

Upholding the Right to Freedom from Fear: An Examination of the Jurisprudential Response of Criminal Procedure and the Law on Public Officer to the Threat of Kidnapping for Ransom

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This Note begins with a discussion of the four freedoms: freedom of speech, freedom of religion, freedom from want, and freedom from fear. It is the last freedom which is highlighted in this Note and is analyzed with regard to the due process clause, various Philippine laws, and the constitutionality of the State responses in pursuit of its protection.

The Author starts by tracing Philippine laws that have been propelled by the right of freedom from fear such as: Criminal Law and Procedure, immigration laws, laws on nationalized activities and undertakings, Corporate Law, particularly the provision on the determination of the nationality of a corporation, Insurance Law, particularly the provision which states that a public enemy may not be insured, and Carriage of Goods and Transportation Law. In other words, it is fear which has shaped the direction of laws and jurisprudence concerning the issues which present themselves in the abovementioned areas of law.

In is in light of this discussion that the Author proceeds to an analysis of kidnapping for ransom and the different governmental, legislative, and international action and jurisprudence related thereto. The constitutionality of certain governmental actions in response to kidnapping for ransom (e.g., military checkpoints, consented searches, and military augmentation) is also analyzed.

In conclusion, the Author notes that although human rights occupy a position of primacy in the hierarchy of rights, there exists dangers which the State has a right to prevent. It is this balance between the protection of human rights and upholding the right to freedom from fear is quite hard to strike.