

# The Proposed Philippine Code of Crimes (Book One): Salient Features and Comparison with the Revised Penal Code and the Spanish Penal Code

*Redbert Chris T. Maines\**

*Karina Mae P. Garcia\*\**

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## I. INTRODUCTION

The Revised Penal Code is the primary source of Philippine Criminal Law. In force since 1932,<sup>1</sup> it has been in effect for over nine decades and has not

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\* '20 LL.B., University of the Philippines College of Law. The Author is currently serving as Chief Political Affairs Officer at the Office of Deputy Speaker Pablo John F. Garcia in the House of Representatives.

\*\* '18 LL.B., University of the Philippines College of Law. The Author is currently serving as Court Attorney VI at the Office of Associate Justice Ramon Paul L. Hernando, Supreme Court of the Philippines.

The views expressed in this article are those of the Authors only and do not reflect the views of the institutions represented.

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1. See Jose A. Javier, *A Short Study of the Philippine Revised Penal Code*, 14 PHIL. L.J. 161, 161 (1934).

since been overhauled. Although amendments have been introduced to some of its provisions, there is a view that the Revised Penal Code needs to be reformed as it “contains antiquated provisions and deals with crimes that are now irrelevant to and fails to address current situations.”<sup>2</sup> Hence, in the past two decades, efforts have been made in Congress to replace the Revised Penal Code with one that is “updated, modern, simplified, responsive, and truly Filipino.”<sup>3</sup> These efforts recently culminated in the drafting of the proposed Philippine Code of Crimes (Code of Crimes or Code),<sup>4</sup> which is currently pending in the House of Representatives in the form of House Bill No. 7140.<sup>5</sup>

This Article aims to examine the salient features of the proposed Code of Crimes, and to compare them with the relevant provisions of the Revised Penal Code and the Spanish Penal Code. The analysis is limited only to Book One, and the reference to the Spanish Penal Code pertains to the Spanish

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2. An Act Instituting the Philippine Code of Crimes to Further Strengthen the Criminal Justice System, Repealing for the Purpose Book One of Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code of the Philippines and Other Special Laws on Crimes, H.B. No. 2300, explan. n., 16th Cong., 1st Reg. Sess. (2013).
  3. *Id.* See An Act Instituting the Code of Crimes to Further Strengthen the Criminal Justice System, Repealing for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code of the Philippines and Other Special Penal Laws, H.B. No. 6204, 17th Cong., 2d Reg. Sess. (2017) & An Act to Ordain and Institute a New Criminal Code of the Philippines, Repealing for That Purpose Act No. 3815, Otherwise Known as the Revised Penal Code, and Other Related Laws, and for Other Purposes, S.B. No. 1227, 17th Cong., 1st Reg. Sess. (2016).
  4. Code of Crimes Culminating Activity Presentation by Justice Edilberto G. Sandoval, Code of Crimes Committee Chairman, *The Proposed Code of Crimes of the Philippines* (Jan. 25, 2023) (on file with Authors). (The Code of Crimes was turned over by the Committee headed by Justice Edilberto G. Sandoval, with Chief Justice Diosdado M. Peralta, Associate Justice Mario V. Lopez, Justice Rodolfo A. Ponferrada, Justice Rodolfo G. Palattao, Special Prosecutor Dennis M. Villa-Ignacio, Professor Hector Danny L. Uy, Professor Bartolome S. Carale, Professor Ma. Gisella N. Dizon-Reyes, Professor Theodore O. Te, Professor Dan P. Calica, and Professor Linda L. Malenab-Hornilla as members.)
  5. An Act Amending Act No. 3815 or An Act Revising the Penal Code and Other Penal Laws, and for Other Purposes, H.B. No. 7140, 19th Cong., 1st Reg. Sess. (2023).

legislation as it currently stands, translated and published by Spain's *Ministerio de Justicia* in 2016.<sup>6</sup>

*A. Overview of the Revised Penal Code and the Spanish Penal Code*

The Revised Penal Code was enacted on 8 December 1930.<sup>7</sup> Prior thereto, it was the Old Penal Code that was in effect in the country.<sup>8</sup> The Old Penal Code was substantially lifted from the Penal Code of Spain of 1870, with minor changes to suit local conditions.<sup>9</sup> As a product of the Penal Code of Spain, the Revised Penal Code is based on the principles of the classical school, although many positivistic provisions have since been incorporated.<sup>10</sup> Like the Spanish Penal Code, the Revised Penal Code is divided into two Books: Book One, which contains the general provisions on the date of enforcement and its application, the offenses, the persons liable, and the penalties,<sup>11</sup> and Book Two, which contains the specific crimes and their corresponding penalties.<sup>12</sup> Although many provisions of the Revised Penal Code have since been amended, it remains as the repository of general penal laws in the country.

In comparison, the Penal Code currently in force in Spain was enacted only in 1995,<sup>13</sup> last amended in 2015.<sup>14</sup> Before this, there were a number of different versions in effect at different periods — a product of Spain's rapidly changing social environment.<sup>15</sup>

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6. Criminal Code [CÓDIGO PENAL], Organic Act No. 10/1995 (1995) (Spain) (as amended).
  7. LUIS B. REYES, *THE REVISED PENAL CODE: CRIMINAL LAW BOOK ONE* 30 (2021).
  8. Javier, *supra* note 1, at 161.
  9. *Id.*
  10. *Id.* at 164.
  11. *See generally* An Act Revising the Penal Code and Other Penal Laws [REV. PENAL CODE], Act No. 3185, bk. I (1935) (as amended).
  12. *See generally* REV. PENAL CODE, bk. II.
  13. Luis E. Chiesa & Carlos Gómez-Jara, *Spain*, in *THE HANDBOOK OF COMPARATIVE CRIMINAL LAW* 489 (Kevin John Heller & Markus D. Dubber eds., 2010).
  14. Organic Law No. 1/2015 of March 30, Which Modifies Organic Law No. 10/1995, of November 23, 1995 of the Penal Code, Organic Law No. 1/2015 (2015) (Spain) (unofficial English translation).
  15. Chiesa & Gómez-Jara, *supra* note 13, at 4.

It is important to note that both the Revised Penal Code and the Spanish Penal Code are not the only sources of criminal law in the Philippines and Spain, respectively.<sup>16</sup> In the Philippines, there are several penal laws considered as major sources of criminal law, which are not codified into the Revised Penal Code. To name a few, these are Republic Act No. 11479 or The Anti-Terrorism Act of 2020,<sup>17</sup> Republic Act No. 10175 or the Cybercrime Prevention Act of 2012,<sup>18</sup> Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004,<sup>19</sup> and Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.<sup>20</sup> In Spain, while most criminal legislation are found in the Spanish Penal Code, a few criminal provisions are contained in specific statutes like the *Ley Penal y Procesal de la Navegacion Aerea* or the Substantive and Procedural Criminal Law Regulating Air Navigation,<sup>21</sup> *Ley Organica de Represion del Contrabando* or the Smuggling Repression Act,<sup>22</sup> and *Ley del Regimen Electoral General* or the General Electoral System Act.<sup>23</sup>

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16. REYES, *supra* note 7, at 1 & Chiesa & Gómez-Jara, *supra* note 13, at 489.

17. An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as the “Human Security Act of 2007” [The Anti-Terrorism Act of 2020], Republic Act No. 11479 (2020).

18. An Act Defining Cybercrime, Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties Therefor and for Other Purposes [Cybercrime Prevention Act of 2012], Republic Act No. 10175 (2012).

19. An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes [Anti-Violence Against Women and Their Children Act of 2004], Republic Act No. 9262 (2004).

20. 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).

21. Law 209/1964, of December 24, Criminal and Procedural Law of Air Navigation [Substantive and Procedural Criminal Law Regulating Air Navigation], Law No. 209/1964 (1964) (Spain) (unofficial English translation).

22. Organic Law 12/1995, of December 12, on the Repression of Smuggling [Smuggling Repression Act], Organic Law No. 12/1995 (1995) (Spain) (unofficial English translation).

23. Organic Law 5/1985, of June 19, of the General Electoral Regime [General Electoral System Act], Organic Law No. 5/1985 (1985) (Spain) (unofficial English translation) & *see* Chiesa & Gómez-Jara, *supra* note 13, at 489.

*B. Amendments to the Revised Penal Code*

Since its enactment in 1930, several provisions of the Revised Penal Code have been superseded or amended. In 1936, the rules for graduating penalties were adjusted through Commonwealth Act No. 217.<sup>24</sup> In 1966, the prescriptive period for libel and other similar offenses was shortened from two years to one.<sup>25</sup> In 1993, the duration of *reclusion perpetua* was revised from the original 30 years to 20 years and one day to 40 years.<sup>26</sup> In 2006, the provisions on minority were deemed repealed and replaced by Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006.<sup>27</sup> In the same year, the provisions on death penalty were rendered inoperative by Republic Act No. 9346.<sup>28</sup>

In 2013, Articles 29, 94, 97, 98, and 99 of the Revised Penal Code were amended to reform the good conduct time allowance system.<sup>29</sup> In 2017, the amount or value of property and damage on which a penalty is based was adjusted through Republic Act No. 10951.<sup>30</sup> Finally, in 2019, courts were authorized by Republic Act No. 11362 or the Community Service Act to require community service in lieu of service in jail for offenses punishable by *arresto menor* and *arresto mayor*.<sup>31</sup>

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24. An Act to Amend Article Sixty-One, Seventy, and Seventy-One of the Revised Penal Code, Commonwealth Act No. 217, § 1 (1936).
  25. An Act Shortening the Prescriptive Period for Libel and Other Similar Offenses, Amending for the Purpose Article Ninety of the Revised Penal Code, Republic Act No. 4661, § 1 (1966).
  26. An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes, Republic Act No. 7659, § 21 (1993).
  27. See REYES, *supra* note 7, at 238.
  28. An Act Prohibiting the Imposition of the Death Penalty in the Philippines, Republic Act No. 9346, § 1 (2006).
  29. An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code, Republic Act No. 10592, § 3 (2013).
  30. An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Republic Act No. 10951, §§ 1-2 (2017).
  31. An Act Authorizing the Court to Require Community Service in Lieu of Imprisonment for the Penalties of Arresto Menor and Arresto Mayor, Amending for the Purpose Chapter 5, Title 3, Book I of Act No. 3815, as Amended,

*C. Efforts to Overhaul the Revised Penal Code*

Contemporary efforts to overhaul the Revised Penal Code began in 2011 when the Department of Justice, upon instructions of then President Benigno Aquino III, constituted an inter-agency Criminal Code Committee.<sup>32</sup> The Committee produced a draft of the Criminal Code of the Philippines, later filed as House Bill No. 2300<sup>33</sup> by Representative Niel Tupas, Jr., entitled *An Act Instituting the Philippine Code of Crimes to Further Strengthen the Criminal Justice System, Repealing for the Purpose Book One of Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code of the Philippines and other Special Laws on Crimes*.<sup>34</sup>

In the Explanatory Note, Representative Niel C. Tupas, Jr. noted that the Revised Penal Code is replete with outdated provisions and deals with crimes that are not relevant to the modern times. He cited “challenging to a duel” and “qualified theft of coconuts” as examples of archaic crimes that are still found in the Revised Penal Code.<sup>35</sup> He also noted the difficulty in keeping track of special penal laws in the country.<sup>36</sup> For him, these reasons necessitated the legislation of a new criminal code that is “updated, modern, simplified, responsive, and truly Filipino.”<sup>37</sup>

House Bill No. 2300 proposed significant changes to the Revised Penal Code, such as the simplification of the stages of crimes in that there is no longer a frustrated stage in the commission thereof, nor an accomplice as a participant thereto;<sup>38</sup> the lowering of the minimum age of criminal liability to 13 years of age;<sup>39</sup> the replacement of the Latin and Spanish terms found in our penalty system;<sup>40</sup> and the integration of the provisions on prescription of crime

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Otherwise Known as the “Revised Penal Code” [Community Service Act], Republic Act No. 11362, § 3 (2019).

32. Department of Justice, Criminal Code Committee, *available at* <https://www.doj.gov.ph/criminal-code-committee.html> (last accessed July 31, 2023).

33. H.B. No. 2300, 16th Cong., 1st Reg. Sess. (2013).

34. *Id.*

35. *Id.* explan. n.

36. *Id.*

37. *Id.*

38. *Id.* §§ 6-7.

39. H.B. No. 2300, § 8 (1).

40. *Id.* §§ 6-7.

and prescription of penalty, among others.<sup>41</sup> Unfortunately, the Bill was not acted upon by the 16th Congress.

Later on, the Department of Justice released a draft of Book Two of the proposed Code of Crimes.<sup>42</sup> The draft found its way to the Senate in 2016 through Senate Bill No. 1277<sup>43</sup> filed by then Senator Leila M. de Lima. Sen. de Lima noted in the Explanatory Note that the proposed legislative measure does not only update and codify the current penal laws of the country but also incorporates the best international criminal law processes.<sup>44</sup> However, like House Bill No. 2300, Senate Bill No. 1277 was not passed by Congress.

Thereafter, the University of the Philippines (UP) Law Center released a new draft of Book One of the Code of Crimes. This draft later became House Bill No. 6204,<sup>45</sup> entitled *An Act Instituting the Philippine Code of Crimes to Further Strengthen the Criminal Justice System, Repealing for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code of the Philippines and Other Special Penal Laws*.<sup>46</sup> The Bill was filed by Representatives Pantaleon D. Alvarez, Rodolfo C. Fariñas, Reynaldo V. Umali, Marlyn L. Primitias-Agabas, and Ramon V.A. Rocamora.<sup>47</sup> House Bill No. 6204 echoed the same reason for revising the current Revised Penal Code — some provisions have already become outdated by technological advances and by the increasing complexities of society.<sup>48</sup>

In 2023, efforts to overhaul the Revised Penal Code were revived after the UP Institute of Government and Law Reform's Code of Crimes Revision Committee officially turned over a new draft of the Code of Crimes to Congress which was represented by House Speaker Ferdinand G. Romualdez and House Committee on Justice Chairperson Juliet Marie D.L. Ferrer.<sup>49</sup> The

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41. *Id.* § 16.

42. Department of Justice, Draft of the Criminal Code of the Philippines, *available at* [https://www.doj.gov.ph/files/ccc/Criminal\\_Code\\_September-2014\(draft\).pdf](https://www.doj.gov.ph/files/ccc/Criminal_Code_September-2014(draft).pdf) (last accessed July 31, 2023).

43. S.B. No. 1227, 17th Cong., 1st Reg. Sess. (2016).

44. *Id.* explan. n.

45. H.B. No. 6204, 17th Cong., 2d Reg. Sess. (2017).

46. *Id.*

47. *Id.*

48. *Id.* explan. n.

49. University of the Philippines College of Law, Code of Crimes Culminating Activity, *available at* <https://law.upd.edu.ph/code-of-crimes-culminating-activity> (last accessed July 31, 2023) [<https://perma.cc/2AL9-VRQ2>].

Code was produced under the direction of Chairperson Chief Justice Diosdado M. Peralta from 2014 to 2016 and Chairperson Justice Edilberto G. Sandoval from 2016 onwards, with Associate Justice Mario V. Lopez, Justice Rodolfo A. Ponferrada, Justice Rodolfo G. Palattao, Special Prosecutor Dennis M. Villa-Ignacio, Professor Hector Danny Uy, Professor Bartolome S. Carale, Professor Ma. Gisella N. Dizon-Reyes, Professor Theodore O. Te, Professor Dan P. Calica, and Professor Linda Malenab-Hornilla as members.<sup>50</sup> It is this proposed Code of Crimes that is the subject of this Article.

## II. SALIENT FEATURES OF THE PROPOSED CODE OF CRIMES — BOOK ONE

### A. General Structure

Preliminarily, the Code of Crimes retains the original structure of the Revised Penal Code. Book One still deals with the general provisions on the application of the Code, the offenses, the persons liable, and the table of penalties. Further, the original titles in the Revised Penal Code are retained.

True to its mandate to simplify the current code, Book One of the Code of Crimes is composed of 80 articles only, short of more than 20 articles from the Revised Penal Code. The changes come from the integration of several related provisions and the deletion of others. These changes will be discussed in more detail below.

### B. Provisions

#### 1. Preliminary Title and Application of Provisions

The first notable feature of the Code of Crimes is its explicit application to juridical persons. Article 2 specifies that the Code shall apply to “all persons, natural or juridical.”<sup>51</sup> This deviates from the current accepted view that the Revised Penal Code applies to natural persons only, the reasons being thus —

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50. Sandoval, *supra* note 4 (on file with Authors). See generally Department of Justice, Criminal Code Committee, available at <https://www.doj.gov.ph/criminal-code-committee.html> (last accessed July 31, 2023).

51. An Act Amending Act No. 3815 or an Act Revising the Penal Code and Other Penal Laws, and for Other Purposes, H.B. No. 7140, art. 2, 19th Cong., 1st Reg. Sess. (2023).



Only a natural person can be the offender because[:]

- (1) The Revised Penal Code requires that the culprit should have acted with *personal malice* or *negligence*. An artificial or *juridical* person cannot act with such malice or negligence.
- (2) A juridical person, like a corporation, cannot commit a crime in which a willful purpose or a malicious intent is required.
- (3) There is a substitution of *deprivation of liberty* (subsidiary imprisonment) for pecuniary penalties in case of insolvency of the accused.
- (4) Other penalties consisting in imprisonment and other deprivation of liberty, like *destierro*, can be executed only against individuals.<sup>52</sup>

Indeed, through the years, criminal law has evolved to recognize that juridical persons may also incur criminal liability. This recognition is sourced from legislation, particularly Batas Pambansa Blg. 68 or the Old Corporation Code,<sup>53</sup> which has been replaced by Republic Act No. 11232 or the Revised Corporation Code.<sup>54</sup> Other special laws that recognize corporate criminal liability are Republic Act No. 8799 or The Securities Regulation Code,<sup>55</sup> which criminally holds corporations liable for securities-related violations.<sup>56</sup> Similarly, Republic Act No. 9160 or the Anti-Money Laundering Act of 2001<sup>57</sup> holds juridical persons liable for money laundering offenses.<sup>58</sup>

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52. REYES, *supra* note 7, at 507-08 (citing *West Coast Life Insurance, Co. v. Hurd*, 27 Phil. 401, 407-08 (1914)).

53. The Corporation Code of the Philippines [CORP. CODE], Batas Pambansa Blg. 68, § 144 (1980) (repealed in 2019).

54. *See* An Act Providing for the Revised Corporation Code of the Philippines [REV. CORP. CODE], Republic Act No. 11232, §§ 165-167 & 170 (2019). R.A. No. 11232 is currently the primary law that governs the rights, duties, and liabilities of corporations in the Philippines.

55. The Securities Regulation Code [SEC. REG. CODE], Republic Act No. 8799 (2000).

56. *See id.* § 73.

57. An Act Defining the Crime of Money Laundering, Providing Penalties Therefor and for Other Purposes [Anti-Money Laundering Act of 2001], Republic Act No. 9160 (2001).

58. *See id.* § 3 (a).

With the expansion of the Code of Crime's application, specific provisions applicable to juridical persons are introduced. For instance, in the rule governing participants to the crime, it is expressly provided that juridical persons may be principals, accomplices, and accessories.<sup>59</sup> Further, in the modes of extinguishment of criminal liability, a separate list for juridical persons is added.<sup>60</sup>

The trend to recognize the criminal liability of corporations is not unique to the Philippines. In Spain, although corporate criminal liability was not originally contemplated, the Organic Law 5/2010 of 22 June 2010 introduced the concept of corporate criminal liability in the Spanish Penal Code.<sup>61</sup> Hence, legal persons may now be held criminally liable —

Article 31 *bis*

(1) In the cases foreseen in this Code, legal persons shall be held criminally liable for:

- (a) The criminal offen[s]es committed in their name or on their behalf, and to their direct or indirect benefit, by its legal representatives or those that acting either individually or as members of a body of the legal person authorized to take decisions in the name of the legal person or that possess organization and control powers over such legal person.
- (b) Legal persons shall be criminally liable for the criminal offen[s]es committed when carrying out their corporate activities and on their account and to their direct or indirect benefit, by those who, being subject to the authority of the natural persons mentioned in the preceding [p]aragraph, were able to perpetrate the deeds because the duties of supervision, surveillance[,] and control of their activities were gravely breached by the natural persons mentioned in the preceding [p]aragraph, in view of the specific circumstances of the case.<sup>62</sup>

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59. H.B. No. 7140, art. 14.

60. *Id.* art. 60 (8).

61. Cecilia Pastor, Corporate Liability in Spain, *available at* <https://www.globalcompliancenews.com/white-collar-crime/corporate-liability-in-spain> (last accessed July 31, 2023) [<https://perma.cc/44N9-APQU>] (citing Organic Law No. 5/2010 of June 22, 2010, on Amendments to the Penal Code, also Called Organic Law No. 10, 1995 of November 23, 1995, Organic Law No. 5/2010 (2010) (Spain) (unofficial English translation)).

62. CÒDIGO PENAL, art. 31 *bis* (1). This is a translated version of the Spanish text provision.

Compared to the Code of Crimes, the Spanish Penal Code provides for more comprehensive rules on criminal liability of legal persons. For instance, there are specific penalties applicable to legal persons, e.g., fine, dissolution, suspension of activities, closure of premises, etc.,<sup>63</sup> unlike the Code of Crimes which does not specifically provide for the same. Considering that the Code of Crimes has not yet been passed in Congress and thus improvements may still be introduced, and considering further that one of the reasons why the Revised Penal Code is considered applicable to natural persons only is the view that penalties like imprisonment cannot be served on juridical persons,<sup>64</sup> it may do well to include a similar provision.

## 2. Title One: Crimes and Circumstances Which Affect Criminal Liability

### *a. Definition*

The Code of Crimes simplifies and replaces the Latin and Spanish terms used in the Revised Penal Code. Foremost is the word “felony,” replaced with “crime.”<sup>65</sup> A crime is defined as conduct “defined and penalized under [the] Code or Special Penal Laws, committed with malice or with fault,”<sup>66</sup> which is substantially the same definition as a felony, but with the terms *dolo* and *culpa* replaced with malice and fault, respectively.<sup>67</sup> The change is consistent with the goal to modernize the provisions of the Revised Penal Code.

### *b. Impossible Crimes*

The Code also introduces changes to the Revised Penal Code provision on how criminal liability is incurred. Presently, one of the ways in which criminal liability may be incurred is through the commission of an impossible crime, “an act which would be an *offense against persons or property*, were it not for the inherent impossibility of its accomplishment or on account of the employment of inadequate or ineffectual means.”<sup>68</sup> Under the Code of Crimes, however, the phrase “which would be an offense against persons or property” is deleted and replaced with “which would constitute a grave or less grave crime.”<sup>69</sup> This substantially expands the scope of covered crimes from the limited crimes

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63. *Id.* art. 33 (7).

64. *See* REYES, *supra* note 7, at 508.

65. H.B. No. 7140, art. 3, para. 1.

66. *Id.*

67. *Compare* H.B. No. 7140, art. 3, *with* REV. PENAL CODE, art. 3.

68. REV. PENAL CODE, art. 4 (2).

69. H.B. No. 7140, art. 4 (2).

against persons and against property, to all the other types of crimes, including those that are against national security and the law of the nations, against public order and public interest, against public morals, against personal liberty and security, and many others.

In Spain, criminal law generally does not punish “impossible attempts.”<sup>70</sup> Thus, the Spanish Penal Code states that “[a]n essential error related to the event constituting the offense shall preclude criminal accountability.”<sup>71</sup> Instead, if the error could have been avoided, the same may be punishable for negligence.<sup>72</sup>

*c. Stages of a Crime*

The Code of Crimes retains the three stages of crimes provided in the Revised Penal Code: consummated, frustrated, and attempted.<sup>73</sup> However, the Code expressly indicates that consummated, frustrated, and attempted crimes are punishable “unless otherwise provided by law,”<sup>74</sup> a description that is not found in the original provision. Presumably, the addition is meant to accommodate crimes that provide for specific stages of execution, such as formal crimes which are consummated instantly, like slander and false testimony.<sup>75</sup>

Under the Spanish Penal Code, there are only two listed stages of crime: consummated and attempted.<sup>76</sup> However, attempted crimes appear to contemplate both attempted and frustrated crimes (as understood in Philippine jurisdiction) considering that the Spanish Penal Code defines attempted crimes as “[taking place] when a person begins to perpetrate an offen[s]e by direct action, perpetrating *all* or part of the acts that objectively should produce the intended result, and notwithstanding this, such is not attained due to causes beyond the control of the [principal].”<sup>77</sup> This is similar to the Revised Penal Code’s definition of a frustrated crime, i.e., “when the offender performs all the acts of execution which would produce the felony as a consequence but

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70. Chiesa & Gómez-Jara, *supra* note 13, at 503. The phrase is used to describe “circumstances where it is impossible to consummate the offense.” *Id.*

71. CÒDIGO PENAL, art. 14 (1).

72. *Id.*

73. H.B. No. 7140, art. 5.

74. *Id.* para. 1.

75. See REYES, *supra* note 7, at 127.

76. CÒDIGO PENAL, art. 15.

77. *Id.* art. 16 (1) (emphasis supplied).

which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.”<sup>78</sup>

*d. Light Offenses*

Under the Revised Penal Code, light felonies are punishable only when they are consummated, with the exception of those committed against persons or property, which are punishable even when attempted or frustrated.<sup>79</sup> However, the exception is deleted in the Code of Crimes; thus, light crimes are punishable only when they are consummated.<sup>80</sup> This means that frustrated or attempted light crimes would no longer be punishable.

*e. Conspiracy and Proposal to Commit a Crime*

In the Revised Penal Code and the Spanish Penal Code, conspiracy and proposal to commit a felony are both subsumed in one article, defining both acts and providing for when they are punishable, i.e., only when a special law provides a penalty therefor.<sup>81</sup> In the Code of Crimes, the separate provision on conspiracy is transferred to the provision defining principals, making conspiracy the fourth manner in which a person becomes a principal.<sup>82</sup> This is one of the instances where the Code of Crimes transferred a separate Revised Penal Code provision to a related rule.

Meanwhile, there is no longer any provision on proposal to commit a crime in Book One of the Code of Crimes. To the Authors of this Article, this is an acceptable change considering that the provision is superfluous; proposal to commit a crime is generally not punishable in Philippine jurisdiction for being merely preparatory to the actual crime.<sup>83</sup>

*f. Justifying and Exempting Circumstances*

The Code of Crimes introduces substantial changes to the modifying circumstances listed in the Revised Penal Code.

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78. REV. PENAL CODE, art. 6, para. 2.

79. *Id.* art. 7.

80. H.B. No. 7140, art. 6.

81. REV. PENAL CODE, art. 8 & CÒDIGO PENAL, art. 17.

82. H.B. No. 7140, art. 15 (4).

83. See REYES, *supra* note 7, at 134.

Foremost, the exempting circumstances of “accident”<sup>84</sup> and “insuperable causes”<sup>85</sup> are transferred to the list of justifying circumstances. This change affects the civil liability of the offender because, while a justifying circumstance generally prevents the incurring of civil liability,<sup>86</sup> an exempting circumstance does not.<sup>87</sup> Hence, an offender is more susceptible to incurring civil liability under the Code of Crimes than in the Revised Penal Code.

The Code also updates the terminologies in the exempting circumstance of “imbecility” and “insanity.” Instead of retaining the words *imbecile* and *insane*, the Code of Crimes refers to such persons as those “suffering from mental disorder or defect.”<sup>88</sup> This conforms to the developments on the use of disability-inclusive language where the focus is on the person and not on the disability, and the disability is only used as a description of the person’s condition.<sup>89</sup>

It is interesting to note that under the Spanish Penal Code, there is no distinction between justifying and exempting circumstances. Article 20 thereof merely lists the persons who “shall not be criminally accountable” including those who cannot comprehend the unlawful nature of their act; those who are in a state of absolute intoxication due to alcohol, drugs, or other substances; those who have seriously altered their awareness of reality; those who act in defense of themselves, of their rights, or those of others; those in a state of necessity; those driven by insurmountable fear; and those in the lawful exercise of a right, authority, or office.<sup>90</sup>

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84. REV. PENAL CODE, art. 12 (4).

85. *Id.* art. 12 (7).

86. REYES, *supra* note 7, at 157. The exception is under Article 11 (4) of the Revised Penal Code, i.e., in case of a person who causes damage to another in order to avoid an evil or injury. REV. PENAL CODE, art. 11 (4).

87. *Id.* at 255. The exception is under Article 12 (4) and (7), i.e., accident and insuperable cause. REV. PENAL CODE, arts. 12 (4) & (7).

88. H.B. No. 7140, art. 10 (1).

89. Office of Disability Rights, People First Language, *available at* <https://odr.dc.gov/page/people-first-language> (last accessed July 31, 2023).

90. CÒDIGO PENAL, art. 20.

*g. Mitigating Circumstances*

For the mitigating circumstances, all of those listed in the Revised Penal Code are retained in the Code of Crimes, with some changes in the wording or structure.

In the circumstance of “incomplete justifying or exempting circumstance,”<sup>91</sup> a condition is added in that in case of self-defense or defense of a relative or a stranger, the element of unlawful aggression must be present.<sup>92</sup> This codifies the Supreme Court ruling that unlawful aggression is an indispensable requirement in such mitigating circumstance.<sup>93</sup>

Further, the circumstances of “voluntary surrender” and “voluntary confession,”<sup>94</sup> which are contained in one item in the Revised Penal Code, are separated from each other,<sup>95</sup> presumably to avoid confusion in their treatment when both of them are present. With the change, it is now clear that both circumstances are appreciated separately. It should be noted, however, that the circumstance of voluntary confession is reworded as “voluntary plea of guilt,”<sup>96</sup> a more accurate phrasing when the requisites laid down by jurisprudence are considered.<sup>97</sup>

Another change that follows jurisprudence is the addition of the term “legitimate”<sup>98</sup> to qualify passion and obfuscation in the mitigating circumstance of “having acted upon an impulse so powerful as naturally to

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91. The exact wording is “when all the requisites necessary to justify the act or to exempt from criminal liability in the respective cases are not attendant.” This is worded in H.B. No. 7140 as “[t]hose mentioned in Articles 9 and 10, when majority of all the requisites necessary to justify the act or to exempt from criminal liability in the respective cases are present.” H.B. No. 7140, art. 11 (1).

92. H.B. No. 7140, art. 11 (1).

93. *People v. Gabrino*, G.R. No. 189981, 645 SCRA 187, 200-01 (2011).

94. REV. PENAL CODE, art. 13 (7).

95. H.B. No. 7140, arts. 11 (7)-(8).

96. *Id.* art. 11 (8).

97. *People v. Placer*, G.R. No. 18753, 707 SCRA 199, 211 (2013). The requisites are: (1) the accused has not been actually arrested; (2) the accused surrenders to a person in authority or the latter’s agent; and (3) the surrender is voluntary. *Id.*

98. H.B. No. 7140, art. 11 (6).

have produced passion or obfuscation.”<sup>99</sup> This is consistent with the Court ruling that passion and obfuscation must originate from “lawful” feelings.<sup>100</sup>

In addition, for the circumstance that “the offender had no intention to commit so grave a wrong as that committed,”<sup>101</sup> or *praeter intentionem*,<sup>102</sup> the description of the act under the Code of Crimes is no longer “so grave a *wrong*” but “so grave a *crime*.”<sup>103</sup> This prevents confusion on what is referred to by the law as a “wrong,” which is subjective in meaning,<sup>104</sup> as opposed to a “crime,” a technical word defined by the Code.<sup>105</sup>

Finally, for the circumstance of vindication of a crime, adopted children are added to the list of those that can be vindicated after a grave offense.<sup>106</sup> The qualification of “legitimate, natural, or adopted” to brothers and sisters is likewise deleted, presumably for being superfluous.

In Spain, obstinacy, confession of crime, serious addiction to substances, compensation to the victim, extraordinary or undue delay in the proceedings, and similar circumstances, serve as additional mitigating circumstances along with the mitigating circumstance of incomplete exempting circumstance.<sup>107</sup>

#### *h. Aggravating Circumstances*

Similar to the justifying, exempting, and mitigating circumstances discussed above, there are also a number of changes in the aggravating circumstances listed in the Revised Penal Code, thus:

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99. REV. PENAL CODE, art. 13 (6).

100. See Oliveros, Jr. v. People, G.R. No. 242552, Mar. 3, 2021, available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67743> (last accessed July 31, 2023).

101. REV. PENAL CODE, art. 13 (3).

102. Nizurtado v. Sandiganbayan, G.R. No. 107838, 239 SCRA 33, 47 (1994).

103. H.B. No. 7140, art. 11 (3).

104. See Merriam-Webster’s Online Dictionary, Wrong, available at <https://www.merriam-webster.com/dictionary/wrong> (last accessed July 31, 2023) [<https://perma.cc/YPD6-UM22>].

105. See H.B. No. 7140, art. 3, para. 1.

106. *Id.* art. 11 (5).

107. CÒDIGO PENAL, art. 21.



- (a) In the circumstance that “advantage be taken by the offender of [ ] public position,”<sup>108</sup> the Code of Crimes states that the penalty shall be imposed in its maximum period;<sup>109</sup>
- (b) In the circumstance that “the crime be committed in contempt of or with insult to the public authorities,”<sup>110</sup> the phrase “in contempt of” is deleted.<sup>111</sup> Further, “public authorities”<sup>112</sup> is replaced with “persons in authority,”<sup>113</sup> a phrase that is technically defined by the Revised Penal Code,<sup>114</sup> and a specific reference to the provision defining “persons in authority” is added;<sup>115</sup>
- (c) In the circumstance that “the crime be committed in the palace of the Chief Executive, or in [the latter’s] presence, or where public authorities are engaged in the discharge of their duties, or in a place dedicated to religious worship,”<sup>116</sup> the phrase “palace of the Chief Executive” is replaced with “residence of the president,” and the phrase “where public authorities are engaged in the discharge of their duties” is paraphrased as “in public offices where public functions are discharged;”<sup>117</sup>
- (d) In the circumstance that “the crime be committed on the occasion of a conflagration, shipwreck, earthquake, epidemic[,] or other calamity or misfortune,”<sup>118</sup> the word “misfortune” — which is subjective in meaning<sup>119</sup> — is deleted; the word “typhoon” is

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108. REV. PENAL CODE, art. 14 (1).

109. H.B. No. 7140, art. 12 (1).

110. REV. PENAL CODE, art. 14 (2).

111. H.B. No. 7140, art. 12 (2).

112. REV. PENAL CODE, art. 14 (2).

113. H.B. No. 7140, art. 12 (2).

114. REV. PENAL CODE, art. 152, para. 1.

115. H.B. No. 7140, art 12 (2).

116. REV. PENAL CODE, art. 14 (5).

117. H.B. No. 7140, art. 12 (5).

118. REV. PENAL CODE, art. 14 (7).

119. See Merriam-Webster’s Online Dictionary, *Misfortune*, available at <https://www.merriam-webster.com/dictionary/misfortune> (last accessed July 31, 2023) [<https://perma.cc/RM7X-8Q3P>].

added in the enumeration; and the words “committed on the occasion of” are replaced with “took advantage of;”<sup>120</sup>

- (e) In the circumstance that “the crime be committed after an unlawful entry,”<sup>121</sup> the definition of unlawful entry is deleted;<sup>122</sup>
- (f) In the definition of a recidivist, i.e., “one who, at the time of [ ] trial for one crime, shall have been previously convicted by final judgment of another crime embraced in the same title of this Code,”<sup>123</sup> the previous crime referred to is qualified as “intentional crime,”<sup>124</sup> eliminating from the scope of covered crimes those committed by negligence. However, the description “embraced in the same title of this Code” is also deleted,<sup>125</sup> thus expanding the scope to all types of crimes;
- (g) The circumstance of “dwelling”<sup>126</sup> is separated from the circumstance of “disregard of respect [...] on account of rank, age, or sex,”<sup>127</sup> presumably for being unrelated to the latter. Further, “status” is added on the list of those that serve as basis for disregard, and “sex” is replaced with “gender;”<sup>128</sup>
- (h) The circumstances of “nighttime” and “uninhabited place,”<sup>129</sup> although retained in the same provision, are separated from the unrelated circumstance of a “band.”<sup>130</sup> In the latter circumstance, the definition of a “band” is paraphrased from “more than three armed malefactors” to “four or more armed malefactors;” and<sup>131</sup>
- (i) In the same provision, an “organized/syndicated crime group” is defined as consisting of “three or more persons collaborating,

120. H.B. No. 7140, art. 12 (7).

121. REV. PENAL CODE, art. 14 (18).

122. H.B. No. 7140, art. 12 (18).

123. REV. PENAL CODE, art. 14 (9).

124. H.B. No. 7140, art. 12 (8).

125. *Id.*

126. REV. PENAL CODE, art. 14 (3).

127. *Id.* & H.B. No. 7140, arts. 12 (3) & (17).

128. H.B. No. 7140, art. 12 (3).

129. REV. PENAL CODE, art. 14 (6).

130. H.B. No. 7140, arts. 12 (6) & (20).

131. *Id.* art. 12 (20).

confederating[,] or mutually helping one another for purposes of gain,”<sup>132</sup> deviating from the Revised Penal Code definition, i.e. “a group of two or more persons collaborating, confederating[,] or mutually helping one another for purposes of gain in the commission of any crime.”<sup>133</sup>

The Code of Crimes also deletes some aggravating circumstances from the list, such as those relating to: (a) deliberate augmentation of a wrong; (b) previous punishment for an offense to which the law attaches an equal or greater penalty or for two or more crimes to which it attaches a lighter penalty; and (c) commission by means of motor vehicles, airships, or other similar means.<sup>134</sup>

When compared to the Spanish Penal Code, it is apparent that the Revised Penal Code and the Code of Crimes, respectively, contain a lesser number of aggravating circumstances.<sup>135</sup> Those in the Spanish Penal Code are

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Article 22

The following are aggravating circumstances:

- (a) Perpetrating the deed with premeditation[;]

There is premeditation when the convict commits any of the criminal offen[s]es against persons using means or ways to do so that tend directly or specially to assure them, without risk to [the] person that might arise from defen[s]e by the victim.

- (b) Perpetrating the deed using a disguise, abuse of superiority, or taking advantage of the circumstances of the place, time[,] or aid from other persons that weaken the defen[s]e of the victim or facilitate impunity of the convict[;]
- (c) Perpetrating the deed for a price, reward[,] or promise[;]
- (d) Committing the criminal offen[s]e for racist or anti-[s]emitic reasons, or another kind of discrimination related to ideology, religion or belief of the victim, ethnicity, race or nation to which [the victim] belongs, [the victim’s] gender, sexual orientation[,] or identity, reasons related to gender, illness suffered[,] or disability[;]

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132. *Id.*

133. REV. PENAL CODE, art. 62.

134. *Id.* arts. 14 (10) & (20)-(21).

135. There are 21 circumstances listed in the Revised Penal Code while H.B. No. 7140 contains 22 circumstances.

- (e) To deliberately and inhumanely increase [the] victim's suffering, causing unnecessary suffering while committing the criminal offen[s]e[;]
- (f) Acting with abuse of confidence[;]
- (g) When the convict avails [ ] of [ ] public status[;]
- (h) Recidivism[;]

There is recidivism when, on committing the criminal offen[s]e, the convict has been sentenced by final judgement for a criminal offen[s]e under the same category in this Code, as long as it is of the same nature.

For the purposes of this Section, a cancelled criminal record or one that should be cancelled shall not be counted nor those referring to petty offen[s]es.

Final judgments of judges or courts of law handed down in other European Union countries shall produce the effects of recidivism unless the criminal record has been cancelled or could be cancelled pursuant to Spanish Law.<sup>136</sup>

One interesting aggravating circumstance in Spain is the commission of an act for discriminatory reasons, specifically for “racist or anti-[s]emitic reasons, or another kind of discrimination related to ideology, religion or belief of the victim, ethnicity, race or nation to which [the victim] belongs, [the victim's] gender, sexual orientation[,] or identity, illness suffered[,] or disability.”<sup>137</sup> To adopt this modern circumstance in the Code of Crimes would aid in efforts to eliminate discrimination in the country.

#### *i. Alternative Circumstances*

The Code of Crimes does not contain any provision on alternative circumstances. This means that the alternative circumstances listed in the Revised Penal Code — relationship, intoxication, degree of instruction, and education of the offender<sup>138</sup> — may no longer be appreciated in favor or against the offender when the Code of Crimes, in its current version, is passed.

Under the Spanish Penal Code, there is only one alternative circumstance — relationship.<sup>139</sup>

136. CÒDIGO PENAL, art. 22.

137. *Id.* art. 22 (4).

138. REV. PENAL CODE, art. 15.

139. CÒDIGO PENAL, art. 23.

## 2. Title Two: Persons Criminally Liable for Crimes

The Code of Crimes retains the Revised Penal Code's enumeration of those who are criminally liable: principals, accomplices, and accessories for grave and less grave crimes, and principals and accomplices for light crimes.<sup>140</sup> However, conspiracy is added to the definition of a principal. Hence, under the Code of Crimes, there are four modes in which a person may become a principal, thus

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Art. 15. *Principals*. — Principals are those persons who:

- (a) Take direct part in the execution of the criminal act;
- (b) Directly force or induce others to commit it;
- (c) Cooperate in the commission of the crime by another act without which crime would not have been accomplished; or
- (d) Act in conspiracy with another in the execution of the crime. There is a conspiracy when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.<sup>141</sup>

There are also a number of changes in the definition of accessories that arise from the Code of Crime's integration of special penal laws.

*Foremost*, the first manner in which persons become accessories, i.e., "by profiting themselves or assisting the offender to profit by the effects of the crime" is expanded to include "by buying, receiving, possessing, keeping, acquiring, concealing, selling, or in any other manner dealing in any article, item, object[,] or anything of value which [they know], or should be known to [them], to have been derived from the proceeds of the crime."<sup>142</sup> The addition is substantially lifted from Presidential Decree No. 1612 or the Anti-Fencing Law.<sup>143</sup>

*Second*, a new manner by which persons become accessories is added, i.e., "by any other act that will obstruct, impede, frustrate, restrict[,] or delay the apprehension of suspects and the investigation and prosecution of criminal cases."<sup>144</sup> The provision is taken from Presidential Decree No. 1829 or the

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140. H.B. No. 7140, art. 14.

141. *Id.* art. 15.

142. *Id.* art. 17 (1).

143. Anti-Fencing Law of 1979, Presidential Decree No. 1612, § 2 (a) (1979).

144. H.B. No. 7140, art. 17 (4).

law penalizing the obstruction of apprehension and prosecution of criminal offenders.<sup>145</sup>

*Third*, the proviso in the following definition of accessories is deleted —

Article 19. ...

- (3) By harboring, concealing, or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of [ ] public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.<sup>146</sup>

With the deletion, “harboring, concealing, or assisting in the escape of the principal” renders persons liable as accessories, regardless of whether (1) they acted with abuse of public functions; (2) the principal is guilty of the mentioned crimes; or (3) the persons are known to be habitually guilty of some other crime.

Interestingly, under the Spanish Penal Code, there are only two types of participants in the commission of a crime: principals and their accessories.<sup>147</sup> Accessories, however, encompass “those who [... cooperate] in carrying out the offen[s]e with prior or simultaneous deeds[.]”<sup>148</sup> corresponding to the definition of accomplices in Philippine jurisdiction.<sup>149</sup>

### 3. Title Three: Penalties

#### *a. In General*

The Code of Crimes introduces major changes in the scale, classification, and designation of penalties. These changes are better appreciated when the respective scales are compared side by side, as illustrated in the table below —

Revised Penal Code	Code of Crimes
<i>Principal Penalties</i>	<i>Principal Penalties</i>

145. Penalizing Obstruction of Apprehension and Prosecution of Criminal Offenders, Presidential Decree No. 1829, § 1 (1981).

146. REV. PENAL CODE, art. 19 (3).

147. CÒDIGO PENAL, art. 27.

148. *Id.* art. 29.

149. *See* REV. PENAL CODE, art. 18.

<i>Capital punishment:</i> Death.  <i>Afflictive penalties:</i> <i>Reclusion perpetua,</i> <i>Reclusion temporal,</i> Perpetual or temporary absolute disqualification, Perpetual or temporary special disqualification, <i>Prision mayor.</i>  <i>Correctional penalties:</i> <i>Prision correccional,</i> <i>Arresto mayor,</i> Suspension, <i>Destierro.</i>  <i>Light penalties:</i> <i>Arresto menor,</i> Public censure.  <i>Penalties common to the three preceding</i> <i>classes:</i> Fine, and Bond to keep the peace. <sup>150</sup>	<i>Punitive Penalties</i>	Punitive 1 Punitive 2
	<i>Afflictive Penalties</i>	Afflictive 1 Afflictive 2 Perpetual or temporary absolute disqualification [ ] Perpetual or temporary special disqualification [ ]
	<i>Corrective Penalties</i>	Corrective 1 Corrective 2
	<i>Restorative penalties</i>	Restorative 1 Restorative 2
	Community Service Restrictive Public Reprimand	
	Penalty common to the <i>four</i> preceding classes: Fine <sup>151</sup>	

Table 1. A comparison of the graduated scales

Although there is a change in the designation of penalties, there is correspondence in terms of their duration. For instance, the Revised Penal Code's *reclusion perpetua*, which has a duration of 20 years and one day to 40 years,<sup>152</sup> corresponds to the Code of Crimes' Punitive 2 punishment, which

150. *Id.* art. 25.

151. H.B. No. 7140, art. 21.

152. REV. PENAL CODE, art. 27.

also has the same duration.<sup>153</sup> This is also true for *reclusion perpetua* or Punitive 2 punishment; *reclusion temporal* or Afflictive 1 punishment; *prision mayor* or Afflictive 2 punishment; *arresto mayor* or Restorative 1 punishment; and *arresto menor* or Restorative 2 punishment.<sup>154</sup> For *prision correccional*, however, the corresponding Code of Crimes penalty is split into Corrective 1 and Corrective 2 penalties, with shortened durations.<sup>155</sup>

A table of comparison<sup>156</sup> is provided below —

<i>Revised Penal Code</i>	<i>Code of Crimes</i>	<i>Duration</i>
Death	Punitive 1	N/A
<i>Reclusion perpetua</i>	Punitive 2	20 years and one day to 40 years
<i>Reclusion temporal</i>	Afflictive 1	12 years and one day to 20 years
<i>Prision mayor</i> and temporary disqualification	Afflictive 2 and temporary disqualification <sup>157</sup>	Six years and one day to 12 years
<i>Prision correccional</i> , suspension, and <i>destierro</i>	Corrective 1 and suspension <sup>158</sup> Corrective 2	<i>Revised Penal Code</i> For <i>prision correccional</i> , suspension, and <i>destierro</i> : six months and one day to six years  <i>Code of Crimes</i> For Corrective 1 and suspension: three years and one day to six years

153. H.B. No. 7140, art. 24.

154. See REV. PENAL CODE, art. 27 & H.B. No. 7140, art. 24.

155. H.B. No. 7140, art. 24.

156. *Id.* & REV. PENAL CODE, art. 27.

157. Under Article 24 of H.B. No. 7140, when the penalty of disqualification is imposed merely as an accessory penalty, its duration shall be that of the principal penalty.

158. Under Article 24 of H.B. No. 7140, when the penalty of suspension is imposed merely as an accessory penalty, its duration shall be that of the principal penalty.



		For Corrective 2: six months and one day to three years
<i>Arresto mayor</i>	Restorative 1	One month and one day to six months
<i>Arresto menor</i>	Restorative 2	One to 30 days

Table 2. A comparative list of penalties and its corresponding durations

It is important to note that while the original durations are generally retained, the periods or “levels”<sup>159</sup> within the penalties have been simplified in that the medium period is no longer composed of a duration (or composed of two points in time), but of a specific number of years, months, or days (or a single point in time).<sup>160</sup> For instance, in case of *reclusion temporal*, which has a medium period of *14 years, eight months, and one day to 17 years and four months*,<sup>161</sup> the medium level of its correspondent Afflictive 1 penalty is simply *16 years*.<sup>162</sup> That medium level then becomes the basis of the time included in the minimum and maximum levels.

The new levels or periods<sup>163</sup> are summarized below —

<i>Penalties</i>	<i>Time included in the penalty in its entirety</i>	<i>Time included in its minimum period</i>	<i>Time included in its medium period</i>	<i>Time included in its maximum period</i>
<i>Afflictive 1</i>	From 12 years and one day to 20 years	From 12 years and one day to less than 16 years	16 years	From 16 years and one day to 20 years
<i>Afflictive 2, absolute disqualification and special temporary disqualification</i>	From six years and one day to 12 years	From six years and one day to less than nine years	Nine years	From nine years and one day to 12 years

159. See H.B. No. 7140, art. 24.

160. H.B. No. 7140, art. 24.

161. REV. PENAL CODE, art. 76.

162. H.B. No. 7140, art. 24.

163. *Id.* art. 55.

<i>Corrective 1 and suspension</i>	From three years and one day to six years	From three years and one day to less than four years and six months	Four years and six months	From four years, six months, and one day to six years
<i>Corrective 2</i>	From six months and one day to three years	From six months and one day to less than one year and three months	One year and three months	From one year and three months and one day to three years
<i>Restorative 1</i>	From one month and one day to six months	From one month and one day to less than two months and 15 days	Two months and 15 days	From two months and 16 days to six months
<i>Restorative 2</i>	From one to 30 days	From one to less than 15 days	15 days	From 16 to 30 days
<i>Restrictive</i>	From six months to two years	From six months to less than one year and two months	One year and three months	From one year and three months to two years

Table 3. Summary of the proposed penalty durations under the Code of Crimes

*b. Effects of Penalties*

One important amendment in the effects of penalties is with respect to the imposition of subsidiary penalty. Under the Revised Penal Code, if the convict has no property to satisfy pecuniary liabilities, such convict shall be subject to a subsidiary personal liability in accordance with the following rules

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Art. 39. Subsidiary penalty. — If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, [the convict] shall be subject to a subsidiary personal liability at the rate of one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court, subject to the following rules:

- (a) If the principal penalty imposed be *prision correccional* or *arresto* and fine, [the convict] shall remain under confinement until [the] fine referred in the preceding paragraph is satisfied, but subsidiary imprisonment shall not exceed one-third of the term of the sentence, and in no case shall it continue for more than one year, and no fraction or part of a day shall be counted against the prisoner.
- (b) When the principal penalty imposed be only a fine, the subsidiary imprisonment shall not exceed six months, if the culprit shall have been prosecuted for a grave or less grave felony, and shall not exceed [15] days, if for a light felony.
- (c) When the principal penalty imposed is higher than *prision correccional*, no subsidiary imprisonment shall be imposed upon the culprit.
- (d) If the principal penalty imposed is not to be executed by confinement in a penal institution, but such penalty is of fixed duration, the convict, during the period of time established in the preceding rules, shall continue to suffer the same deprivations as those of which the principal penalty consists.
- (e) The subsidiary personal liability which the convict may have suffered by reason of [ ] insolvency shall not relieve [such convict] from the fine in case [the convict's] financial circumstances should improve.<sup>164</sup>

Under the Code of Crimes, however, if the convict has no property with which to pay the fine, such convict shall simply render community service, the duration of which depends on the classification of the crime as grave, less grave, or light,<sup>165</sup> summarized below —

	<i>Duration of Community Service</i>
<i>Grave Crimes</i>	Not less than four months and one day but not more than six months
<i>Less Grave Crimes</i>	Not less than one month but not more than four months
<i>Light Crimes</i>	Not more than 30 days

Table 4. Duration of community service under the Code of Crimes

This change is aligned with the state policy to promote restorative justice and decongestion of jails under Republic Act No. 11362 or the Community

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<sup>164</sup> REV. PENAL CODE, art. 39.

<sup>165</sup> H.B. No. 7140, art. 33.

Service Act.<sup>166</sup> It is also in line with international calls to utilize imprisonment as a last resort.<sup>167</sup>

*c. Application of Penalties*

Consistent with its purpose to simplify the provisions of the Revised Penal Code,<sup>168</sup> the Code of Crimes condenses into one provision the numerous Revised Penal Code provisions on the application of penalties to participants to the crime (principals, accessories, and accomplices) in relation to the stages of such crime (consummated, frustrated, or attempted),<sup>169</sup> viz. —

Art. 40. Penalty to be Imposed in General. — For principals, the penalty prescribed by law for the commission of a crime in its consummated stage shall be that provided by law in its consummated stage. The penalty next lower in degree shall be imposed upon the principal in a frustrated crime, and the penalty two degrees lower upon the same principal in an attempted crime.

For accomplices, the penalty next lower in degree than that prescribed by law for the consummated crime shall be imposed. The penalty two degrees lower shall be imposed upon the accomplices in a frustrated crime, and the penalty shall be three degrees lower in an attempted crime.

For accessories, the penalty lower by two degrees than that prescribed by law for the consummated crime shall be imposed. The penalty lower by three degrees shall be imposed upon the accessories in a frustrated crime, and shall be lower by four degrees in an attempted crime.<sup>170</sup>

The Code of Crimes also substantially modifies the Revised Penal Code provisions on habitual delinquency. Whereas in the Revised Penal Code, a habitual delinquent is defined as one who is found guilty of the crimes of *robo*, *hurto*, *estafa*, or falsification a third time or oftener within a period of 10 years from the date of release or last conviction,<sup>171</sup> the Code of Crimes defines such person as “one who has been previously convicted of grave or less grave crimes

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166. Community Service Act, § 2.

167. United Nations, Common Position on Incarceration, at 9, available at [https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN\\_System\\_Common\\_Position\\_on\\_Incarceration.pdf](https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf) (last accessed July 31, 2023).

168. REV. PENAL CODE, arts. 51-57.

169. H.B. No. 7140, art. 40.

170. *Id.* (emphasis omitted).

171. REV. PENAL CODE, art. 62.

with afflictive penalties and below a third time or oftener.”<sup>172</sup> This expands the scope of covered crimes from the previous “*robo, hurto, estafa, or falsification*” to all grave and less grave crimes with afflictive penalties and below.

*d. Penalties in Spain in General*

Penalties under the Spanish Penal Code are classified into serious or severe, less serious, or minor penalties.<sup>173</sup>

Severe penalties include permanent, revisable imprisonment; imprisonment exceeding five years; “absolute barring” or deprivation of all honors, public employment, and posts;<sup>174</sup> “special barring” or deprivation from public employment and office, profession, trade, industry, or commerce, or other activities, or of parental rights;<sup>175</sup> suspension;<sup>176</sup> deprivation of specific rights (such as to drive, to possess and carry weapons, and to visit and reside in specific places);<sup>177</sup> and prohibition from certain activities (such as to approach and communicate with the victim, and to exercise parental rights).<sup>178</sup>

On the other hand, less serious penalties include imprisonment from three months to five years, as well as deprivation of and prohibition from certain activities similar to those mentioned above, but in shorter durations.<sup>179</sup> Minor penalties do not involve imprisonment at all, but only deprivation of and prohibition from certain activities.<sup>180</sup> Spain also has a penalty of “permanent traceability,” which binds the convict to remain under house arrest or to be at a specific place set by the judge.<sup>181</sup>

The penalties are summarized<sup>182</sup> below:

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172. H.B. No. 7140, art. 13.

173. CÒDIGO PENAL, art. 33.

174. *Id.* art. 41.

175. *Id.* art. 39 (b).

176. *Id.* art. 39 (c).

177. *Id.* arts. 39 (d)–(f).

178. *Id.* art. 33 (2).

179. CÒDIGO PENAL, art. 33 (3).

180. *Id.* art. 33 (4).

181. *Id.* art. 37 (1).

182. *Id.* art. 33.

<i>Severe Penalties</i>	<i>Less Serious Penalties</i>	<i>Minor Penalties</i>
<p>(a) Permanent, revisable imprisonment[;]</p> <p>(b) Imprisonment exceeding five years;</p> <p>(c) Absolute barring;</p> <p>(d) Special barring for a term exceeding five years;</p> <p>(e) Suspension from public employment and office for a term exceeding five years;</p> <p>(f) Deprivation of the right to drive motor vehicles and mopeds for a term exceeding eight years;</p> <p>(g) Deprivation of the right to possess and carry weapons for a term exceeding eight years;</p> <p>(h) Deprivation of the right to reside in specific places or to visit them, for a term exceeding five years;</p> <p>(i) Prohibition to approach the victim or [the] relatives or other persons determined by the Judge or Court of Law, for a term</p>	<p>(a) Imprisonment from three months to five years;</p> <p>(b) Special barring up to five years;</p> <p>(c) Suspension from public employment and office up to five years;</p> <p>(d) Deprivation of the right to drive motor vehicles and mopeds from a year and a day to eight years;</p> <p>(e) Deprivation of [the] right to possess and carry weapons from a year and a day to eight years;</p> <p>(f) Special barring from the exercise of a profession, job or a trade related to animal or to possess animals from one year and one day to five years;</p> <p>(g) Deprivation of [the] right to reside in specific places or to visit them, for a term of six months to five years;</p> <p>(h) Prohibition to approach the</p>	<p>(a) Deprivation of the right to drive motor vehicles and mopeds from three months to a year;</p> <p>(b) Deprivation of [the] right to possess and carry weapons from three months to a year;</p> <p>(c) Deprivation of [the] right to reside in specific places or to visit them, for a term under six months;</p> <p>(d) Prohibition to approach the victim or [the] relatives or other persons determined [by] the Judge or Court of Law, for a term of one month to less than six months;</p> <p>(e) Prohibition to communicate with the victim or with [the] relatives or other persons determined by the Judge or Court of Law, for a term of one month to less than six months;</p>

<p>exceeding five years;</p> <p>(j) Prohibition to communicate with the victim or [the] relatives or other persons determined by the Judge or Court of Law, for a term exceeding five years; [and]</p> <p>(k) Deprivation of parental rights.</p>	<p>victim or those of [the] relatives or other persons determined by the Judge or Court of Law, for a term of six months to five years;</p> <p>(i) Prohibition to communicate with the victim or with those of [the] relatives or other persons determined by the Judge or Court of Law, for a term of six months to five years;</p> <p>(j) Fine of more than three months;</p> <p>(k) The proportional fine, whatever its amount, except as provided in Section 7 of this Article; [and]</p> <p>(l) Community service, from 31 days to one year.</p>	<p>(f) A fine of up to three months;</p> <p>(g) Permanent traceability from one day to three months; [and]</p> <p>(h) Community service, from one to 30 days.</p>
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Table 5. Summary of penalties under the Code of Crimes

Aside from the foregoing penalties, courts in Spain may also impose *security measures* to offenders whose acts and personal circumstances indicate that further felonies may be committed in the future.<sup>183</sup> Security measures include internment in a psychiatric institution, detoxification center, or special education center; barring from a profession; deportation of non-resident

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183. *Id.* art. 95.

aliens; probation; family custody; deprivation of the right to drive vehicles and mopeds; and deprivation of the right to own and carry weapons.<sup>184</sup>

A useful feature of the Spanish Penal Code is its inclusion of penalties specific only to legal persons, i.e., fine, dissolution, suspension from certain activities, closure of premises, ban from obtaining public subsidies or from contracting with the public sector, and judicial intervention to safeguard the rights of workers.<sup>185</sup> To recall, one of the reasons why the Revised Penal Code does not contemplate or provide for the criminal liability of juridical persons is the notion that only natural persons may serve the sentence.<sup>186</sup> To dispel such notion, it may be well to include a similar provision.

#### 4. Title Four: Extinction of Criminal Liability and Civil Liability Resulting from Crime

The Code of Crimes introduces a number of changes to the Revised Penal Code's provisions on extinction of criminal and civil liability.

*First*, in addition to the total modes of extinction found in the Revised Penal Code, the Code of Crimes adds another mode, i.e., pardon by the offended party in case of light crimes, with the proviso that in cases of seduction, abduction, and acts of lasciviousness, pardon by the offended party does not extinguish criminal action but only prevents prosecution of the case.<sup>187</sup> This departs from the rule in the Revised Penal Code that pardon by the offended party does not extinguish criminal action except in cases of seduction, abduction, acts of lasciviousness, and rape.<sup>188</sup> With this change, pardon by the offended party in cases of light crimes, such as malicious mischief, slight physical injuries, etc., would already totally extinguish criminal liability.

*Second*, in the mode of absolute pardon by the President, the Code of Crimes states the general rule that such pardon will extinguish the principal and accessory penalties, unless otherwise provided by the terms of the pardon.<sup>189</sup> This diverges from the general rule in the Revised Penal Code that pardon will not restore the offender to the right to hold public office, or the

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184. *Id.* art. 96.

185. CÒDIGO PENAL, art. 33 (7).

186. REYES, *supra* note 7, at 508.

187. H.B. No. 7140, art. 60 (7).

188. REV. PENAL CODE, art. 23.

189. H.B. No. 7140, art. 60 (4).



right of suffrage.<sup>190</sup> This is also another instance where the Code of Crimes codifies a jurisprudential ruling, specifically that in *Risos-Vidal v. Commission on Elections*,<sup>191</sup> that the President's constitutional pardoning power cannot be limited by legislative action and thus, the pardon provisions in the Revised Penal Code should be construed in a way that will give full effect to the executive clemency granted by the President.<sup>192</sup>

*Third*, an additional mode of partial extinction is added, i.e., through parole, defined as the conditional release of an offender from a correctional institution after serving the minimum of the classification of the penalty imposed.<sup>193</sup>

*Fourth*, the last sentence in Article 91 of the Revised Penal Code, i.e., “[t]he term of prescription shall not run when the offender is absent from the Philippine Archipelago,” is deleted.<sup>194</sup> This means that absence in the Philippine territory may no longer interrupt the running of the prescriptive period of crimes.

In Spain, the modes of extinguishment are also similar: death of the convict, service of the sentence, remission of sentence, royal pardon, pardon by the offended parties, and prescription of the offense and of the sentence.<sup>195</sup> Further, consistent with Spain's recognition of criminal liability of legal persons, the Spanish Penal Code contains rules as to the extinguishment of their criminal liability.<sup>196</sup> Specifically for transformation, merger, absorption, or split of legal persons, it provides that the same does not extinguish criminal liability.<sup>197</sup> Instead, liability is transferred to the firm or firms into which it is transformed, merged, or absorbed.<sup>198</sup>

In the Philippines, corporation law already recognizes that merger or consolidation does not extinguish liabilities of constituent corporations. This is embodied in Section 79 of the Revised Corporation Code, which states that

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190. REV. PENAL CODE, art. 36.

191. *Risos-Vidal v. Commission on Elections*, G.R. No. 206666, 747 SCRA 210 (2015).

192. *Id.* at 266-67.

193. H.B. No. 7140, art. 63 (3).

194. *See id.* art. 62.

195. CÒDIGO PENAL, art. 130 (1).

196. *Id.* art. 130 (2).

197. *Id.*

198. *Id.*

the surviving or consolidated corporation shall be responsible for all the liabilities and obligations of each constituent corporation as though the surviving or consolidated corporation had itself incurred such liabilities or obligations.<sup>199</sup>

The Spanish Penal Code likewise provides that for legal persons, criminal accountability is not extinguished by concealed or merely apparent dissolution of the legal person.<sup>200</sup> In the Code of Crimes, it can be inferred that dissolution of the juridical person does not extinguish criminal liability since the modes applicable for juridical persons do not include dissolution, in contrast to those applicable to natural persons, which explicitly include “death.”<sup>201</sup>

Finally, with respect to prescription of crimes and of penalties, the rules in Spain appear to be more stringent or onerous to offenders. For instance, longer periods of prescription of penalties are provided in the Spanish Penal Code, with 30 years being the highest<sup>202</sup> as compared to the Revised Penal Code’s 20 years.<sup>203</sup> Further, in the Philippines, a crime punishable by death or *reclusion perpetua*, which has a duration of up to 20 years, prescribes in 20 years,<sup>204</sup> whereas in Spain, the same prescription period applies for a crime where the maximum punishment set is shorter, i.e., 15 or more years.<sup>205</sup> A comparative summary of the prescriptive periods for crimes is provided below —

<i>Spanish Penal Code</i>	<i>Revised Penal Code</i>	<i>Code of Crimes</i>
When the maximum punishment set for the offense is imprisonment of 15 years or more – 20 years	Crimes punishable by death, <i>reclusion perpetua</i> , and <i>reclusion temporal</i> – 20 years	Crimes punishable by Punitive 1, Punitive 2, or Afflictive 1 penalty, or fine classified as grave penalty – 20 years
When the maximum punishment set for the offense is barring for more than 10 years or	Crimes punishable by other afflictive penalties – 15 years	Crimes punishable by other afflictive penalties – 15 years

199. REV. CORP. CODE, § 79 (e).

200. CÒDIGO PENAL, art. 130 (2).

201. H.B. No. 7140, art. 60 (1).

202. CÒDIGO PENAL, art. 133 (1).

203. REV. PENAL CODE, art. 92 (1).

204. *Id.*

205. CÒDIGO PENAL, art. 131 (1).

imprisonment for more than 10 but less than 15 years – 15 years	Crimes punishable by correctional penalties (except for <i>arresto mayor</i> ) – 10 years	Crimes punishable by a corrective penalty or fine classified as less grave penalty (except for Restorative 1) – 10 years
When the maximum punishment set for the offense is imprisonment or barring for more than five years but does not exceed 10 years – 10 years	Crimes punishable by <i>arresto mayor</i> – five years	Crimes punishable by Restorative 1 penalty – five years
Slander and defamation – one year	Libel or similar offenses – one year	Crimes punished by restorative penalties or fine classified as light penalty – two months <sup>208</sup>
Other felonies – five years <sup>206</sup>	Oral defamation and slander by deed – six months <sup>207</sup>	

Table 6. A comparative summary of the prescriptive periods

#### 5. Title Five: Civil Liability

The Code of Crimes updates the terminologies used in the provision concerning the subsidiary civil liability of *innkeepers* and *tavernkeepers*.<sup>209</sup> In the Code of Crimes, the terms are replaced with “proprietors or owners of hotels, apartelles, restaurants, and other similar establishments,” thus —

Art. 69 [(102)]. *Subsidiary Civil Liability of PROPRIETORS OR OWNERS OF HOTELS, APARTELES, RESTAURANTS, AND OTHER SIMILAR Establishments.* — In default of the persons criminally liable, PROPRIETORS OR OWNERS OF HOTELS, APARTELES, RESTAURANTS, AND OTHER SIMILAR ESTABLISHMENTS, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special regulations shall have been committed by them or their employees.<sup>210</sup>

206. CÒDIGO PENAL, art. 131 (1).

207. REV. PENAL CODE, art. 90.

208. H.B. No. 7140, art. 61.

209. Compare H.B. No. 7140, art. 69, with REV. PENAL CODE, art. 102.

210. H.B. No. 7140, art. 69, para. 1.

Further, consistent with its express application to juridical persons, the Code provides that the subsidiary civil liability in the foregoing provision shall apply to “persons, whether natural or juridical, engaged in any kind of industry, for crimes committed by their employees in the discharge of their duties.”<sup>211</sup>

Both the Revised Penal Code and the Code of Crimes share similar provisions with the Spanish Penal Code concerning civil liability arising from crimes. For instance, like in the Revised Penal Code and as enunciated in the Rules of Criminal Procedure, the offended party under the Spanish Penal Code may opt to sue for civil liability.<sup>212</sup> Further, similar to the provision in the Code of Crimes, natural and legal persons in Spain are liable for felonies or misdemeanors committed in establishments they own.<sup>213</sup>

### III. SUMMARY AND RECOMMENDATION

The foregoing discussion embodies the immense efforts of the drafters to come up with a measure that is “updated, modern, simplified, responsive, [and] truly Filipino.”<sup>214</sup> True to its promise, the Code of Crimes simplifies the provisions of the Revised Penal Code. It condenses the 113 articles of the Revised Penal Code’s Book One into 80, with related provisions integrated with each other, like those on conspiracy<sup>215</sup> and on the application of penalties,<sup>216</sup> among others. The provisions on accessories and habitual delinquency are also simplified, with the restrictive proviso on the definition of accessories, and the specific crimes covered in habitual delinquency, respectively deleted.<sup>217</sup> The Code of Crimes further simplifies the application of penalties in that the medium period is no longer composed of two points in time, but only of a single one.<sup>218</sup>

The Code likewise updates the old terminologies found in the Revised Penal Code. The words *felonies*, *dolo*, and *culpa* are respectively replaced with

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211. *Id.* art. 70 (emphasis omitted).

212. Compare 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 1 (a), with CÒDIGO PENAL, art. 109 (2).

213. Compare CÒDIGO PENAL, art. 120 (3), with REV. PENAL CODE, art. 102.

214. H.B. No. 2300, 16th Cong., 1st Reg. Sess., explan. n. (2013).

215. H.B. No. 7140, art. 15 (4).

216. *Id.* art. 40.

217. *Id.* art. 13 & 17 (3).

218. *Id.* art. 24.

*crimes, malice, and fault.*<sup>219</sup> The penalties are no longer in Latin or Spanish terms, but are referred to as Punitive 1 & 2, Afflictive 1 & 2, and Corrective 1 & 2 punishments.<sup>220</sup> The terms *innkeepers* and *tavernkeepers* are replaced with “proprietors or owners of hotels, apartelles, restaurants, and other similar establishments.”<sup>221</sup>

In addition, subjective phrasings in the Revised Penal Code are omitted or modified for clarity, including the phrase “so grave a *wrong*,” which is replaced with “so grave a *crime*”<sup>222</sup> in *praeter intentionem*, as well as *misfortune*, which is deleted from the aggravating circumstance of “conflagration, shipwreck, earthquake, epidemic[,] or other calamity or misfortune.”<sup>223</sup>

The Code also codifies jurisprudence and special laws. The Court ruling that unlawful aggression must be present when appreciating the mitigating circumstance of incomplete justifying or exempting circumstance is explicitly provided.<sup>224</sup> Further, the term *legitimate* is added to qualify passion and obfuscation.<sup>225</sup> Following Presidential Decree No. 1612 or the Anti-Fencing Law, the first definition of an accessory is expanded,<sup>226</sup> and following Presidential Decree No. 1829, a new manner in which a person becomes an accessory is added.<sup>227</sup> Finally, the general rule on pardon is revised pursuant to *Risos-Vidal*.<sup>228</sup>

The Code further adds provisions that respond to the conditions of the modern times. Most important is the recognition of the criminal liability of juridical persons,<sup>229</sup> probably impelled by the growing number of corporate crimes. The Code also promotes community service in lieu of imprisonment in the service of subsidiary penalties,<sup>230</sup> consistent with the state policy to

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219. Compare H.B. No. 7140, art. 3, with REV. PENAL CODE, art. 3.

220. H.B. No. 7140, art. 21.

221. *Id.* art. 69.

222. *Id.* art. 11 (3).

223. *Id.* art. 12 (7).

224. *Gabrino*, 645 SCRA, at 200-01 & H.B. No. 7140, art. 9.

225. *Oliveros, Jr.*, G.R. No. 242552 & H.B. No. 7140, art. 11 (6).

226. H.B. No. 7140, art. 17 (1).

227. *Id.* art. 17 (4).

228. *Risos-Vidal*, 747 SCRA, at 266-67 & H.B. No. 7140, art. 60.

229. H.B. No. 7140, art. 2.

230. *Id.* art. 33.

promote restorative justice and to decongest jails,<sup>231</sup> and in line with calls to utilize imprisonment as a last resort.<sup>232</sup> To further aid in the decongestion of jails, pardon by the offended party in case of light crimes is recognized as a mode of extinction of criminal liability.<sup>233</sup> Lastly, absence in the Philippine territory no longer interrupts the running of the prescriptive period of crimes.<sup>234</sup>

Even in form, the Code of Crimes conforms to modern developments. Instead of exclusively using the pronouns *he/him* as used in the Revised Penal Code, it now includes the pronouns *she/her*. Further, disability-inclusive language is utilized, as shown by the replacement of the words *imbecile* or *insane* with *person suffering from mental disorder or defect*.<sup>235</sup> Nevertheless, the language may further be improved by making it sensitive, not only to the gender of women, but also to that of the members of the LGBT community.<sup>236</sup> Moreover, disability-inclusive language may further be utilized in the provision on mitigating circumstances, where the phrase *deaf and dumb* is still used.<sup>237</sup>

In improving the Code of Crimes, Philippine legislators may be guided by the experience of Spain, which has reformed its Spanish Penal Code many times over the years.<sup>238</sup> The specific provisions concerning legal persons may particularly be helpful in the treatment of the liability of juridical persons.<sup>239</sup> Further, Spain's identification of discriminatory reasons as an aggravating circumstance<sup>240</sup> may be useful in promoting progressive policies on sexual orientation or identity and disabilities.

To conclude, it is apparent that the drafters of the Code have made a substantial leap in updating the Philippine repository of penal laws. The Code

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231. REV. CORP. CODE, § 2.

232. United Nations, *supra* note 167.

233. H.B. No. 7140, art. 60 (7).

234. *See id.* art. 62.

235. *Id.* art. 10 (1).

236. *See* RE: PROPOSED RULES ON THE USE OF GENDER FAIR LANGUAGE IN THE JUDICIARY AND GENDER-FAIR COURTROOM ETIQUETTE, A.M. No. 21-11-25-SC (Feb. 15, 2022).

237. H.B. No. 7140, art. 11 (9).

238. *See* Chiesa & Gómez-Jara, *supra* note 13, at 489.

239. CÒDIGO PENAL, art. 33 (7).

240. *Id.* art. 22 (4).

of Crimes stays true to its promise to provide for a simplified and modernized legislative measure. Yet the battle is only halfway done; the Code, after careful study, deliberations, and revisions, if appropriate, must first be passed in Congress. Although the task is daunting and arduous, it is now, more than ever, that present-day lawmakers should embark on this historical undertaking.