

## EDITOR'S NOTE

This volume includes three papers that discuss theoretical developments and practical issues involving international law. First, Prof. Rommel J. Casis' paper, "Re-Customizing Customary International Law," discusses the relevance of customary international law (CIL) and the new issues and problems that surface with the completion of the International Law Commission's work on Identifying Customary International Law. The author points out that theoretical and practical issues are brought by applying the traditional approach to CIL. The paper offers alternative approaches to CIL that address the identified problems and respond to the times' needs.

Second, Dr. Lowell Bautista's paper entitled "The Legal Status of the Philippine Territorial Waters Claim in International Law" lays down the theoretical and conceptual background of the legal status of the Philippine territorial water claim in international law. The paper concludes that the Philippines' territorial sea claim is valid under international law based on recognition by treaty, devolution of treaty rights, historic rights, acquiescence, and estoppel. However, Dr. Bautista also points out a contrary position is equally tenable.

Third, the paper of Ambassador J. Eduardo Malaya and Atty. Anna Christina R. Iglesias, titled "Recognizing the Effects of Same-Sex Marriages: An Examination of Department of Justice Opinion No. 11, Series of 2019 on the Issuance of 9(E-1) Visas to Same-Sex Spouses of Foreign Diplomats," provides an analysis of the implications of the issuance of a visa category lower than the 9(e-1) granted to opposite-sex spouses of other diplomats. It discusses the reasoning behind DOJ Opinion No. 11 and notes that it is carefully confined to apply to same-sex spouses of foreign government officials assigned to the country. The authors also describe how the DOJ Opinion presents an open-minded outlook when acknowledging and recognizing the validity of a same-sex marriage between foreigners based on nationality, domiciliary principles, and *lex loci celebrationis*.

This volume also includes two reports from the International Criminal Court Office of the Prosecutor. The first is the ICC Prosecutor's Report on Preliminary Examination Activities in the Philippines on the South China Sea. The second report relates to the Extrajudicial Killings in the country. Apart from

this, 21 treaties and agreements have been entered into force in 2019. The Philippines have entered into bilateral treaties with Albania, Czech, Israel, Nepal, Qatar, Sweden, and Turkey. Out of the 21 treaties, 9 of which are ASEAN treaties and agreements which span from establishing protocols on customs transit, liberalization of passenger air services, among others. The 2017 ASEAN-Hong Kong, China Free Trade Agreement had also entered into full force in 2019.

In 2019, six (6) judicial declarations touched upon issues and concepts of international law. In *Lagman v. Medialdea*, the Supreme Court took international human rights principles established in the Universal Declaration of Human Rights (UDHR), and principles declared in the International Covenant on Civil and Political Rights as guiding principles for domestic law enforcement officials. The Court also points out soft law instruments that uphold the principles of legality, proportionality, necessity, and accountability in situations involving the use of force by law enforcers. Several other judicial declarations are included in this volume.

Write-ups of the books “Problems and Prospects in International Law” by Atty. Merlin M. Magallona, and “Enhancing International Legal Cooperation: Extradition, Mutual Legal Assistance, and Cooperation on Transactional Organized Crimes and Narcotic Drugs (Treaties, Laws & Procedures)” by Ambassador J. Eduardo Malaya, Atty. Shiela Monedero-Arnesto, and Atty. Ricardo V. Paras III are included in this volume.

This volume also includes reports on notable events in 2019, including ICC Judge Pangalangan's election as President of the ICC Trial division, the entry into force of the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, the signing of the Final Act of the 2019 Judgment Convention by the Philippine delegates to the Special Commission on the Recognition and Enforcement of Foreign Judgments and as a recap of the 7<sup>th</sup> Biennial Conference of the Asian Society of International Law (AsianSIL).

MERLIN M. MAGALLONA  
*Editor-in-Chief*