused by the literal interpretation of the 84-year old RPC provision on *estafa*. Regrettably, the Court fell short in curing said social ill to the detriment of not only the convicted Lito Corpuz, but also other convicts languishing in prison for the similar crime.

This Comment endeavors to examine the ruling in *Corpuz* and discuss the legal grounds on why the majority erred in deciding the way they did which ultimately resulted in unduly prolonging Corpuz’s enjoyment of his liberty and unduly depriving other convicts similarly situated of their freedom.

II. THE CURIOUS CASE OF *CORPUZ V. PEOPLE*

It is axiomatic that laws, customs, public policy[,] and practice evolve with the passage of time[.]

— Chief Justice Maria Lourdes P.A. Sereno²¹

It is imperative to point out that this Comment does not question the correctness of Lito Corpuz’s conviction. Rather, it seeks to question the propriety of the basis from which the penalty was imposed against him. In the dispositive portion of the case,²² subject to the Indeterminate Sentence Law, the Court imposed the indeterminate penalty of imprisonment from three years, two months, and 11 days of *prision correccional*, as minimum, to 15 years of *reclusion temporal*, as maximum pursuant to Article 315 of the RPC which states that —

The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over [₱12,000.00] but

18. See REVISED PENAL CODE, art. 315. See also 1 REYES, *supra* note 2, at 22.

19. Inflation is defined as the “continuing rise in the general price level usually attributed to an increase in the volume of money and credit relative to available goods and services[.]” Merriam-Webster, inflation, available at <http://www.merriam-webster.com/dictionary/inflation> (last accessed July 12, 2014).

20. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion).

21. *Corpuz*, G.R. No. 180016 (C.J. Sereno, concurring and dissenting opinion).

22. *Corpuz*, G.R. No. 180016.

does not exceed [P22,000.00]; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional [P10,000.00]; but the total penalty which may be imposed shall not exceed [20] years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be[.]²³

The Author is of the view that the basis from which the penalty was derived is erroneous and contrary to the spirit which the law intended to espouse. But before this, a narration of the material facts of *Corpuz* is in order.

A. Factual Antecedents

The conviction stemmed from the complaint initiated by one Danilo Tangcoy.²⁴ On 2 May 1991, Tangcoy had several pieces of jewelry amounting to P98,000.00, which he entrusted to Corpuz so that the latter could sell them on commission.²⁵ If not sold, he obligated to return them to Tangcoy after 60 days.²⁶ Upon the expiration of the period, Corpuz failed to either remit the proceeds or return the jewelry entrusted to him.²⁷ When Tangcoy personally demanded from Corpuz what he owed, the latter promised the former that he would pay for the value of the items.²⁸ Unfortunately, Corpuz did not deliver.²⁹ Thereafter, the latter was formally charged with the crime of *estafa* through misappropriation or conversion in the amount of P98,000.00 pursuant to Article 315 (1) (b) of the RPC which provides —

By misappropriating or converting, to the prejudice of another, money, goods[,] or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods[,] or personal property[.]³⁰

On 30 July 2004, after trial on the merits, the Regional Trial Court of San Fernando found Corpuz guilty and imposed an indeterminate penalty of imprisonment from four years and two months of *prision correccional* in its

23. REVISED PENAL CODE, art. 315, ¶ 1.

24. *Corpuz*, G.R. No. 180016, at 2.

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. REVISED PENAL CODE, art. 315, ¶ 4 (1) (b).

medium period, as minimum, to 14 years and eight months of *reclusion temporal* in its minimum period, as maximum.³¹

From this, Corpuz appealed.³² On 22 March 2007, the Court of Appeals (CA) denied the appeal and, likewise, affirmed the conviction but modified the penalty imposed to an indeterminate penalty of “[four] years and [two] months of *prision correccional*, as minimum, to [eight] years of *prision mayor*, as maximum, plus [one] year for each additional [₱10,000.00] or a total of [seven] years.”³³ Corpuz sought for reconsideration but the CA, on 5 September 2007, denied his motion.³⁴

Undaunted, on 5 November 2007, Corpuz filed before the Court a Petition for Review on *Certiorari* to challenge the ruling of the appellate court on both procedural and substantive grounds.³⁵

B. Issue on the Penalty Imposed

During the deliberations in the Court’s Third Division, a question on the continued validity of penalties imposed on persons convicted of crimes involving property came up.³⁶ As mentioned earlier, due to the fact that the fixed values used as basis for the imposition of penalties for *estafa* did not change throughout 84 years of economic inflation, a literal reading of the law would result in unjust consequences to the detriment of those individuals convicted under said law.

Specifically, the issue hinged on the contention that the ₱98,000.00 value of the jewelry misappropriated in 1991 from which Corpuz’s penalty was based cannot be used as basis to impose a penalty whose value was pegged using prices in 1930 — the year in which the Philippine Legislature approved the provisions of the RPC.³⁷ It was opined that, when economic inflation is taken into consideration, a ratio of ₱1.00 is to ₱100.00 would be used to determine the present value of the misappropriated jewelry.³⁸ This ratio was derived from the very first statistical survey made in 1949 which, when compared with other surveys in succeeding years, allowed the Government to equate the purchasing power of ₱1.00 in 1949 to ₱100.00 in

31. *Corpuz*, G.R. No. 180016.

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Corpuz*, G.R. No. 180016. *See also* I REYES, *supra* note 2, at 22.

38. *Corpuz*, G.R. No. 180016. *See also Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion).

today's prices.³⁹ Using this valuation, the ₱98,000.00 of today would have been valued at only ₱980.00 in 1949. Because of this stark contrast in the value, this would effectively have an impact on the determination of the proper penalty to be imposed. When valued at ₱980.00, the impossible penalty for the crime of *estafa* would have been pursuant to the following provision —

Art. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

...

3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if such amount is over [₱200.00] but does not exceed [₱6,000.00].⁴⁰

Clearly, the duration of the penalty of imprisonment is significantly shorter than what was actually imposed against Corpuz, that is, the maximum penalty of 15 years which was derived from eight years of *prision mayor* in its minimum plus an additional one year for every ₱10,000.00 in excess of ₱22,000.00.⁴¹ On the other hand, the maximum penalty that may be imposed when economic inflation is taken into consideration would only be two years and four months.⁴² Essentially, the bone of contention is that, when external economic factors are taken into account, Corpuz would not have to serve his time in prison for a significantly longer time than he is supposed to.

When the members of the Third Division were unable to resolve the issue, they opted to refer the case to the Court *en banc*.⁴³ Owing to the difficulty and novelty of the issue, pursuant to the Supreme Court Internal Rules,⁴⁴ the Court *en banc* called for oral arguments to be held on 25

39. No statistical survey of the prices of commodities was available in the 1930s which allowed the Government to accurately determine how much purchasing power ₱1.00 had during that time. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion) (citing Carmen N. Ericta & Philippine Statistics Authority, Update on the Value of the Present Day Peso as Compared to its Prevailing Value in 1932 (Feb. 10, 2014)).

40. REVISED PENAL CODE, art. 315, ¶ 3 (emphasis supplied).

41. REVISED PENAL CODE, art. 315, ¶ 1. Since ₱98,000.00 is more than ₱22,000.00 pesos by ₱76,000.00, based on the provision, an additional seven years would be included to the total duration of the penalty. *Id.*

42. Compare REVISED PENAL CODE, art. 76 with REVISED PENAL CODE, art. 315, ¶ 4.

43. *Corpuz*, G.R. No. 180016, at 9.

44. THE INTERNAL RULES OF THE SUPREME COURT, A.M. No. 10-4-20-SC, May 4, 2010, rule 10, § 3.

February 2014.⁴⁵ The Court invited distinguished *amici curiae* to assist them in the resolution of the issue.⁴⁶ Among those who gave their erudite opinions on the subject were Professor Alfredo F. Tadiar, the Senate President, the Speaker of the House of Representatives, and Deans Jose Manuel Diokno and Sedfrey M. Candelaria.⁴⁷ Also heard during the oral arguments were the Office of the Solicitor General who appeared on behalf of the State, and Attorney Mario L. Bautista who appeared as Corpuz's counsel *de officio*.⁴⁸

In spite of the brilliantly crafted arguments in support of the contention that economic inflation must be taken into consideration in the imposition of the penalties for *estafa* (as well as other property crimes whose penalties are value-based), the Court denied the petition.⁴⁹

C. Ruling of the Court

I. Judicial Legislation

On 29 April 2014, Justice Diosdado M. Peralta, speaking for the majority, affirmed the conviction of Lito Corpuz of the crime of *estafa* through misappropriation or conversion.⁵⁰ More importantly for purposes of this Comment, the majority refused to take economic inflation into consideration and applied the law as worded, thereby resulting in the imposition of the maximum penalty of imprisonment of 15 years against Corpuz.⁵¹

The majority in *Corpuz* was quick to dismiss the petition and essentially opined that, since the law was clear in its terms, no other interpretation should be applied.⁵² Otherwise, any interpretation that veers away from

45. The Author was present at the oral arguments held on the said date. See Supreme Court, *Corpuz v. People of the Philippines*, available at <http://sc.judiciary.gov.ph/microsite/corpuz/> (last accessed July 12, 2014) [hereinafter Corpuz Online].

46. *Corpuz*, G.R. No. 180016.

47. *Id.* See also Corpuz Online, *supra* note 45.

48. *Corpuz*, G.R. No. 180016.

49. *Corpuz*, G.R. No. 180016.

50. *Id.*

51. Of the 13 Justices who took part, eight belonged to the majority while five concurred in sustaining the conviction but vigorously dissented against imposition of the penalty. The dissenters include Chief Justice Sereno and Justices Antonio T. Carpio, Mariano C. del Castillo, Roberto A. Abad, and Marvic Mario Victor F. Leonen. *Id.*

52. *Id.*

what is expressed in the law would amount to judicial legislation.⁵³ Quoting *People v. Quijada*,⁵⁴ the Court stated that —

Verily, the primordial duty of the Court is to merely apply the law in such a way that it will not usurp legislative powers by *judicial legislation* and that in the course of such application or construction, it should not make or supervise legislation, ... or rewrite the law, or give the law a construction which is repugnant to its terms. The Court should apply the law in a manner that would give effect to their letter and spirit, especially when the law is clear as to its intent and purpose. Succinctly put, the Court should shy away from encroaching upon the primary function of a co-equal branch of the Government; otherwise, this would lead to an inexcusable breach of the doctrine of separation of powers by means of judicial legislation.⁵⁵

2. No Cruel, Degrading, or Inhuman Punishment

The Court also dismissed the averment that the imposition of the penalty, as worded, amounted to a cruel punishment that is repugnant to the Constitution.⁵⁶ According to the ruling in *Corpuz*, since penalties are generally harsh as they are punitive in nature, the courts are merely obliged to apply the law as it is plainly written and leave the question of whether or not the penalties are cruel or excessive to the lawmakers.⁵⁷

In addition, *Corpuz* also stated that the constitutional proscription against cruel and unusual punishments generally refers to the character of the punishment, and rarely does it refer to its duration or the amount on which it is based, since that aspect is within the ambit of the plenary powers of Congress.⁵⁸ More importantly, since there was no direct constitutional attack against the assailed provision, the Court is powerless to declare it unconstitutional based on the aforementioned ground.⁵⁹

3. Article 5 of the RPC

53. *Id.*

54. *People v. Quijada*, 259 SCRA 191 (1996).

55. *Corpuz*, G.R. No. 180016 (citing *Quijada*, 259 SCRA at 227-28).

56. Article III, Section 19 of the Philippine Constitution provides that “[e]xcessive fines shall not be imposed, nor cruel, degrading[,] or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.” PHIL. CONST. art. III, § 19, ¶ 1.

57. *Corpuz*, G.R. No. 180016.

58. *Id.*

59. *Id.*

Finally, as if to alleviate the suffering of Corpuz, the Court exclaimed that all is not lost since there exists within the prevailing legal landscape a remedy that can soothe the pains emanating from the imposition of excessive penalties like those in crimes whose penalties are value-based.⁶⁰ This remedy is found in Article 5 of the RPC itself which states that —

Art. 5. *Duty of the court in connection with acts which should be repressed but which are not covered by the law, and in cases of excessive penalties.* — Whenever a court has knowledge of any act which it may deem proper to repress and which is not punishable by law, it shall render the proper decision and shall report to the Chief Executive, through the Department of Justice (DOJ), the reasons which induce the court to believe that said act should be made the subject of penal legislation.

In the same way *the court shall submit to the Chief Executive, through the [DOJ], such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense.*⁶¹

Thus, following the second paragraph of the above provision, the Court did not suspend the imposition of the penalty based on the ₱98,000.00 value, but also furnished the President, through the DOJ, a copy of the decision as well as the Senate President and the Speaker of the House of Representatives.⁶² In this way, the Court washed its hands from resolving the issue and decided to “have nothing to do with the wisdom or justness of the penalties fixed by law.”⁶³ Moreover, *Corpuz* ratiocinated that “it is the duty of courts to enforce the will of the legislator in all cases[,] unless it clearly appears that a given penalty falls within the prohibited class of excessive fines or cruel and unusual punishment.”⁶⁴

III. *CORPUZ V. PEOPLE* SETS A DANGEROUS PRECEDENT

Law is not a water-tight compartment sealed or shut off from the contact with the drama of life which unfolds before our eyes. It is in no sense a cloistered realm but a busy state in which events are held up to our vision and touch our elbows.

60. Other than *estafa*, some examples of crimes whose penalties are value-based are malversation of public funds or property (Article 217), robbery with force upon things (Articles 299 & 300), theft (Article 309), qualified theft (Article 310), special cases of malicious mischief (Article 328), and other mischiefs (Article 329). See REVISED PENAL CODE, arts. 217, 299, 300, 309, 310, 328, & 329.

61. *Id.* art. 5 (emphasis supplied).

62. See *Corpuz*, G.R. No. 180016.

63. *Id.* (citing RAMON C. AQUINO & CAROLINA C. GRIÑO-AQUINO, THE REVISED PENAL CODE 93 (1997 ed.)).

64. *Id.*

— Special Chief Justice Sidney L. Samuels⁶⁵

A quick perusal of *Corpuz* will show that it was decided using sound and well-settled legal principles. However, a closer scrutiny thereof coupled with a perspective of putting things into context will show that it sets a dangerous precedent. The Court's duty is not only to dispense justice, but also to prevent injustice.⁶⁶ Chief Justice Sereno, in her dissenting opinion, eloquently stated that, “[a]s societies develop [and] become more enlightened, new truths are disclosed. The Court[,] as an institution[,] cannot ignore these truths to the detriment of basic rights. The reality is that property-related crimes are affected by external economic forces, rendering the penalties vulnerable to these forces.”⁶⁷

In refusing to take into account the economic inflation rates which affect the general prices of commodities under the auspices of judicial legislation, not only did the Court shirk from its duty of preventing injustice, but it also shunned the intent of the framers who drafted and approved the provisions of the RPC.

A. Judicial Interpretation Rather than Judicial Legislation

In actuality, it was intended by the law that the penalty of imprisonment be “dependent [on] the value of the property subject to the crime.”⁶⁸ At that time, the lawmakers were convinced that the amount of the fraud was proportional to the corresponding incremental penalties. Easily, however, it can be concluded that the measure of civilization as well as the quality of life in 1930 is significantly different than in 1991 (i.e., the year the crime was committed) or in 2014 (i.e., the year *Corpuz* was decided). In that span of time nearing almost a century, considerable changes have taken place in the general affair of things not just within Philippine society, but all over the world as well. Because of the temporal changes that have transpired during that period, people's attitudes, preferences, and standards of decency also followed suit. All these changes have undoubtedly affected the overall economic landscape, resulting in the general increase in the value of goods and services. That being said, the Author finds it difficult to fathom how the Court could turn a blind eye against these changes by giving the 84-year old law a strict and literal interpretation when, in fact, what should prevail is the

65. *Wortham v. Walker*, 128 S.W.2d 1138, 1150 (Tex. 1939) (U.S.).

66. *Corpuz*, G.R. No. 180016 (C.J. Sereno, concurring and dissenting opinion).

67. *Id.* (citing Comment of Sedfrey M. Candelaria as Amicus Curiae, *Corpuz v. People*, G.R. No. 180016, Sep. 30, 2013, available at <http://sc.judiciary.gov.ph/microsite/corpuz/> (last accessed July 12, 2014)) [hereinafter Candelaria Comment].

68. *Corpuz*, G.R. No. 180016 (C.J. Sereno, concurring and dissenting opinion).

true legislative intent given by the lawmakers who drafted and approved the law.

In *Tañada and Macapagal v. Cuenco, et al.*,⁶⁹ the Court declared that —

[W]hatever is within the spirit of a statute is within the statute although it is not within the letter thereof, while that which is within the letter, but not within the spirit of a statute, is not within the statute; but, where the law is free and clear from ambiguity, the letter of it is not to be disregarded on the pretext of pursuing its spirit.⁷⁰

True enough, the provisions of the law, particularly with regard to the fixed values, are unambiguous by itself. Thus, the majority in *Corpuz* was steadfast in not making things more complicated by giving the clear wording of the law a different interpretation. For them, to do so would amount to the proscribed practice of judicial legislation — a practice repugnant to the doctrine of separation of powers espoused by the Constitution.⁷¹ Nonetheless, *ea est accipienda interpretatio, quae vitio caret*.⁷² That is to say, “[t]hat interpretation is to be adopted which is free from evil or injustice.”⁷³

In this case, giving the express provision of the law a literal interpretation would not only lead to absurd results, but also tolerate injustice. Surely, due to the increase of prices caused by economic inflation, ₱98,000.00 in 1930 would be more valuable than ₱98,000.00 today. Had Corpuz committed the same crime in 1930, there would be no doubt that a maximum prison sentence of 15 years is apt, based on the literal interpretation of Article 315. Unfortunately, that is not the case here. As a result of the passage of 84 years coupled with the economic phenomenon known as inflation, the once unequivocal wording of the law has now become ambiguous. Therefore, this necessitates the application of the various rules of interpreting a statute which can be effectively exercised by no less than the highest court of the land without resorting to judicial legislation.

In the rules of judicial interpretation, it is basic that “[t]he literal import or meaning of a statute must yield to its apparent intent, purpose[,] or spirit.”⁷⁴ Noteworthy also is Article 10 of the New Civil Code, which states that “[i]n case of doubt in the interpretation or application of laws, it is

69. *Tañada and Macapagal v. Cuenco, et al.*, 103 Phil. 1051 (1957).

70. *Id.* at 1086.

71. *Corpuz*, G.R. No. 180016. *See also* PHIL. CONST. arts. VI, VII, & VIII.

72. The Free Dictionary, *Ea est accipienda interpretatio*, available at <http://legal-dictionary.thefreedictionary.com/Ea+est+accipienda+interpretation> (last accessed July 12, 2014).

73. RUBEN E. AGPALO, STATUTORY CONSTRUCTION 243 (2009 ed.).

74. *Id.* at 215.

presumed that the law making body intended right and justice to prevail.⁷⁵ Taking these together, it is evident that the Court erred in its strict interpretation and application of the penalties in Article 315.

Other rules of judicial interpretation also suggest that the prevailing circumstances of the time should also be taken into consideration. In *Ocampo Vda. de Gomez v. Government Insurance Board*,⁷⁶ the Court emphatically exclaimed that —

A statute should not be construed in a spirit of detachment as if it were a protoplasm floating around space. ... ‘Generally[,] it may be said that *in determining the meaning, intent, and purpose of a law [], the history of the times out of which it grew and to which it may be rationally supposed to bear some direct relationship, the evils intended to be remedied, and the good to be accomplished are proper subjects of inquiry.*⁷⁷

Furthermore, in the same case, Justice Gregorio Perfecto added —

Law, being a manifestation of social culture and progress, *must be interpreted taking into consideration the stage of said culture and progress including all the concomitant circumstances.* It must be interpreted by drawing inspiration, not only from the teachings of history, from precedents and traditions, but from inventions of science, discoveries of art, ideals of thinkers, dreams of poets, that is, *all the sources from which may spring guidance and help to form a truthful idea of the human relations regulated by the law to be interpreted and applied.*⁷⁸

Accordingly, the law, if not its words, then, its spirit, must keep up with the times. To illustrate, according to Article 315 of the RPC, it was the intention of the law that the penalty for swindling another would be dependent on the amount defrauded.⁷⁹ Thus, the law provided for the following incremental penalties —

Amount of the Fraud	Penalty
₱22,001.00 or more	<i>Prision mayor</i> minimum (eight years) plus one year for each additional

75. An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act. No. 386, art. 10 (1950). Even though it is the provisions of the RPC that is being subjected to judicial interpretation, it still stands on the same footing as the Civil Code especially in terms of force and effect. It is wrong to say that one is superior over the other. *Corpus*, G.R. No. 180016 (J. Abad, dissenting opinion).

76. *Ocampo Vda. de Gomez v. Government Insurance Board*, 78 Phil. 216 (1947).

77. *Id.* at 224 (J. Perfecto, concurring opinion) (citing *Wortham*, 127 S.W.2d at 1138) (emphasis supplied).

78. *Id.* at 225-26 (J. Perfecto, concurring opinion) (emphasis supplied).

79. See REVISED PENAL CODE, art. 315.

	₱10,000.00, but never exceeding 20 years
₱12,001.00 to ₱22,000.00	<i>Prision correccional</i> maximum (four years, two months, and one day) to <i>prision mayor</i> minimum (eight years)
₱6,001.00 to ₱12,000.00	<i>Prision correccional</i> minimum and medium (six months and one day to four years and two months)
₱201.00 to ₱6,000.00	<i>Arresto mayor</i> maximum (four months and one day) to <i>prision correccional</i> minimum (two years and four months)
₱200.00 or less	<i>Arresto mayor</i> medium and maximum (four months and one day to six months)

The above illustration shows the direct proportionality of the penalty to the amount defrauded. In other words, the more valuable the amount of the damage to the victim is, the higher penalty of imprisonment will be suffered by the offender. This is the clear wording of the law and, at the same time, it adequately reflects the legislative intent of making the penalties dependent on the amount defrauded. However, due to 84 years of economic inflation, the values fixed in the law no longer represent its spirit.

To make the law express its true intent, a valuation of ₱1.00 to ₱100.00 based on the aforementioned 1949 statistical survey was proposed to be used in the interpretation of the penalty provisions of Article 315.⁸⁰ Using this formulation, as well as the rules of judicial interpretation to harmonize the law with the times, the incremental penalties provided in Article 315 of the RPC would now be interpreted in this wise —

Amount of the Fraud (Inflation-adjusted)	Penalty
₱2,200,100.00 or more	<i>Prision mayor</i> minimum (eight years)

80. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion). It is worthy to point out, however, that there were other methods suggested in the determination of the value to be used in the interpretation of the law. Examples of which include the Consumer Price Index and the determination of the Philippine Peso value based on the value of the United States Dollar. See generally *Corpuz*, G.R. No. 180016 (J. Leonen, concurring and dissenting opinion).

	plus one year for each additional ₱1,000,000.00, but never exceeding 20 years
₱1,200,100.00 to ₱2,200,000.00	<i>Prision correccional</i> maximum (four years, two months, and one day) to <i>prision mayor</i> minimum (eight years)
₱600,100.00 to ₱1,200,000.00	<i>Prision correccional</i> minimum and medium (six months and one day to four years and two months)
₱20,100.00 to ₱600,000.00	<i>Arresto mayor</i> maximum (four months and one day) to <i>prision correccional</i> minimum (two years and four months)
₱20,000.00 or less	<i>Arresto mayor</i> medium and maximum (four months and one day to six months)

With this interpretation, the ₱98,000.00 that Corpuz misappropriated in 1991 would only be valued at ₱980.00 in 2014. For that reason, he should have just been sentenced to maximum of a mere two years and four months as opposed to 15 years. Truly, the Court's ruling led to a mischievous result which glaringly contravened the clear intent and purpose of the law. Worse, it blatantly disregarded one of the bedrock doctrines of criminal law which provides that "[p]enal laws are strictly construed against the Government and liberally in favor of the accused."⁸¹ A liberal interpretation of the law would ultimately tip the scales in his favor, as it would allow him to serve a lower penalty.

Based on the foregoing, the Court's apprehension against the practice of judicial legislation is more imaginary than real. In fact, Atty. Bautista, Corpuz's counsel *de officio*, opened his oral arguments before the Court *en banc* by imploring them that no law need be declared unconstitutional.⁸² In the alternative, he invited the Court to exercise one of its principal functions by pleading that "[a]ll this Honorable Court has to do in deciding this case is to perform one of its basic judicial functions[,] which is to interpret and apply the law, giving primary consideration to legislative intent."⁸³

81. 1 REYES, *supra* note 2, at 18.

82. Supreme Court of the Philippines, Audio Recording of Oral Arguments for Corpuz v. People, Feb. 11, 2014, available at <http://sc.judiciary.gov.ph/microsite/corpuz/audio.html> (last accessed July 12, 2014).

83. *Id.*

B. Right to Liberty Trumps Doctrine of Separation of Powers

Not having ruled in favor of Corpuz, the Court insisted in upholding the literal meaning of the law by asserting that giving Article 315 an interpretation different from what is written would amount to the abhorrent practice of judicial legislation.⁸⁴

This prohibited practice is founded on the doctrine of separation of powers. This doctrine was articulated in the case of *Bengzon v. Drilon*,⁸⁵ which provided that —

Under the principle of separation of powers, neither Congress, the President, nor the Judiciary may encroach on fields allocated to the other branches of [G]overnment. The [L]egislature is generally limited to the enactment of laws, the [E]xecutive to the enforcement of laws[,] and the [J]udiciary to their interpretation and application to cases and controversies.⁸⁶

Also, as Justice Louis D. Brandeis puts it, the doctrine was adopted “not to promote efficiency [in Government] but to preclude the exercise of arbitrary power.”⁸⁷ Additionally, he explains that its purpose “was not to avoid friction [between the three great branches of Government], but, by means of the inevitable friction incident to the distribution of governmental powers among the three [branches], to save the people from autocracy.”⁸⁸ Similarly, a constitutionalist of great prominence described the doctrine in this manner —

[The] separation of powers means that legislation belongs to Congress, execution to the [E]xecutive, [and] settlement of legal controversies to the [J]udiciary. Each is prevented from invading the domain of the others. But[,] the separation is not total, the system allows for ‘checks and balances’ the net effect of which being that, in general, no one department is able to act without the cooperation of at least one of the other departments.

...

The purpose of separation of powers and ‘checks and balances’ is to prevent concentration of powers in one department and thereby to avoid tyranny.⁸⁹

Taken from the pronouncements above, it can be said that the doctrine promotes the independence as well as interdependence between and among the branches of Government. With this in mind, while it may seem that the

84. *Corpuz*, G.R. No. 180016.

85. *Bengzon v. Drilon*, 208 SCRA 133 (1992).

86. *Id.* at 142.

87. *Myers v. United States*, 272 U.S. 52, 293 (1926) (J. Brandeis, dissenting opinion).

88. *Id.*

89. BERNAS, *supra* note 4, at 678.

judicial power given to the Judiciary by the Constitution is all-encompassing,⁹⁰ the Court must be cautious in the exercise of such power so as to avoid encroaching upon the realm of the Legislature through judicial legislation.⁹¹

This doctrine is precisely what *Corpuz* successfully upheld.⁹² Yet, it did so at great cost. When the Court upheld the strict interpretation of the provisions on value-based crimes, it ignored one of man's basic rights — the right to liberty.⁹³

In the dissenting opinion of Justice Abad, he cited the Chief of Planning and Management Division of the Bureau of Corrections and observed that “[a]s of 2014, [6,509] [individuals] have been convicted of and are serving sentence for *estafa*, qualified theft, theft, robbery, arson, and malicious mischief. Out of this population, [4,480] are slated to spend half a decade or more in prison.”⁹⁴ Along with *Corpuz*, these individuals will be made to suffer prison terms based on value-based penalties that are antiquated and unresponsive to the passage of time.

Had the Court in *Corpuz* interpreted the value-based crimes in the RPC using a liberal interpretation, these individuals would have been benefited by the ruling as such interpretation would be corrective in nature thereby necessitating a retroactive application.⁹⁵ Effectively, those convicts affected by the liberal interpretation would either be eligible for discharge or would serve a shorter sentence than what was originally imposed. Certainly, a more liberal interpretation of the RPC as regards value-based crimes would be consistent with the Court's duty of upholding one's fundamental rights, such as the right to liberty.

After all, the Bill of Rights was created in recognition of the immense powers of Government.⁹⁶ In *People v. Lacson*,⁹⁷ the Court stated that “[t]here is sometimes a balancing of individual rights against State power where public interest is involved. The individual is always at a terrific disadvantage when a basic right is weighed against the awesome powers of a State.”⁹⁸ Thus, the fundamental rights of life, liberty, and property were expressed in

90. See PHIL. CONST. art. VIII, § 1.

91. See *Fetalino v. Commission on Elections*, 686 SCRA 813, 839-40 (2012).

92. *Corpuz*, G.R. No. 180016.

93. See PHIL. CONST. art. III, § 1.

94. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion).

95. See *Corpuz*, G.R. No. 180016 (J. Leonen, concurring and dissenting opinion) & *Corpuz*, G.R. No. 180016 (C.J. Sereno, concurring and dissenting opinion).

96. BERNAS, *supra* note 4, at 100.

97. *People v. Lacson*, 413 SCRA 20 (2003).

98. *Id.* at 64.

the Constitution to serve as a deterrent against the Government's abuse of said powers through its three great branches.⁹⁹

In an early but still relevant case, Justice George A. Malcolm declared that “[t]he right to liberty guaranteed by the Constitution includes the right to exist and the right to be free from arbitrary personal restraint or servitude.”¹⁰⁰ Surely, being imprisoned for a longer duration than necessary is considered as an affront to one's liberty. Without a doubt, the right to liberty must be placed on a higher plane than the doctrine of separation of powers.

On the whole, the precedent that *Corpus* set has dangerous consequences. It shows how one's liberty could be undermined by the very institution that was mandated to defend it, under the guise of preventing the proscribed practice of judicial legislation.

IV. RELATIVE CONSTITUTIONALITY

[For as much] the experience of all ages and countries hath shewn that cruel and sanguinary laws defeat their own purpose by engaging the benevolence of mankind to withhold prosecutions, to smother testimony, or to listen to it with bias, when, if the punishment were only proportioned to the inquiry, men would feel it their inclination as well as their duty to see the laws observed.

— Thomas Jefferson¹⁰¹

The State's purpose in punishing crimes is to secure justice, not just for the offended party, but for the offender as well.¹⁰² With regard to the offender, for there to be justice, the penalty to be imposed must be commensurate or proportional to the offense.¹⁰³ Lamentably, the strict interpretation and application of the 84-year old penalties created a situation where the penalty to be suffered by the offender was no longer proportional to the offense

99. The totality of governmental power is contained in the three great powers — police power, power of eminent domain, and power of taxation. *BERNAS, supra* note 4, at 101.

100. Aside from freedom from arbitrary physical restraint, the right also includes the right to be free to use his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any vocation, and for that purpose, to enter into all contracts which may be proper, necessary, and essential to his carrying out these purposes to a successful conclusion. *Rubi v. Provincial Board of Mindoro*, 39 Phil 660, 705 (1919).

101. Headley, *supra* note 14, at 250 (citing Thomas Jefferson, *A Bill for Proportioning Crimes and Punishments in Cases Heretofore Capital*, in 2 *THE PAPERS OF THOMAS JEFFERSON* 492–504 (1950)).

102. See 1 REYES, *supra* note 2, at 602.

103. *Id.* at 601.

because of the fact that the effects of economic inflation on the overall value of goods and services were not taken into consideration.

When *Corpuz* did not permit the law to evolve by giving it a liberal interpretation, this created severe and mischievous consequences which placed the affected provisions of the RPC in conflict with the present Constitution.

In the seminal case of *Central Bank Employees Association v. Bangko Sentral ng Pilipinas*,¹⁰⁴ the doctrine of relative constitutionality was introduced.¹⁰⁵ In this case, the Court described it as follows — “A statute valid at one time may become void at another time because of *altered consequences*. Thus, if a statute in its practical operation becomes arbitrary or confiscatory, its validity, even though affirmed by a former adjudication, is open to inquiry and investigation in the light of *changed conditions*.”¹⁰⁶

In *Corpuz*, because of the changed conditions brought about by 84 years of economic inflation, the spirit behind the penalty provision in Article 315 (as well as other value-based crimes) was fossilized, so to speak. The legislative intent of maintaining proportionality by means of making the penalty for property crimes dependent on the amount the fraud never grew with the times. When *Corpuz* supported this, the law had become arbitrary and inimical to the provisions of the Constitution, particularly, Sections 1 and 19 of Article III thereof; to wit —

Section 1. No person shall be deprived of life, liberty, or property without due process of law, *nor shall any person be denied the equal protection of laws.*

...

Section 19. (1) Excessive fines shall not be imposed, *nor cruel, degrading[,] or inhuman punishment inflicted.* Neither shall [the] death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.¹⁰⁷

A. *Violates One’s Right to the Equal Protection of Laws*

One’s right to the equal protection of laws does not refer to an actual and symmetric equality. Rather, it still recognizes the power of Congress to classify based on factual differences between individuals and classes.¹⁰⁸ In

104. *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 446 SCRA 299 (2004).

105. *Id.* at 347-48.

106. *Id.*

107. PHIL. CONST. art. III, §§ 1 & 19 (1) (emphasis supplied).

108. BERNAS, *supra* note 4, at 139.

Tolentino v. Board of Accountancy,¹⁰⁹ it proclaimed that the guarantee of equal protection only means “that no person or class of persons shall be deprived of the same protection of the laws which is enjoyed by other persons or other classes in the same place and in like circumstances.”¹¹⁰ Thus, in determining the validity of the classification, the question to be asked in every “equal protection” problem is whether or not the classification made by law is reasonable.¹¹¹

Jurisprudence, likewise, provides that the guarantee of the equal protection of laws is not violated by a law which is based on a reasonable classification.¹¹² More importantly, *People v. Cayat*¹¹³ established that certain classifications are reasonable when all of the following requisites concur:

- (1) [The classification] must rest on substantial distinctions;
- (2) [The classification] must be germane to the purposes of the law;
- (3) [The classification] must not be limited to existing conditions only; and
- (4) [The classification] must apply equally to all members of the same class.¹¹⁴

Generally, the standards in *Cayat* used for equal-protection analysis are usually applied to determine the validity of classifications made by law. However, there is a view which posits that it may also be used to test the validity of the interpretation by a court, as in this case.¹¹⁵

1. Value-based Crimes and Non-value-based Crimes: Not Similarly Situated

In this regard, Dean Sedfrey M. Candelaria, acting as *amicus curiae*, opined that “a distinction must be made between *property-related crimes*[,] whose penalties are based on fixed amounts[,], and *non-property-related crimes*.”¹¹⁶ The former, which includes the crimes of *estafa*, robbery with force upon things, and theft, are crimes whose penalties are dependent on the value of the property misappropriated or stolen. Unlike the latter crimes, the values of the property subject to these property-related crimes are affected by external economic factors such as economic inflation.¹¹⁷ Therefore, property-related

109. *Tolentino v. Board of Accountancy*, 90 Phil. 83, 90 (1951).

110. BERNAS, *supra* note 4, at 139 (citing *Tolentino*, 90 Phil. at 90).

111. *Id.*

112. *People v. Cayat*, 68 Phil. 12, 18 (1939). See also Candelaria Comment, *supra* note 67, at 8-9.

113. *Cayat*, 68 Phil. at 12.

114. *Id.* at 18.

115. Candelaria Comment, *supra* note 67, at 9.

116. *Id.* at 9 (emphasis supplied).

117. *Id.*

crimes whose penalties are inextricably linked with the values of the property subject to the offense must be interpreted in such a way as to take into account the *present value* thereof. On the other hand, crimes whose penalties are in no way dependent on the values of the subject of the crime can be strictly construed without having to alter the spirit of the law. As the two classes of crimes stated above are not similarly situated, it was erroneous for the Court to give them the same interpretation with regard to the penalties impossible for the commission of such crimes.

2. Strict Interpretation of the Law: Not Uniformly Applicable to Future Conditions

Further, in connection with its applicability to present and future conditions, *Corpuz* clearly fails in this regard. Based on the Court's literal reading of Article 315, the values on which the penalties are based will no longer follow the ever-changing value of the Philippine peso due to economic inflation. This circumstance is almost similar to the case of *Ormoc Sugar Co., Inc. v. Treasurer of Ormoc City*,¹¹⁸ wherein an ordinance taxed by name the sugar produced by the only existing sugar central at that time.¹¹⁹ The Court, in *Ormoc Sugar Co.*, ruled that the ordinance was discriminatory and unreasonable since it was not applicable to future conditions, that is, the subsequent establishment of new sugar centrals in the area.¹²⁰ Likewise, the interpretation given by the Court to Article 315 in *Corpuz* similarly fails to make the law apply uniformly to future conditions.

In his dissenting opinion, Justice Abad further elucidated on this point by giving an example, showing how the majority's interpretation of the pertinent provisions of the RPC create a situation where heavier penalties are meted out year after year for the commission of exactly the same offense.¹²¹ To quote him, he illustrated that —

For instance, if the accused defrauds another of 79 *cavans* of rice in 1930-1949, then valued at only [P]1,422.00 ([P]18.00 per *cavan*), she would be imprisoned for [two] years and [four] months maximum. This would cause her pain[,] but tolerable pain. Yet, if another commits exactly the same fraud today when that 79 *cavans* of rice is now valued at [P]142,200.00 ([P]1,800.00 per *cavan*), she would be committed to prison for 20 years maximum. She would leave prison an old woman, irreversibly deprived of the company of her family for the greater part of her life. *This is a gross denial of her right to equal protection since the first offender got off after [two] years and [four] months whereas she got off after 20 years.*

118. *Ormoc Sugar Co., Inc. v. Treasurer of Ormoc City*, 22 SCRA 603 (1968).

119. *Id.* at 604.

120. *Id.* at 606.

121. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion).

Her 20-year prison term is of course enormous because the penalty for fraud amounting to [₱]22,000.00 is already [eight] years and [one] day maximum but, since the amount of her fraud ([₱]142,200.00) exceeds that figure, she would suffer additional incremental imprisonment of [one] year for every [₱]10,000.00 in excess of the [₱]22,000.00 for a total of 20 years.

This uneven treatment is true in Corpuz' [] case. The [₱]98,000.00 jewelry items subject of his offense would have a value of only [₱]980.00 in 1932. Consequently, had he committed his crime that year, he would have been imprisoned for only [two] years and [four] months maximum. But since he committed it 43 years later in 1991 when the jewelry items are now valued at [₱]98,000.00 due to inflation, he would be imprisoned for 15 years maximum — *the same crime, the same law, yet a shockingly higher penalty*. This result would undoubtedly deny Corpuz his constitutional right to equal protection of the law.¹²²

B. Proportionality and Cruel, Degrading, or Inhuman Punishment

Penalty is essentially the suffering inflicted by the State for those who transgress the law.¹²³ John Stuart Mill, one of the most celebrated philosophers in the 19th Century, exclaimed that “the test of justice in penal infliction is that the punishment should be proportioned to the [offense].”¹²⁴ On this score, a renowned scholar of Philippine Criminal Law also considered that penalties imposed must be commensurate with the offense.¹²⁵

In *Corpuz*, the penalties in the RPC for property crimes like *estafa* are based on the fixed values set by the Legislature almost a century ago. Due to the Court's refusal to interpret the law in relation to the present value, it resulted in the imposition of a penalty “shockingly higher” than what would have been imposed had the same crime under the same law been committed 84 years ago.¹²⁶ In particular, Corpuz was convicted of having misappropriated jewelry worth ₱98,000.00 in 1991.¹²⁷ The Court meted out a 15 year maximum prison sentence after it interpreted the law as worded.¹²⁸ Alternatively, had the Court adjusted the values to their present value

122. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion) (emphasis supplied). See also REVISED PENAL CODE, art. 315.

123. I REYES, *supra* note 2, at 601.

124. Headley, *supra* note 14, at 249 (citing JOHN STUART MILL, UTILITARIANISM 70 (1861)).

125. I REYES, *supra* note 2, at 601.

126. *Corpuz*, G.R. No. 180016 (J. Abad, dissenting opinion).

127. *Corpuz*, G.R. No. 180016.

128. *Id.* See REVISED PENAL CODE, art. 315, ¶ 1.

(~~₱~~80.00), the maximum imposable penalty of imprisonment would merely be two years and four months.¹²⁹

In light of the foregoing, the Author posits that *Corpuz's* interpretation and application of the law runs contrary, not only to the principle of proportionality that is expected from penal laws,¹³⁰ but also to the constitutional mandate against the imposition of cruel, degrading, or inhuman punishment.¹³¹

1. Tracing the History of Proportionality *Vis-à-vis* the Cruel and Inhuman Punishment Clause

Noteworthy is the fact that said constitutional mandate traces its historical roots from the English Bill of Rights of 1689 (English Bill).¹³² It read, “[that] [e]xcessive bail [ought] not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted[.]”¹³³ It was enacted “to prevent judges from imposing sentences outside of the range permitted by Parliament.”¹³⁴ Also, the guarantee of proportionality between the penalties of the offense had not yet been contemplated at the time the English Bill was passed.¹³⁵

The pertinent provision in the English Bill was transplanted to the newly-formed United States of America through the Eighth Amendment whose Cruel and Unusual Punishment Clause reads, “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.”¹³⁶ Because the words of the English Bill were significantly adopted by the Eighth Amendment, the same can be said of the latter that neither intended to include the guarantee of proportionality.

129. See REVISED PENAL CODE, art. 315, ¶ 3.

130. See 1 REYES, *supra* note 2, at 601.

131. PHIL. CONST. art. III, § 19 (1).

132. William Hughes Mulligan, *Cruel and Unusual Punishments: The Proportionality Rule*, 47 FORDHAM L. REV. 639, 640 (1979). See also *An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown*, English Bill of Rights (1689).

133. *Id.* at 639.

134. Stephen T. Parr, *Symmetric Proportionality: A New Perspective on the Cruel and Unusual Punishment Clause*, 68 TENN. L. REV. 41, 42 (2000). Parliament is the branch of the United Kingdom's Government responsible for debating and passing laws. U.K. Parliament Website, Making laws, available at <http://www.parliament.uk/about/how/laws/> (last accessed July 12, 2014).

135. Parr, *supra* note 134, at 42.

136. U.S. CONST. amend. VIII.

However, that all changed in 1910 when, in *Weems v. United States*,¹³⁷ the United States Supreme Court recognized in the Eighth Amendment the necessity of the proportionality in the application of penal laws in this wise

With power in a [L]egislature great, if not unlimited, to give criminal character to the actions of men, with power to fix terms of imprisonment with what accompaniments they might, *what more potent instrument of cruelty could be put into the hands of power?* And it was believed that power might be tempted to cruelty. ... We cannot think that the possibility of a coercive cruelty being exercised through other forms of punishment was overlooked. We say 'coercive cruelty,' because there was more to be considered than the ordinary criminal laws. *Cruelty might become an instrument of tyranny; of zeal for a purpose, either honest or sinister.*¹³⁸

Basically, the Court acknowledged the importance of proportionality as a means to deter the Legislature from abusing its power in determining crimes and punishments, that is, it cannot just assign disproportionate punishments.¹³⁹

2. Eighth Amendment in the Philippine Setting

The Cruel and Unusual Punishment Clause was given a Philippine counterpart upon the ratification of the 1935 Constitution, wherein it stated that, "[e]xcessive fines shall not be imposed, nor cruel and unusual punishment[,] inflicted."¹⁴⁰ When said clause became part of the Philippines' organic law, the guarantee of proportionality between the penalty and the offense as enunciated in *Weems* also followed.

Thereafter, in the 1973 Constitution, the phrase "cruel and unusual" was changed to "cruel or unusual punishment[.]"¹⁴¹ However, during the 1986 Constitutional Commission, the 1973 version was understood to be an obstacle or hindrance to experimentation in penology.¹⁴² This was derived from the wording of the 1973 Constitution which can be interpreted to mean that, even though a punishment is not considered as "cruel," it can still be stricken down for being an "unusual" one.¹⁴³ As a result, it was modified

137. *Weems v. U.S.*, 217 U.S. 349 (1910).

138. *Id.* at 372-73 (emphasis supplied).

139. Headley, *supra* note 14, at 252.

140. 1935 PHIL. CONST. art. III, § 1 (19) (superseded 1973).

141. BERNAS, *supra* note 4, at 569. *See also* 1973 PHIL. CONST. art IV, § 21 (superseded 1987) (emphasis supplied).

142. BERNAS, *supra* note 4, at 569.

143. *Id.*

to its current state which prohibits “cruel, degrading, or inhuman punishment.”¹⁴⁴

3. Obstacles in Mounting a Constitutional Challenge

As it stands, it is not easy for a law to be considered obnoxious to the Constitution based on the ground that it violates the prohibition against cruel, degrading, or inhuman punishments. Despite this difficulty, the Author is convinced that the circumstances in *Corpuz* as enunciated above fall under the constitutional ban.

The first obstacle was explained in *People v. Estoista*.¹⁴⁵ In said case, it was held that for a particular punishment to come under the prohibition, said punishment must be flagrantly and plainly oppressive and wholly disproportionate to the nature of the offense as to shock the moral sense of the community.¹⁴⁶

As regards this obstacle, the interpretation by the Court in *Corpuz* left an impression that there is a glaring disproportion between the penalty of 15 years imprisonment for the misappropriation of property amounting to ₱98,000.00 and other felonies in the RPC whose penalties are equivalent to what the Court imposed against *Corpuz*.

To further highlight this shockingly disproportionate punishment, 15 years of imprisonment is equivalent to *reclusion temporal* in its medium period.¹⁴⁷ Under the RPC, some examples of felonies whose punishment is in the level of *reclusion temporal* are as follows: (a) the person merely participating or executing the commands of others in a rebellion or insurrection;¹⁴⁸ (b) those private persons who support, finance, abet, or aid in undertaking a *coup d’etat*;¹⁴⁹ (c) those counterfeiting the great seal of the Government;¹⁵⁰ (d) those who falsely testify against a defendant and results in the defendant being sentenced to death;¹⁵¹ (e) those malversing public funds and property where the amount is more than ₱12,000.00 but less than ₱22,000.00;¹⁵² (f) homicide;¹⁵³ and (g) slight illegal detention.¹⁵⁴

144. PHIL. CONST. art. III, § 19 (1).

145. *People v. Estoista*, 93 Phil. 647 (1973).

146. *Id.* at 655.

147. *See* REVISED PENAL CODE, art. 76.

148. *Id.* arts. 134 & 135.

149. *Id.* arts. 134-A & 135.

150. *Id.* art. 161.

151. *Id.* art. 180 (1).

152. *Id.* 217 (4).

153. REVISED PENAL CODE, art. 249.

After closely looking at the character of the enumerated felonies punishable by *reclusion temporal*, it clearly shows that either these felonies are greatly inimical to public safety and order or that they impinge on the inherent dignity of individuals. These felonies are obviously just not in the same league as the crime of misappropriating property amounting to ₱98,000.00.

To further point out the disparity, the following felonies, albeit directly affecting public order and interest, were given by the Philippine Legislature penalties less severe than what was imposed against Corpuz: (a) conspiracy to commit *coup d'etat*, rebellion, or insurrection (Article 136); (b) inciting to rebellion or insurrection (Article 138); (c) sedition (Article 140); (d) direct and indirect assaults (Articles 148 & 149); (e) falsifications (Articles 172-176); (f) direct bribery (Article 210); and (g) serious physical injuries (Article 263).¹⁵⁵

These felonies are evidently graver than that committed by Corpuz, yet the lawmakers, in their wisdom, opted not to impose penalties higher than what was imposed against him. Based on the foregoing, it can reasonably be concluded that the punishment meted out in *Corpuz* is ridiculously excessive and, thus, conforms to the standards established by *Estoista*, thereby placing it squarely within the constitutional ban against cruel, inhuman, or degrading punishments.

The next obstacle to hurdle would be Article 5 of the RPC. This provision commands the courts not to suspend the execution of a sentence even when its strict application would result in the imposition of a clearly excessive penalty.¹⁵⁶ In addition, the same provision impels the court to submit to the President, through the DOJ, a report recommending it to be subjected to executive clemency.¹⁵⁷

With this in mind, it seems that Article 5 of the RPC has the effect of neutralizing the constitutional ban against cruel, inhuman, or human punishments. This view comes from the fact that, although there is a positive finding by a court that a punishment is excessive and, therefore, falls within the ambit of the constitutional ban, Article 5 commands the court to continue imposing the excessive penalty provided by law.¹⁵⁸

On this, Professor Tadiar, acting as *amicus curiae*, observes that Article 5 of the RPC “clearly shows the subservience of the [J]udiciary to the

154. *Id.* art. 268.

155. Except those committed against relatives enumerated in Article 246 or those committed where any of the attending circumstances in Article 248 are present.

156. REVISED PENAL CODE, art. 5.

157. *Id.* See also 1 REYES, *supra* note 2, at 90-95.

158. BERNAS, *supra* note 4, at 572-73.

Executive branch and its lack of independence. It violates the bedrock principle of a democratic and republican government that its three branches are co-equal and independent of each other, as well as the principle of checks and balances.”¹⁵⁹ Moreover, since the RPC predates the 1987 Constitution by 55 years,¹⁶⁰ Article 5 must necessarily yield in favor of the ban on cruel, degrading, or inhuman punishment.

V. CONCLUSION

Our liberty [] is endangered if we pause for the passing moment, if we rest on our achievements, if we resist the pace of progress. For time and the world do not stand still. Change is the law of life. And those who look only to the past or the present are certain to miss the future.

— John F. Kennedy¹⁶¹

It is regrettable that *Corpuz* had to be decided the way it did. According to jurisprudence, it is the duty of the Court “to interpret the law and apply it to breathe life to its language and give expression to its spirit in the context of real facts.”¹⁶² This, the Court refused to do. Nevertheless, this Author is optimistic that this question will, in the near future, be brought again before the highest court of the land. By then, the Author is hopeful that it will no longer turn a blind eye against the changes brought by the passage of time for “[b]roadmindedness and vision are essential for men presiding over tribunals to reach correct and just conclusions.”¹⁶³

Until then, “[t]his injustice and inhumanity will go on as it has gone on for decades unless the Court acts to rein it in.”¹⁶⁴

159. Alfredo F. Tadiar, Comment G.R. No. 180016 (On the Petition for Review on Certiorari dated November 5, 2007) (Submitted to the Supreme Court of the Philippines, as *Amicus Curiae* in the case of *Corpuz v. People*, G.R. No. 180016, Sep. 30, 2013) 14, available at <http://sc.judiciary.gov.ph/microsite/corpuz/180016-osg-comment.pdf> (last accessed July 12, 2014).

160. The RPC became effective on January 1, 1932 while the 1987 Constitution took effect on February 2, 1987.

161. John F. Kennedy, 35th President of the United States, Address in the Assembly Hall at Paulskirche in Frankfurt (June 25, 1963) (transcript available at <http://www.presidency.ucsb.edu/ws/?pid=9303> (last accessed July 12, 2014)).

162. *Tecson v. Commission on Elections*, 424 SCRA 277, 441 (2004) (J. Carpio-Morales, dissenting opinion).

163. *Ocampo Vda. de Gomez*, 76 Phil. at 226 (J. Perfecto, concurring opinion).

164. *Corpuz*, G.R. No. 180016, at 9 (J. Abad, dissenting opinion).