

ABSTRACTS
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**JUSTICE ACROSS BORDERS: THE STATE OBLIGATION OF
THE PHILIPPINES TO RECOGNIZE AND ENFORCE FOREIGN
JUDGMENTS AWARDING REPARATION TO VICTIMS OF GROSS
HUMAN RIGHTS VIOLATIONS COMMITTED WITHIN
PHILIPPINE JURISDICTION**

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On 03 February 1995, the District Court of Hawaii (Hawaii Court) rendered a judgment awarding USD1.9 Billion to the plaintiffs in a class action against the estate of former President Ferdinand Marcos (Marcos Estate). On appeal, the Ninth Circuit Court of the US Court of Appeals affirmed the judgment. Pursuant to Section 50 (now Section 48), Rule 39 of the Rules of Court, the class action plaintiffs instituted a complaint for the recognition and enforcement of the foreign judgment of the Hawaii Court. The trial court dismissed the complaint, without prejudice, on the ground of non-payment of the correct filing fees. The Supreme Court in *Mijares v. Ranada*, reinstated the complaint before the trial court on the ground that filing fees were properly paid, without ruling on the enforceability of the foreign judgment. However, the trial court eventually dismissed the case for lack of jurisdiction by the US district court over the parties. On appeal, the Court of Appeals rendered its decision in *Mijares et al. vs. the Estate of Ferdinand Marcos*, dismissing the petition due to want of jurisdiction, being constitutionally infirmed, and want of basis. While such decision finds legal foundation under Philippine law, the court failed to take cognizance of international law norms fundamental to the plaintiffs' cause of action.

Mijares presents an opportunity to address the normative tension between two contending legal realms of international law and domestic law especially as regards to the enforcement of human rights norms within the domestic sphere. International law imposes on every State the obligation to give effective remedy to victims of human rights violations. This obligation

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becomes binding and non-derogable particularly when it already involves *jus cogens* norms as in cases of torture, enforced disappearance, and summary execution. On the other hand, Philippine conflict rules empower domestic courts to allow or refuse recognition of foreign judgments. While decisions by foreign tribunals may be recognized and enforced by Philippine courts, these may nevertheless be impeached on account of want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

The article argues that Philippine courts are duty-bound to recognize and enforce foreign judgments in favor of victims of human rights violations when the violations amount to breaches of peremptory or *jus cogens* norms. In these instances, States have an *ergo omnes* obligation to provide effective remedy to the victims, and that effective remedy is allowing the enforcement of the foreign judgment. To further this argument, the article delves into the application of the Incorporation Clause of the 1987 Constitution as a means by which domestic law internalizes international law norms. This transformation creates an interrelation between both realms, allowing substantive rights and obligation derived from *jus cogens* norms to prevail over procedural rules.