

Gender-Neutral Language in Philippine Supreme Court Decisions

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Abstract: The language that courts employ is vital in the development of law and society. In the modern-age of gender consciousness, it is critical to recognize the role that language plays in gender dynamics and to deviate from the use of gender-specific (mostly, masculine) language that further perpetrates inequality and marginalization. In the Philippines, both Filipino and English are recognized as official languages. While Filipino is a predominantly gender-neutral language, English still employs gender-specific language. Yet, English remains to be the principal language used in court proceedings and processes. In so doing, the legal system has, whether consciously or not, embraced the use of gendered language common in the English language. On 15 February 2022, the Philippine Supreme Court promulgated the “Guidelines on the Use of Gender Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette” which seeks to provide a uniform rule with regard to the use of gender-neutral language in court processes and documents. The paper seeks to examine the use of “gendered” language in Philippine case law and the impact, if any, of the Guidelines to Supreme Court decisions after its issuance.

Keywords: Gender-neutral language, Statutory and case law construction, Political correctness.

Summary: 1. The importance of gender-neutral language in law; 2. The languages of the Philippines; 3. Gender-neutrality (or lack thereof) in Supreme Court decisions and issuances; 4. The Supreme Court Guidelines on the use of gender-fair language; 5. Supreme Court decisions post-Guidelines; 6. Conclusion.

Long afterward, Oedipus, old and blinded, walked the roads. He smelled a familiar smell. It was the Sphinx. Oedipus said, “I want to ask one question. Why didn’t I recognize my mother?” “You gave the wrong answer,” said the Sphinx. “But that was what made everything possible,” said Oedipus. “No,” she said. “When I asked, what walks on four legs in the morning, two at noon, and three in the evening, you answered, Man. You didn’t say anything about woman.” “When you say Man,” said Oedipus, “you include women too. Everyone knows that.” She said, “That’s what you think.” – “Myth” by M. Rukeyser (1973)

1. The importance of gender-neutral language in law

Although law is not exactly a pure linguistic endeavour, the relationship between law and language cannot be understated. A recent development in the intersection of law and language is the rejection of gendered language² and the use of gender-neutral language in legal writing, with most modern legal

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² When referred to in the paper, the term gendered language means language that represents one sex as the norm, gratuitously identifies the sex of a referent, or demeans and trivialized another gender. This definition partly modifies the definition of Professor Fischer. See J. D. FISCHER, *The Supreme Court and Gender Neutral Language: Splitting la Difference*, in *Women’s Rights Law Reporter*, vol. 33, No. 2/3, 2012, pp. 218–243. The paper avoids the equation of gendered language with “sexist” language. As pointed out by one author, the “sexist” label “may not be the best way to further the goal of linguistic change” because “[w]hile male-gendered generics may communicate ‘subtle sexism,’ one should not assume that the writer is ‘sexist’”. L. M. ROSE, *The Supreme*



writing texts and style manuals recommending its use for a variety of reasons.³ Gendered language, which is predominantly masculine, can communicate subtle sexism and manifests as a sign of a gender-biased system, especially against women and other minority groups. The language that people use can be perceived as an introspective lens of a person's views and beliefs and a reflection, if not perpetuation, of the society's structure and attitudes.⁴ American Judge William B. Hill, Jr. explained:

Language conveys the norms, values, beliefs, and perceptions that help ensure an ordered social environment and help define the boundaries of acceptable social discourse. Language is defined as the systematic use of words by a people with a shared history or set of traditions.¹ When this systematic use of words is gender based to the detriment or exclusion of more than one-half of the population, then surely something is awry. Certainly, it would be intellectually dishonest to pretend of aspirations to include all members of a society as equal participants absent the use of language that eliminates inappropriate gender implications.⁵

Particularly, the use of masculine words minimizes, if not excludes, the importance of women in society and sets up an invisible barrier which hinders their full participation therein. This bias has already been corroborated by empirical evidence, which suggests that masculine pronouns position male as the superior gender and produce a disproportionate number of masculine images in the minds of receivers. Gendered language may also influence the views and attitudes of all genders.⁶ In one study, for instance, participants were tasked to concoct a story about a person described by this sentence: "Most people are concerned with appearance. Each person knows when his appearance is unattractive". Majority described the person as male. It was only when the pronoun "his" was replaced by "their" or "his or her" did the stories become gender balanced – revealing that the use of male terms fail to be gender-neutral, even in an explicitly gender-neutral context.⁷ Even in non-English languages, studies revealed the same conclusion of male bias.⁸ This also opens the discourse on the fixation on binary categorization of gender and how bias towards the dichotomy prejudices persons who do not fall therein. Although the modern history of the struggle for gender neutrality in language commenced with women's rights advocates in the mid-1990s, attention is now expanded to the other classifications that may fall across the gender spectrum.

The use of gender-neutral language may also provide precision and reduce ambiguity in legal writing. Masculine words "tend to cause inaccurate, misleading, or ambiguous statements, and official policies and guidelines have subsequently condemned their use".⁹ One American judge even commented that the indiscriminate use of masculine pronouns can cause confusion, especially in terms of jury

Court and Gender-Neutral Language: Setting the Standard or Lagging Behind?, in *Duke Journal of Gender Law & Policy*, vol. 17, 2010, pp. 81–129.

³ For a detailed discussion of this movement among legal writers in the United States, see L.M. ROSE, *The Supreme Court and Gender-Neutral Language*, *op. cit.*, pp. 82–92.

⁴ L. M. ROSE, *The Supreme Court and Gender-Neutral Language*, *op. cit.*, pp. 94–97.

⁵ W. B. HILL JR., *A Need For The Use Of Nonsexist Language In The Courts*, in *Washington and Lee Law Review*, vol. 49, iss. 2, 1992, pp. 275–278.

⁶ K. M. LAGASSE, *Language, Gender, and Louisiana Law: Removing Gender Bias from the Louisiana Civil Code*, in *Loyola Law Review*, vol. 64, No. 1, 2018, pp. 187–214.

⁷ J. MOULTON, G. M. ROBINSON, C. ELIAS, *Sex bias in language use: "Neutral" pronouns that aren't*, in *American Psychologist*, vol. 33, No. 11, 1978, pp. 1032–1036.

⁸ T. REDL, A. SZUBA, P. DE SWART, S. L. FRANK, H. DE HOOP, *The male bias of a generically-intended masculine pronoun: Evidence from eye-tracking and sentence evaluation*, in *Discourse Processes*, vol. 59, No. 10, 2021, pp. 828–845. For a detailed account of prior studies done on the matter, see W.R. TODD-MANCILLAS, *Masculine Generics = Sexist Language: A Review of Literature and Implications for Speech Communications Professionals*, in *Communications Quarterly*, vol. 29, iss. 2, 1981, pp. 107–115. See also J. GASTIL, *Generic pronouns and sexist language: The oxymoronic character of masculine generics*, in *Sex Roles*, vol. 23, 1990, pp. 629–643.

⁹ K. M. LAGASSE, *Language, Gender, and Louisiana Law*, *op. cit.*, p. 191.



instructions and during oral arguments.¹⁰ In *State v. James*,¹¹ for instance, an appellate court in New Jersey interpreted the provision on jurors' qualification that reads "[h]e must be a citizen of this state" to mean that only males can be jurors since "men only shall be impanelled by the use of the personal pronouns of the masculine gender 'he' and 'his'". Meanwhile in *Snyder's Estate v. Denit*,¹² the Rhode Island Supreme Court held that the use of masculine pronouns should be construed to include the female gender. The use of masculine pronoun when the party to the case is evidently female may further obscure the text and confuse the reader. Promoting gender-neutral language thus "enables the legal language to be more accurate and clearer for its readers". For example, avoiding masculine pronouns by shortening and dividing sentences into shorter sentences achieves simplicity and reduces verbosity common in legal language.¹³ One author also noted that gendered language is distracting to the readers and, quoting two American judges, is often disagreeable and insulting.¹⁴

Historically, the struggle for a gender-neutral language, particularly in English, can be traced to the 12th century.¹⁵ Then in the 1700s, linguists and grammarians began to prescribe an informal set of rules for language. They recommended masculine as the default gender and proposed the use of "he" to refer to everyone. Some believe that this might have been due to androcentrism or the belief that males, as well as their needs and values, are superior. Prior to this movement, the pronoun "they" had been customarily used as a singular pronoun, which grammarians rejected.¹⁶ The use of masculine language was sporadically questioned for a few decades thereafter, until the wave of women's movement in 1960s gained traction in the United States. Women pushed for a more gender-neutral language and they were partially successful. The use of masculine words in media declined significantly in the 1970s, and the language of judges were also impacted to become more inclusive.¹⁷

Literature in the Philippines on the subject is almost nil, although a scattering of efforts may be found.¹⁸ As early as the 1990s, the education department had incorporated gender-neutral language in the English language textbooks, albeit inconsistent.¹⁹ In 2005, the civil service commission issued a resolution which encouraged government officials and employees to use non-gendered language in all its official documents, issuances, and communications.²⁰ The Magna Carta for Women also specified that "[g]ender-sensitive language shall be used at all times".²¹ The University of the Philippines Center for Women's and Gender Studies also regularly publishes a primer for use of gender-neutral language.

2. The official languages of the Philippines

¹⁰ S. S. ABRAHAMSON, *Toward a Courtroom of One's Own: An Appellate Court Judge Looks at Gender Bias*, in *University of Cincinnati Law Review*, vol. 61, No. 4, 1993, pp. 1209–1222.

¹¹ (N. J. 1921) 96 N. J. L. 132.

¹² (Md. 1950) 72 A.2d 757.

¹³ K. KABBA, *Gender-Neutral Language: An Essential Language Tool to Serve Precision, Clarity and Unambiguity*, in *Commonwealth Law Bulletin*, vol. 37, No. 3, 2011, pp. 427–434.

¹⁴ J. D. FISCHER, *The Supreme Court and Gender Neutral Language: Splitting la Difference*, *op. cit.*, p. 223.

¹⁵ A. MUCCHI-FAINA, *Visible or influential? Language reforms and gender (in)equality*, in *Social Science Information*, vol.44, No. 1, pp. 189–215.

¹⁶ K. M. LAGASSE, *Language, Gender, and Louisiana Law*, *op. cit.*, pp. 191–192.

¹⁷ J. D. FISCHER, *Framing Gender: Federal Appellate Judges' Choices About Gender-Neutral Language*, in *University of San Francisco Law Review*, vol. 43, 2009, pp. 473–508.

¹⁸ See A. PAUWELS, J. WINTER, *Generic pronouns and gender-inclusive language reform in the English of Singapore and the Philippines*, in *Australian Review of Applied Linguistics*, vol. 27, No. 2, 2004, pp. 50–62, finding that the masculine "he" remains the generic pronoun in the student and published academic writing in the Philippines, although "s/he" forms is slowly emerging as the preferred gender-inclusive alternative.

¹⁹ G. M. JACOBS, Q. Y. ZHUO, P. C. JOCSON, C. W. ONG, M. E. D. AUSTRIA, M. SEVIER, W. TEO, *Asian views on gender-inclusive English*, in Asia-Pacific Human Rights Information Center (eds.), *Human rights education in Asian schools*, Osaka, vol. 4, 2001, pp. 129–148.

²⁰ Resolution No. 050433, s. 2015.

²¹ R.A. no. 9710, 14th Cong. (2nd sess., 2008)



The 1987 Philippine Constitution recognizes Filipino as the Philippine national language,²² although for purposes of communication and instruction, the official languages are Filipino and English, unless the use of the latter is proscribed by a statute.²³

The declaration of English as an official language can be traced to the 1935 Philippine Constitution, which was adopted during the waning years of American occupation in the Philippines. Its use as a medium of communication, however, started much earlier during the onset of the American occupation, when the Americans opened a network of public schools in their attempt to “pacify” the Filipinos during the Philippine-American War and forward their policy of “benevolent assimilation”. American teachers, more popularly known as Thomasites, named after the army transport USS Thomas, enforced English as the primary medium of instruction across the country.²⁴ For six hours a day, five days a week, Filipinos were required to use and learn English and those who were caught speaking their native languages were punished.²⁵ In the first commission report to President McKinley, it was noted that the introduction of the English language was “hailed with delight by the people, who could hardly believe that they were to be encouraged to learn the language of those in authority over them”.²⁶ But, as well-known Filipino historian Renato Constantino framed the American colonial education – “[t]he Filipino has to be educated as a good colonial”. The use of English, in particular, “became the wedge that separated the Filipinos from their past” and had the effect of “separate[ing] educated Filipinos from the masses of their countrymen”.²⁷

The Americans were successful in this aspect of their colonization. By the 1930s, approximately 35% of Filipinos can speak English, a degree of acceptance the Spanish language failed to achieve despite more than 300 years of occupation.²⁸ English was adopted by the elite to better their chance of migrating to the United States or to seek intellectual affirmation from the West. They were also motivated to communicate with the Americans to further preserve and consolidate their wealth and properties.²⁹ Even today, writers and scholars prefer the use of English in their works to attend American schools and obtain scholarship opportunities. Attempts to abolish the use of English is not unheard of. At the height of the nationalist activism in the 1970s brought by anti-Marcos movement, the use of native languages by known poets and writers became prominent. After the ouster of Marcos and the subsequent adoption of the 1987 Constitution, the new government attempted to implement a language policy that would increase the use of Filipino as the primary medium of instruction in schools. However, English remains widely used in the Philippines, due to the fact that the Philippines has maintained significant relationship with the United States in terms of trade and industry, and even in international politics and policies.³⁰ In the 2000 census of the National Statistics Office, among household population of (five) 5 years old and

²² PHIL. CONST. Art. XIV, par. 6.

²³ PHIL. CONST. Art. XIB, par. 7. No such proscription has been passed up to this day.

²⁴ V. L. RAFAEL, *The War of Translation: Colonial Education, American English, and Tagalog Slang in the Philippines*, in *The Journal of Asian Studies*, vol. 74, No. 2, 2015, pp. 283–302.

²⁵ J. J. SMOLICZ, *National Language Policy in the Philippines: A Comparative Study of the Education Status of “Colonial” and Indigenous Languages with Special Reference to Minority Tongues*, in *Southeast Asian Journal of Social Science*, vol. 12, No. 2, 1984, pp. 51–67.

²⁶ Excerpt from E. S. YULE, *The English Language in the Philippines*, in *American Speech*, vol. 1, No. 2, 1925, pp. 111–120.

²⁷ R. Constantino, *The Miseducation of the Filipino*, in *The Journal of Contemporary Asia*, vol. 1, No. 1, 1970, pp. 20–36.

²⁸ V. L. RAFAEL, *The War of Translation: Colonial Education, American English, and Tagalog Slang in the Philippines*, op. cit., pp. 284–285. It can, however, be claimed that the failure of the Spanish language to spread in the country was intentional on the part of the Spaniards. By ensuring that the different Philippine groups did not speak the same language, the possibility to revolt against the Spaniards could be minimized. Limiting the language to be spoken by the elites also solidified the already wide divide among the Filipinos during the occupation.

²⁹ T. R. F TUPAS, *Bourdieu, Historical Forgetting, and the Problem of English in the Philippines*, in *Philippine Studies*, vol. 56, No. 1, 2008, pp. 47–67.

³⁰ R. K. LAUREL, “Pinoy” English: Language, Imagination, and Philippine Literature, in *Philippine Studies*, vol. 53, No. 4, 2005, pp. 532–562.



over, 63.71% of them can speak English.³¹ Based on the current English Proficiency Index published by the international company Education First, the Philippines ranks 22nd out of 111 countries in English proficiency, with its score 578 categorized as “high”.³²

The adoption of Filipino as an official language in communication is more nuanced. When the Americans occupied the Philippines, renowned Philippine ethnologist H. Otley Beyer estimated that there were 87 languages spoken by 47 groups in the Philippines³³ but there was no national *lingua franca*. Eight of the languages were classified as major: *Tagalog*, *Ilokano*, *Bikol*, *Pampangan*, *Pangasinense*, *Cebuano*, *Hiligaynon*, and *Waray*. While there exists a degree of mutual intelligibility or shared commonalities among many Philippine languages, “not one can be fully understood by more than 50% of the total population”.³⁴

Attempts to recognize any Philippine languages as modes of instruction during the American occupation, although existent, were futile and their use was a perceived threat to the use of English.³⁵ In 1934, an initiative to include a provision on a national language in the drafting of a new constitution was welcomed, but the discussion as to which of the many Philippine languages would be the basis thereof was another story. Legislators pushed for *Tagalog* to be used as the basis for a national *lingua franca* because it was widely circulated and the language of Manila, the capital city and then center of trade,³⁶ but the attempt failed amidst strong opposition from other groups. Due to these differences, the ratified 1935 Constitution only had a broad clause that required the Congress to take steps toward the development and adoption of a national language based on one of the existing Philippine languages.³⁷ The National Language Institute was created a year later to study Philippine languages for the purpose of evolving and adopting a national *lingua franca*.³⁸ In 1937, the Institute recommended the use of *Tagalog* as the foundation thereof. President Quezon then signed an executive order which approved the adoption of *Tagalog* as the basis of the national language.³⁹ The use of *Tagalog* was solidified during the brief Japanese occupation. Ardent to the rejection of English as a mode of communication, the Japanese recognized *Tagalog* as the national *lingua franca*, and not just the basis thereof.⁴⁰ As a result, despite prior resistance, non-native *Tagalog* speakers became more keen to its use, particularly because they feared the repercussion of using English or other languages, mixed with the ideal that a solitary language could unite Filipinos against the Japanese. Even after the Japanese left, *Tagalog* has “imperceptively be[come] the *lingua franca* of the common masses”.⁴¹ In 1959, the Department of Education declared that the national *lingua franca* shall be called Pilipino, not *Tagalog*, so as not to ostracize speakers of other Philippine languages.⁴²

The search for a national *lingua franca*, however, persisted during the writing of the 1973 Constitution, with one linguist noting that the hostility towards a *Tagalog*-based national language was “so fierce that there was even the danger that a foreign language like English might be adopted as the Philippine national language”.⁴³ Thus, the 1973 Constitution merely declared that the Congress “shall

³¹ *Educational Characteristics of the Filipinos*, National Statistics Office (March 18, 2005), <https://web.archive.org/web/20131226001517/http://www.census.gov.ph/old/data/sectordata/sr05153tx.html>

³² Philippines, Education First, <https://www.ef.com/wwen/epi/regions/asia/philippines/>.

³³ E. S. YULE, *The English Language in the Philippines*, op. cit., fn 1.

³⁴ N. ASUNCION-LANDE, *Multilingualism, Politics, and “Filipinism”*, in *Asian Survey*, vol. 11, No. 7, 1971, pp. 677–692.

³⁵ For a detailed account of the movement during the American occupation, see M. T. T. P. TINIO, *The Triumph of Tagalog and the Dominance of the Discourse on English: Language Politics in the Philippines during the American Colonial Period* (May 18, 2009) (Ph.D. dissertation, National University of Singapore).

³⁶ C. J. PAZ, *The nationalization of a language: Filipino*, in *The Fourth International Symposium on Language and Linguistics*, 1996, pp. 2052–2059.

³⁷ PHIL. CONST. (1935) Art. XIV, par. 3.

³⁸ C. A. No. 184 (1936), pars. 1–5.

³⁹ E. O. No. 134 (1937).

⁴⁰ PHIL. CONST. (1943) Art. IX, par. 2.

⁴¹ N. ASUNCION-LANDE, *Multilingualism, Politics, and “Filipinism”*, op. cit., 684–685.

⁴² *Kautusang Pangkagawaran blg. 7*, s. 1959.

⁴³ J. J. SMOLICZ, *National Language Policy in the Philippines*, op. cit., p. 54.



take steps towards the development and formal adoption of a common national language to be known as Filipino”, which shall be the one of the two official languages, the other being English.⁴⁴ The change from Pilipino to Filipino (the letter “F” is present in the alphabets of other major Philippine languages but is absent in *Tagalog*) was meant to symbolize other Philippine languages and emphasize that the national *lingua franca* was a product of their amalgamation,⁴⁵ although many raised concerns that, at its core, the envisioned national *lingua franca* still relied on *Tagalog*. The debate continued during the deliberations of the 1987 Constitution, although there was no longer any concern with the use of the term Filipino for the national *lingua franca*. It was also emphasized that while Pilipino was largely based on *Tagalog*, Filipino would be “based on language usage, similarities and peculiarities of different Philippine ethnic groups”.⁴⁶ The drafters, however, recognized that while Filipino would not be limited to the syntax and vocabulary of *Tagalog* and would incorporate other Philippine languages, inevitably, the starting point would still be *Tagalog* because it “has already been developed in the past as an evolving national language”.⁴⁷ As Commissioner Gaston explained:

One can see that the similarities between Filipino and Tagalog are greater than the similarities between Filipino and, say, Cebuano or Hiligaynon. But this does not necessarily mean that the language which is continuing to be developed will not assimilate more words from other Philippine languages.⁴⁸

To ensure the integration of other languages and address the concerns of non-*Tagalog* native speakers in the convention, the final provision on national *lingua franca* in the 1987 Constitution adds that Filipino “shall be further developed and enriched on the basis of existing Philippine and other languages”.⁴⁹

3. Gender-neutrality in Philippine Supreme Court decisions and issuances

The language that judges use is as important as the substance of their decisions. Their opinions are read not just by the litigants, but may be accessed by the public as well, and they provide a structure that may influence the manner lawyers and students of law write their pleadings and papers.⁵⁰ Perhaps no language in Philippine law is more important than that used by the justices of the Supreme Court. Only the decisions of the Supreme Court have *stare decisis* effect and become law of the land. Regrettably, a quick review of its decision in the past century would reveal an ambivalence, if not indifference, towards the use of gender-neutral language.

A good starting point in the analysis is the almost exclusive use of English by the Supreme Court. Decisions, resolutions, and other issuances of the Supreme Court have customarily been issued in English. As of today, there have been less than five promulgated decisions of the Supreme Court in Filipino, with no such decision in the past two decades.⁵¹ This is unfortunate because Filipino is predominantly gender neutral. All pronouns are not gender-based. Instead of “he” or “she”, the term “*sila*” is used; “*sa kaniya*”, instead of “his” or “hers”. This is present in other Philippine languages as well. In *Ilocano*, for both genders, the third person pronoun is “*isuna*” or “*na*”; possessive pronoun is “*kanyana*”. While Filipino has words for gender, nouns are mostly genderless. In English, a “spouse” may be a “husband” or a “wife”, but in Filipino either gender is called “*asawa*” or metaphorically “*kabiyak*”; a “sibling” may be a “sister” or a “brother”, in Filipino just “*kapatid*”; “grandchild”, “granddaughter”, and “grandson” are all “*apo*”. Gendered Filipino nouns are commonly those

⁴⁴ PHIL. CONST. (1973) Art. XV, par. 3.

⁴⁵ Record Of The Constitutional Commission, vol. 4, p. 153.

⁴⁶ Record Of The Constitutional Commission, vol. 4, p. 152.

⁴⁷ Record Of The Constitutional Commission, vol. 4, p. 153.

⁴⁸ Record Of The Constitutional Commission, vol. 4, p. 156.

⁴⁹ PHIL. CONST. Art. XIV, par. 6.

⁵⁰ L. M. ROSE, *The Supreme Court and Gender-Neutral Language*, op. cit., pp. 99–100.

⁵¹ *Draculan v. Donato* (1978) G. R. No. L-44079; *People v. Barranca* (1989) G. R. No. 78269; *People v. Vinuya* (1999) G. R. No. 125925.



“borrowed” from other languages. For example, the *Tagalog* word for “teacher” is “*guro*”, but for *Ilocano* and *Cebuano*, the term “*maestro*” and “*maestra*”, borrowed from the Spanish, is more commonly used - all of which are acceptable words in Filipino. The influence of Spanish in Philippine languages is evident even today, with common words originating from Spanish words with grammatical gender, such as “*lamesa*”, for table, from the feminine Spanish noun “*la mesa*”. The tendency for words ending in “a” to be feminine while those ending in “o” to be masculine was also transplanted from Spanish vocabulary. Lawyers are “*manananggol*” although the terms “*abogado*” and “*abogada*”, to refer to a male and female lawyer, respectively, are also acceptable. Even loaned words from English tend to follow this rule. A “doctor” is “*manggagamot*”, but “*doktor*” is more commonly used nowadays. When referring to a female doctor, the suffix “a” is often attached to feminize the word into “*doktora*”.

English, on the other hand, is a language that is naturally gendered.⁵² It utilizes gendered third person pronouns, which one author termed as “the pronoun problem”.⁵³ Gender bias also appears in nouns. Although no gender is assigned to nouns unlike some European languages, masculine nouns are sometime used in a pseudo-generic sense and thus “sets up masculine as the norm”.⁵⁴ For instance, the word “man” and words ending in “-man” are commonly used to subsume humankind. Gendered titles and gender-marked terminologies also make unnecessary differentiation between males and females, which tend to trivialize females.⁵⁵ “Mr.” is used for the former, but for the latter, the title depends on one’s civil status (“Ms.” for an unmarried woman, “Mrs.” for married). A waiter is just called “waiter” if he is male, but if she is female she is usually referred as a “waitress”. Consequently, since English has traditionally become the language of the courts, the problem with its gendered vocabulary is carried to court documents. Preference for masculine nouns (e.g., mankind, layman, man-made) and pronouns (e.g., he, his) have been prominent in Supreme Court decisions. In *Recuerdo v. People*, for instance, the accused charged with *estafa* for issuing checks that were subsequently dishonoured was evidently female based on the facts narrated. When analysing the case, however, the Supreme Court reverted to pseudo-generic masculine pronouns to decide the case, to wit, among others:

Good faith is a defense to a charge of *Estafa* by postdating a check. This may be manifested by the accused’s offering to make arrangements with his creditor as to the manner of payment or, as in the present case, averring that his placing his signature on the questioned checks was purely a result of his gullibility and inadvertence, with the unfortunate result that he himself became a victim of the trickery and manipulations of accused-at-large.

In some remarkable instances, even the Supreme Court’s choice of words has been questionable. For example, in the 1993 murder case of *People v. Danque*,⁵⁶ when describing the failure of a witness, the wife of the victim, to call for help and assist her husband, the Supreme Court had this to say:

[S]urvival was and still remains the first law of man. [The witness] has reason to fear for her safety. She belongs to the weaker sex and any effort on her part to help [the victim] would amount to nothing but raw and reckless courage.

Also, in the 1994 case of *People v. Salinas*,⁵⁷ the Supreme Court used unnecessary metaphors to describe the crime of attempted rape:

Partial penile penetration is as serious as full penetration; the rape is deemed consummated in either case. In a manner of speaking, bombardment of the

⁵² European Parliament, *Gender-Neutral Language in the European Parliament*, 2015.

⁵³ B.R. BURLINGAME, *Reaction and Distraction: The Pronoun Problem in Legal Persuasion*, in *Scribes Journal of Legal Writing*, vol. 1, 1990, pp. 87–110.

⁵⁴ J. D. FISCHER, *The Supreme Court and Gender Neutral Language: Splitting la Difference*, *op. cit.*, p. 220.

⁵⁵ J. D. FISCHER, *The Supreme Court and Gender Neutral Language: Splitting la Difference*, *op. cit.*, pp. 220–221.

⁵⁶ (1993) G. R. No. 107978.

⁵⁷ (1994) 302 Phil 305.



drawbridge is invasion enough even if the troops do not succeed in entering the castle.

One can argue that the gender-based language used by the courts is influenced by the language of statutory laws, something beyond its control and supervision. Even the English version of the 1987 Philippine Constitution, with all its provision on equality and women's rights, repeatedly employs the use of the gender-based terms "man" and "he" to denote all Filipinos. For example, the head of the various constitutional bodies are called "Chairman,"⁵⁸ while Art. XVI refers to "officers and men of the regular force of the armed forces."⁵⁹ Art. VII, Section 2, states that "[n]o person may be elected President unless he is a natural-born citizen,"⁶⁰ even though the President at the time the Constitution was adopted was female. In fact, the pronouns "she" or "her" does not appear anywhere in the Constitution, while "he" and "him" appear 44 times. The preference towards the use of singular nouns which are then followed by the masculine pronoun "he" is evident, even though collective nouns could have been used instead. To illustrate, the section on the rights of persons under custody reads:

Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.⁶¹

Without reducing the impact of the right, gender-biased language could have been avoided by the consistent use of collective nouns and the pronoun "they", which is used in some parts of the Constitution but not as often as "he". Thus:

Persons under investigation for the commission of an offense shall have the right to be informed of their right to remain silent and to have competent and independent counsel preferably of their own choice. If they cannot afford the services of counsel, they must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.⁶²

Statutes, which are written in English, equally augment the use of gendered language in Supreme Court decisions, especially for statutes promulgated in the 1900s. For instance, the New Civil Code, which was enacted in 1949, remains to be the chief statute governing civil law in the Philippines. Majority of its provisions remain unaltered up to this date, carrying over the gender-based language commonly used during the period. In contracts law, the "diligence of a good father" remains to be the benchmark when analysing ordinary care or diligence;⁶³ the "commerce of men" in evaluating propriety of an object.⁶⁴ Masculine pronouns are also used predominantly in the New Civil Code similar to the 1930 Revised Penal Code although the latter significantly uses the gender-neutral noun "person" in its provisions. Questionably, the Revised Penal Code defines adultery as the sexual intercourse of a married woman with "a man not her husband" but in concubinage, the term "mistress" is used instead of "a woman not his wife".⁶⁵

⁵⁸ PHIL. CONST. Art. IX, par. 3.

⁵⁹ PHIL. CONST. Art. XVI, par. 5(6).

⁶⁰ PHIL. CONST. Art. VII, par. 2.

⁶¹ PHIL. CONST. Art. III, par. 12(1).

⁶² The use of plural nouns followed by the gender-neutral pronouns is not distinct in the Constitution. Some provisions employ them. See, e.g., PHIL. CONST. Art. III, par. 12(1), which reads "[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

⁶³ R. A. No. 386, Art. 1163.

⁶⁴ R. A. No. 386, Art. 1347.

⁶⁵ Act No. 3815, Arts. 333-334.



More recent statutes have significantly deviated from the use of gender-based language. In the Anti-Terrorism Act of 2020, “he/she” and “his/her” are predominantly employed.⁶⁶ The Foundling Recognition and Protection Act exclusively uses gender-neutral nouns such as “person” and “parent” and avoided the use of gendered pronouns. However, it may be argued that the use of gender-neutral language has been inconsistent so far. The Social Security Act of 2018 intermingles the use of gender-based and gender-neutral pronouns, with some provisions using “he or she”⁶⁷ although the masculine pronouns “he” and “his” remain predominant throughout.⁶⁸ The 2013 amendments to the Insurance Code and the Revised Corporation Code of 2019 fare even worse, with the gender-neutral “he or she” only used once while masculine pronouns were used regularly; the use of masculine nouns like “prudent man” in the former⁶⁹ and “chairman” in the latter.⁷⁰ A study of the 1997 Tax Code revealed more than one third of its provisions used gendered language.⁷¹ Even after its amendment in 2017, the gendered language remained.⁷²

But then, the use of gendered language in statutes cannot be used as a scapegoat to justify their use in court processes and documents. The Philippine legal system has both civil law and common law traditions, with the degree of influence varying depending on the area of law.⁷³ The doctrine of precedent or *stare decisis* is so engrained in the legal system that it is not uncommon for lawyers to rely heavily on case law instead of statutory law when submitting documents to the courts. Thus, while statutory law may have some influence in the language used by and in the courts, the Supreme Court has equal opportunity to shape the language of the law in the Philippines – which it has attempted to do in the past years. For example, courts have always utilized the “*barrio lass*” or “*Maria Clara*”⁷⁴ doctrine in rape cases. The doctrine presumes and describes Filipino women as demure and reserved and incapable of “concoct[ing] a story of defloration”.⁷⁵ The doctrine has been criticized for its dependence on stereotypes and idealizing the victims of rape. The Supreme Court, however, has started to deviate from over-reliance on the “*Maria Clara*” doctrine, calling for the need to weed out gender bias and cultural misconceptions in assessing testimonies of rape victims.⁷⁶ In *People v. Vibar*,⁷⁷ for instance, the analysis was instead focused on determining whether the victim’s testimony was “straightforward and categorical”. The Supreme Court has also recently amended majority of the Rules of Court to accommodate gender neutrality. Several portions of the Rules, however, are still unamended and the use of gendered language (use of masculine pronouns; use of unnecessary gender-based identifier, e.g., executrix, administratrix) still remains.

The most recent of these attempts to adopt a more gender-neutral language in court processes and documents is the issuance of the Guidelines on the Use of Gender Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette.⁷⁸

⁶⁶ R. A. No. 11479, 18th Cong. (1st sess., 2019), *e.g.*, pars. 12, 15, 17, 19–20, although in three sections, the masculine pronoun “his” was used.

⁶⁷ R. A. No. 11199, 17th Cong. (3rd sess., 2018), *e.g.*, par. 3.

⁶⁸ R. A. No. 11199, 17th Cong. (3rd sess., 2018), *e.g.*, pars. 6, 9, 11–14.

⁶⁹ R. A. No. 10607, 15th Cong. (3rd sess., 2012), par. 141.

⁷⁰ R. A. No. 11232, 17th Cong. (3rd sess., 2018), par. 53.

⁷¹ J. P. TIBUBOS, *Gender Bias in the National Internal Revenue Code of 1997*, in *NTRC Tax Research Journal*, vol. XXVII.3, 2015, pp. 1–16.

⁷² R. A. No. 10963, 17th Cong. (2nd sess., 2017).

⁷³ S. T. CARLOTA, *The three most important features of the Philippine legal system that others should understand*, paper presented at the Learning from Each Other: Enriching the Law School Curriculum in an Interrelated World, Milan, Italy (2010, May 20–22).

⁷⁴ *Maria Clara* is a character in the novel *Noli Me Tangere* (Touch Me Not) of the Philippine National Hero Jose Rizal and has been perceived as the embodiment of the “ideal” Filipino woman. See C. S. HAU, *The Afterlives of María Clara*, in *Humanities Diliman*, vol. 18, iss. 1, 2021, pp. 118–161.

⁷⁵ *People v. Fenderico*, (2003) G. R. No. 146956.

⁷⁶ *People v. Amarela*, (2018) G. R. No. 225642–43.

⁷⁷ (2018) G. R. No. 215790.

⁷⁸ (2022) A. M. 21-11-25-SC.



4. *The Supreme Court Guidelines on the use of gender-fair language*

Taking off from the passage of the Philippine Safe Spaces Act in 2018,⁷⁹ the Supreme Court Committee on Gender Responsiveness in the Judiciary proposed the drafting of specific rules on the use of gender-neutral language in court documents and proceedings. On 15 February 2022, the *Guidelines* were officially released by the Supreme Court. On the premise that “courts cannot and should not perpetuate gender stereotypes, which rest on unfounded generalizations regarding the characteristics and roles of binary and non-binary genders”, the *Guidelines* emphasized the “need to recognize the importance of transforming language from traditional usage to a more liberating one, that which is gender-sensitive”.⁸⁰ The *Guidelines* provided five general parameters to achieve this purpose.

First, language that excludes or renders invisible persons of different gender or sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) must be eliminated. This includes the use of generic masculine nouns and pronouns and replacing them with gender-neutral mass nouns and pronouns or by including feminine nouns and pronouns in the statement through pairing. Masculinization of professions, occupations, and societal roles was also criticized (e.g., “chairman”, “businessman”). Similarly, the use of the term “man” to subsume all humanity (e.g., “mankind”) was especially scrutinized, with the *Guidelines* opting for more general (e.g., “humanity”) or inclusive terms (e.g., “men and women”). Take for instance, the United States Declaration of Independence as paraphrased in *Estrada v. Escritor*:⁸¹

It was difficult to justify inequality in religious treatment by a new nation that severed its political bonds with the English crown which violated the self-evident truth that all men are created equal.

The last phrase, according to the *Guidelines*, should instead be written as “all men and women are created equal”.

Second, the *Guidelines* excludes language that trivializes or diminishes the stature of persons of another gender or with different SOGIESC. This includes rejecting diminutive feminine suffixes (e.g., -ess, -ette, -trix, -ienne), sex-linked modifiers (e.g., “lady doctor”), gender-linked modifiers (e.g., “gay entertainer”, “lesbian lover”), and outdated honorifics and forms of address (e.g., “Dra.” for female doctors, “Mrs.” when the marital status of a woman is irrelevant)

Third, language that disparages or marginalizes persons of another gender or with different SOGIESC must be avoided. Examples noted in the *Guidelines* are the improper words used in *People v. Acob*⁸² to describe a female witness:

It is obvious that [the female witness’] curiosity and inquisitiveness as to what was happening [...] overcame the natural timidity of the woman.

Instead, the *Guidelines* prescribe the use non-oppressive and modern terms (e.g., “unmarried” instead of “spinster”, “woman” instead of unnecessary metaphors such as “person of weaker sex”). Words and phrases which perpetrate gender stereotypes are to be avoided, especially those that unjustly ascribe a characteristic or occupation as only pertaining to a particular sex or demonstrable only by a certain sex (e.g. “sportsmanship”, where “fair play” may be used instead; “gentleman’s agreement” where simple “verbal agreement” would suffice). There must also be a conscientious use of language and terms which

⁷⁹ R. A. No. 11313, 17th Cong. (3rd Sess. 2018).

⁸⁰ (2022) A. M. 21-11-25-SC, p. 2.

⁸¹ (2003) A. M. No. P-02-1651.

⁸² (1995) G. R. No. L-114382.



recognize the diverse spectrum of SOGIESC. For instance, the phrase “the ‘straight’ and the ‘gays’” used in *Ang Ladlad v. Commission on Elections*⁸³ should be replaced with “all sexual orientations”.

Fourth, any language that fosters “unequal gender relations” is proscribed. This involves words and phrases that lack “parallelism” or statements which unnecessarily call attention to a person’s sex. “Parallelism” requires the use of terms pertaining to one gender with the directly corresponding term of the opposite gender. For example, when referring to a married couple, the term “husband and wife” should be used instead of “man and wife”. The use of terms which call the attention to a person’s sex should also be avoided when the reference thereto is not relevant to the statement.

Finally, when quoting statements that do not comply with the previous parameters, the *Guidelines* recommended paraphrasing the statement instead to avoid gender-based statements used in the original material or adding “sic” right after the direct quotation to point out the error in the use of gendered language.

The *Guidelines* also provided rules on court-room etiquette and against the use of gendered language in trial proceedings, such as addressing all lawyers neutrally as “counsel” or “attorney” instead of the often-used “lady lawyer”; refraining from referring to a litigant’s or witness’ gender when addressing them, such as “Madam Witness” or “Mister Plaintiff.” Remarks that perpetuate gender stereotypes, such as “ladies first” or comments that a lawyer is more organized just because she is a woman, or draw unwanted attention to one’s gender, such as calling attention to one’s pregnancy, were also proscribed. The *Guidelines* further clarified that the rules do not apply to judges and court personnel alone but to litigants and their counsels as well. Although the *Guidelines* did not have any penal clause, non-observance may be related to violations of the codes of conduct for judges and lawyers, which require them to be aware of diversity in society and differences⁸⁴ and to refrain from using language which is abusive, offensive, or otherwise improper.⁸⁵

After its issuance, the *Guidelines* was received positively by stakeholders in the promotion of gender equality in the Philippines. The Philippine Commission on Human Rights described the *Guidelines* as “a concrete step in eliminating gender-based discrimination in the judiciary” and commended the Supreme Court for “endeavor[ing] to become gender responsive and sensitive in language and courtroom etiquette”.⁸⁶

5. Supreme Court decisions post-*Guidelines*

After the *Guidelines* was published by the Supreme Court and until 14 February 2023, there had been more than 200 promulgated decisions published in its website.⁸⁷ While all of these decisions are evaluated, the analysis does not attempt to provide a statistical analysis considering the relatively short time frame and small number of cases, especially for newly appointed Justices. Instead, the analysis would focus on specific and apparent use of gender-neutral writing techniques and language under the *Guidelines*. Similar to the parameters used by Professor Rose in her analysis of the opinions of the Supreme Court of the United States, the paper will look at three major factors: “1) the generic use of gender-specific pronouns; 2) the use of gendered nouns to describe an occupation or title that could be occupied by a man or a woman; and 3) the use of gender-neutral techniques, both obvious and subtle, to avoid both 1 and 2.”⁸⁸ However, unlike Professor Rose’s approach, the paper will also look at

⁸³ (2010) G. R. No. 190582.

⁸⁴ Code of Judicial Conduct, Canon 5, pars. 1, 5.

⁸⁵ Code of Professional Responsibility, Rules 8.01, 11.03.

⁸⁶ Commission on Human Rights, *Statement of CHR Spokesperson, Atty Jacqueline Ann de Guia, lauding the Supreme Court’s issuance of guidelines on gender-fair practices in the judiciary* (March 4, 2002) <https://chr.gov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-lauding-the-supreme-courts-issuance-of-guidelines-on-gender-fair-practices-in-the-judiciary/>

⁸⁷ Promulgated decisions which are not yet published are not included in the analysis. *Per curiam* opinions and separate opinions in a case are also excluded.

⁸⁸ L. M. ROSE, *The Supreme Court and Gender-Neutral Language*, *op. cit.*, p. 101.



gendered or gender-neutral language that were part of a direct quotation from another source, considering that the *Guidelines* specifically provide standards for how to treat or correct them.

Chief Justice Alexander G. Gesmundo

The 27th Chief Justice, Justice Gesmundo started his law career as a trial attorney in the Office of the Solicitor General. He rose from the ranks to become an Associate Solicitor General before he was appointed as Justice of Sandiganbayan, a special graft court. He served therein for more than ten years prior to his appointment to the Supreme Court in 2017. In 2021, he was appointed Chief Justice.⁸⁹

The Chief Justice frequently used a variety of gender-neutral writing techniques, including the use of paired pronouns (referring to a generic “person”,⁹⁰ “poseur buyer”,⁹¹ “public officer”,⁹² “accused”,⁹³ “seafarer”,⁹⁴ “co-owner”, “vendee”, and “registered owner”⁹⁵) and pluralizing the noun (such as “seafarers”⁹⁶). He also avoided the use of a pronoun by just repeating the noun within the same sentence or paragraph.⁹⁷ For example, in *People v. Maglinas*:⁹⁸

The elements of murder are as follows: (a) that a person was killed; (b) that the accused killed that person; (c) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the RPC; and (d) that the killing is not parricide or infanticide.

The Chief Justice also used gender-neutral titles, such as “police officer”⁹⁹ and “Dr.”, regardless of gender of the subject.¹⁰⁰ He had, however, used gendered terms, such as “chairman”,¹⁰¹ even when the subject is female, and “prudent man”,¹⁰² and masculine pronouns, when referring to a generic “accused”,¹⁰³ “witness”, and “party”.¹⁰⁴

Justice Marvic Mario Victor F. Leonen

Justice Leonen is the only Justice that came from the academe. He became the dean of the University of the Philippines College of Law in 2008 and was the government’s chief negotiator with the Moro Islamic Liberation Front. He is presently the longest serving Justice of the Supreme Court, having been appointed in 2012.¹⁰⁵

Justice Leonen is one of the most consistent users of gender-neutral writing techniques among the Supreme Court Justices. He primarily used two techniques. First is the pluralization of nouns (e.g., employees”,¹⁰⁶ “parties”,¹⁰⁷ and “applicants”¹⁰⁸) and pronouns. For example, instead of “best interest of

⁸⁹ Chief Justice Alexander G. Gesmundo, Supreme Court, <https://sc.judiciary.gov.ph/375/>.

⁹⁰ *People v. Maglinas* (2022) G. R. No. 255496.

⁹¹ *People v. Tagluco* (2022) G. R. No. 243577.

⁹² *People v. Gelacio* (2022) G. R. No. 250951 and 250958.

⁹³ *People v. Maglinas*, *op. cit.*

⁹⁴ *Ledesma v. C. F. Sharp Crew Management, Inc.* (2022) G. R. No. 241067.

⁹⁵ *Valenzuel v. Sps. Pabilani* (2022) G. R. No. 241330.

⁹⁶ *Ledesma v. C. F. Sharp Crew Management, Inc.*, *op. cit.*

⁹⁷ *People v. Tagluco*, *op. cit.*; *People v. Gelacio*, *op. cit.*

⁹⁸ *People v. Maglinas*, *op. cit.*

⁹⁹ *People v. Tagluco*, *op. cit.*

¹⁰⁰ *Benhur Shipping Corporation v. Riego* (2022) G. R. No. 229179; *Ledesma v. C. F. Sharp Crew Management*, *op. cit.*

¹⁰¹ *People v. Tagluco*, *op. cit.*

¹⁰² *Valenzuel v. Sps. Pabilani*, *op. cit.*

¹⁰³ *People v. Tagluco*, *op. cit.*

¹⁰⁴ *Chico v. Ciudadano* (2022) G. R. No. 249815.

¹⁰⁵ Justice Marvic Mario Victor F. Leonen, Supreme Court, <https://sc.judiciary.gov.ph/367/>.

¹⁰⁶ *Cabug-Os v. Espina* (2022) G. R. No. 228719.

¹⁰⁷ *Abines v. Duque III* (2022) G. R. No. 235891.

¹⁰⁸ *Heirs of Punongbayan v. St. Peter’s College, Inc.* (2022) G. R. No. 238762.



the child”, he preferred the term “best interest of the children”.¹⁰⁹ He was also the most regular user of plural pronouns even when the subject is a generic singular noun, such as when referring to a “party”,¹¹⁰ “aggrieved party” or “party aggrieved”,¹¹¹ “claimant”,¹¹² “accused”,¹¹³ “applicant”,¹¹⁴ the “Ombudsman”,¹¹⁵ and the “Secretary of Labor”.¹¹⁶ When faced with quotations that used masculine pronouns, he replaced them with plural pronouns instead (e.g., “[they]”, “[them]”), as opposed to the common technique of just adding feminine pronouns (e.g., “[or she]”, “[or her]”).¹¹⁷ For example, in *Montero v. Ombudsman*,¹¹⁸ an administrative case against a town mayor, he changed the quoted case law’s use of “his” to “they” even when the subject referred to was “an official or fiduciary officer”:

“Corruption as an element of grave misconduct consists in the act of an official or fiduciary officer who unlawfully and wrongfully uses [their] station or character to [personally] procure some benefit . . . of for another person, contrary to duty and rights of other.”

Meanwhile, flagrant disregard of established rules has been characterized as the “propensity to ignore the rules as clearly manifested by [their] actions.”

Although not as often, Justice Leonen had used paired pronouns as well, such as when referring to a “person”, and added feminine pronouns like “[or her]” when quoting case law to modify the use of masculine language.¹¹⁹ He also used gender-neutral titles, such as “chair”,¹²⁰ “police officer”,¹²¹ “businessperson”,¹²² and “administrator”.¹²³ In one case, he changed the term “thoughtless men” which was used in a prior case law to “thoughtless individuals”.¹²⁴ In a few cases, however, he had used masculine pronouns.¹²⁵ In one case, masculine pronoun was used to refer to a generic “public officer” even when the party involved was female.¹²⁶

The second writing technique that Justice Leonen often used is the repeating of nouns instead of using a pronoun.¹²⁷ For example, in *International Exchange Bank v. Lee*,¹²⁸ he repeated “plaintiff” in the same sentence:

A demurrer to evidence is governed by Rule 33, Section 1 of the Rules of Civil Procedure. In filing it, a party questions the sufficiency of the evidence presented

¹⁰⁹ *Yap v. Yap* (2022) G.R. No. 222259.

¹¹⁰ *Montero v. Ombudsman* (2022) G. R. No. 239827; *Chingkoe v. Sandiganbayan* (2022) G. R. No. 232029-40/G. R. No. 234975-84.

¹¹¹ *Bases Conversion and Development Authority v. Callangan* (2022) G. R. No. 241168.

¹¹² *Fegarido v. Alcantara* (2022) G. R. No. 240066.

¹¹³ *People v. Dela Concepcion* (2022) G. R. No. 251876.

¹¹⁴ *Ho Ching Yi v. Republic* (2022) G. R. No. 227600.

¹¹⁵ *Montero v. Ombudsman*, *op. cit.*

¹¹⁶ *Asian Institute of Management Faculty Association v. Asian Institute of Management* (2022) G. R. No. 197089/G. R. No. 207971.

¹¹⁷ *Chingkoe v. Sandiganbayan*, *op. cit.*; *Abines v. Duque III* (2022) G. R. No. 235891; *Asian Institute of Management Faculty Association v. Asian Institute of Management*, *op. cit.*; *Fegarido v. Alcantara*, *op. cit.*; *Light Rail Transit Authority v. Bureau of Internal Revenue* (2022) G. R. No. 231238.

¹¹⁸ *Montero v. Ombudsman*, *op. cit.*

¹¹⁹ *Heirs of Punongbayan v. St. Peter’s College, Inc.*, *op. cit.*

¹²⁰ *Anti-Trapo Movement of the Philippines v. Land Transportation Office* (2022) G. R. No. 231540.

¹²¹ *Pagal v. People* (2022) G. R. No. 251894.

¹²² *Sio v. People* (2022) G. R. No. 224935.

¹²³ *Heirs of Punongbayan v. St. Peter’s College, Inc.*, *op. cit.*

¹²⁴ *Montero v. Ombudsman*, *op. cit.*

¹²⁵ *Caballero v. Vikings Commissary* (2022) G. R. No. 238859; *Bases Conversion and Development Authority v. Callangan*, *op. cit.*

¹²⁶ *Lluch-Cruz v. Ong* (2022) G. R. No. 219986-87.

¹²⁷ *Pagal v. People*, *op. cit.*; *Amoroso v. Vantage Drilling International* (2022) G. R. No. 238477.

¹²⁸ (2022) G. R. No. 243163.



by the plaintiff on the ground that the plaintiff failed to show a right to the relief it asks for.

While in *Heirs of Punongbayan v. St. Peter's College*,¹²⁹ the word “applicant” was used several times in the same paragraph:

The Rules of Civil Procedure, prior to its amendment, require that motions affecting the rights of adverse parties shall be in the form of a written motion and set for hearing by the applicant. Courts shall not act upon these motions unless the applicant presents proof of service of written motion and notice of hearing.

Justice Alfredo Benjamin S. Caguioa

Justice Caguioa was a private lawyer before joining the administration of former President B. Aquino as the Justice Secretary and chief presidential legal counsel and then as a member of the Supreme Court in 2016. He has the longest experience in private practice among the Justices.¹³⁰

When it comes to the use of paired pronouns when referring to the generic “accused” in criminal cases, Justice Caguioa was very consistent.¹³¹ He also added “[or her]” or “[or herself]” to neutralize the use of masculine pronoun in quoted case law;¹³² although such technique was inconsistently used in block quotations.¹³³ Aside from “accused”, he also used paired pronouns to refer to a generic “employee”,¹³⁴ “individual”,¹³⁵ “judge”,¹³⁶ “registered owner”,¹³⁷ and “co-owner”.¹³⁸ He had, however, used the occupation titles “media man” and “watchmen” in two decisions, although the use of non-gendered titles was more common in his decisions.¹³⁹

Notably, Justice Caguioa penned the decision in *Espejon v. Judge Lorredo*,¹⁴⁰ an administrative case which punished a trial court judge who made inappropriate remarks relative to the party’s sexual orientation and used the term “homosexual pervert”. The decision was crafted in a gender-neutral manner, with Justice Caguioa writing the penultimate part as follows:

... the Court has already made a recognition of the fact that, through the years, homosexual conduct, and perhaps homosexuals themselves, have borne the brunt of societal disapproval. The Court is cognizant that they have suffered enough marginalization and discrimination within our society. It is not difficult to imagine the reasons behind this censure - religious beliefs, convictions about the preservation of marriage, family, and procreation, even dislike or distrust of members of the LGBTQIA+ community themselves and their perceived lifestyle. Inasmuch, however, that these so-called “generally accepted public morals” have not been convincingly transplanted into the realm of our law, there should be no reason for judges to add to the burdens of members of the LGBTQIA + community through the swift hand of judicial review, or to effectively lend a hand

¹²⁹ *Op. cit.*

¹³⁰ Justice Alfredo Benjamin S. Caguioa, Supreme Court, <https://sc.judiciary.gov.ph/371/>.

¹³¹ *Villamor v. People* (2022) G. R. No. 243811; *People v. Montierro* (2022) G. R. No. 254564/G. R. No. 254974/A. M. No. 21-07-16-SC/A. M. No. 18-03-16-SC; *People v. XXX* (2022) G. R. No. 231386; *Lorenzo v. Sandiganbayan* (2022) G. R. nos. 242506-10/G.R. No. 242590-94.

¹³² *People v. XXX, op.cit.*

¹³³ *People v. Montierro, op.cit.*; *Pacuribot v. Sandiganbayan* (2022) G. R. No. 247414-18.

¹³⁴ *Musahamat Workers Labor Union-1-Alu v. Musahamat Farms, Inc. Farm 1* (2022) G. R. No. 240184.

¹³⁵ *Spouses Bangug v. Spouses Adolfo* (2022) G. R. No. 259061.

¹³⁶ *Tan v. People* (2022) G. R. No. 242866.

¹³⁷ *Du v. Oritle* (2022) G. R. No. 255934.

¹³⁸ *Spouses Bangug v. Spouses Adolfo* (2022) G. R. No. 259061.

¹³⁹ *Villamor v. People, op. cit.*; *Musahamat Workers Labor Union-1-Alu v. Musahamat Farms, Inc. Farm 1, op.cit.*

¹⁴⁰ (2022) A. M. No. MTJ-22-007.



in perpetuating the discrimination they face, whether that effort is self-evident or thinly veiled under claims of religious beliefs or freedom of expression.

Justice Ramon Paul Hernando

Justice Hernando is one of the Justices of the Supreme Court who spent their entire career in government service. He worked in the senate under Senator Paras, in the judiciary under then Justice Regalado, and then in the executive department as a prosecutor. He re-joined the judiciary as a trial court judge and then a Justice of the appellate court before joining the Supreme Court in 2018.¹⁴¹

Justice Hernando's writing style showed willingness, if not readiness, for the *Guidelines*. Although he still used and quoted excerpts which used masculine pronouns, paired pronouns were likewise used to refer to a generic "employee"¹⁴² "employer",¹⁴³ "seafarer",¹⁴⁴ "party",¹⁴⁵ and "plaintiff".¹⁴⁶ Meanwhile, he exclusively used paired pronouns when referring to a generic "violinist", "public officer",¹⁴⁷ "entrustor",¹⁴⁸ "holder", "purchaser", "purchaser in good faith", "buyer in bad faith",¹⁴⁹ "co-owner",¹⁵⁰ and "local chief executive".¹⁵¹ On the other end, only masculine pronouns were used to refer to a generic "person",¹⁵² "offender",¹⁵³ "defendant",¹⁵⁴ "seller",¹⁵⁵ "donor",¹⁵⁶ "spouse",¹⁵⁷ "worker",¹⁵⁸ "third party possessor",¹⁵⁹ and "building official".¹⁶⁰ Plural nouns and pronouns were also used several times, referring to "parties", "plaintiffs",¹⁶¹ "beneficiaries",¹⁶² "purchasers",¹⁶³ and "litigants".¹⁶⁴

¹⁴¹ Justice Ramon Paul L. Hernando, Supreme Court, <https://sc.judiciary.gov.ph/379/>.

¹⁴² *Cornworld Breeding Systems Corporation v. Court of Appeals* (2022) G.R. No. 204075, cf. use of masculine pronouns in *Colegio San Agustin-Bacolod v. Montaño* (2022) G.R. no. 212333; *Systems and Plan Integrator and Development Corporation v. Ballesteros* (2022) G. R. No. 217119.

¹⁴³ *G & S Transport Corporation v. Medina* (2022) G.R. No. 243768.

¹⁴⁴ *Career Philippines Shipmanagement Inc. v. Garcia* (2022) G. R. No. 230352, cf. use of masculine pronouns in *Philippine Transmarine Carriers, Inc. v. Tena-E* (2022) G. R. No. 234365; *C. F. Sharp Crew Management, Inc. v. Daganato* (2022) G. R. No. 243399; *Marlow Navigation Phils. v. Heirs of Beato* (2022) G. R. No. 233897.

¹⁴⁵ *Cabilao v. Tampan* (2022) G. R. No. 209702; *Chan v. People* (2022) G. R. No. 238304, cf. use of masculine pronouns in *Gacad v. Corpuz* (2022) G. R. No. 216107; *Ante v. University of the Philippines Student Disciplinary Tribunal* (2022) G. R. No. 227911.

¹⁴⁶ *Heirs of Marquez v. Heirs of Hernandez* (2022) G. R. No. 236826, cf. use of masculine pronoun in *Palajos v. Abad* (2022) G. R. No. 205832.

¹⁴⁷ *Chan v. People*, *op. cit.*

¹⁴⁸ *Chua v. Secretary of Justice* (2022) G. R. No. 214960.

¹⁴⁹ *Heirs of Gonzales v. Spouses Basas* (2022) G. R. No. 206847.

¹⁵⁰ *Heirs of Marquez v. Heirs of Hernandez* (2022) G. R. No. 236826; *Reyes v. Sps. Garcia* (2022) G. R. No. 225159.

¹⁵¹ *Gatchalian v. Urrutia* (2022) G. R. No. 223595.

¹⁵² *Chan v. People*, *op. cit.*; *People v. Enojo* (2022) G. R. No. 252258.

¹⁵³ *People v. Mondejar* (2022) G. R. No. 245931-32.

¹⁵⁴ *Technology Resource Center v. Heirs of Alvarez* (2022) G. R. No. 214410; *Aljem's Credit Investors Corporation v. Spouses Bautista* (2022) G. R. No. 215175.

¹⁵⁵ *Heirs of Gonzales v. Spouses Basas*, *op. cit.*

¹⁵⁶ *Estate of Rodriguez v. Republic* (2022) G. R. No. 214590.

¹⁵⁷ *Carullo-Padua v. Padua* (2022) G. R. No. 208258.

¹⁵⁸ *Reyes v. Rural Bank of San Rafael (Bulacan) Inc.* (2022) G. R. No. 230597.

¹⁵⁹ *Philippine National Bank v. Fontanoza* (2022) G. R. No. 213673.

¹⁶⁰ *Bernardez v. The City Government of Baguio* (2022) G. R. No. 197559.

¹⁶¹ *Villafuerte v. Securities and Exchange Commission* (2022) G. R. No. 208379; *Boongaling v. Banco San Juan* (2022) G. R. No. 214259.

¹⁶² *Heirs of De Lara v. Rural Bank of Jaen, Inc.* (2022) G. R. No. 212012.

¹⁶³ *Heirs of Gonzales v. Spouses Basas*, *op. cit.*

¹⁶⁴ *Ante v. University of the Philippines Student Disciplinary Tribunal*, *op. cit.*



Justice Hernando also regularly used the technique of repeating the noun or using alternative nouns in the same sentence or paragraph to avoid the use of pronouns,¹⁶⁵ such as “employee”,¹⁶⁶ “plaintiff”,¹⁶⁷ “offender”,¹⁶⁸ “accused”,¹⁶⁹ and “seafarer”.¹⁷⁰ In *Heirs of Eñano v. San Pedro Cineplex Properties*,¹⁷¹ for example:

We uphold the well-entrenched principle that every co-owner may institute a suit to protect the rights over the co-owned property for the benefit of all other co-owners without the latter being impleaded as co-plaintiffs in the case. Yet when a co-owner repudiates the co-ownership and claims one's rights over the co-owned property without regard to the co-ownership, the need to implead the other co-owners to the suit becomes significant.

As to the use of non-gendered title, Justice Hernando used “Dr.” regardless of gender,¹⁷² “seafarer”,¹⁷³ and “police officers”.¹⁷⁴ He had, however, used the terms “housewife”¹⁷⁵ instead of homemaker; “reasonably prudent man”¹⁷⁶ instead of person. In two estate cases involving female executors, he used executor in one¹⁷⁷ and executrix in the other.¹⁷⁸

Justice Amy C. Lazaro-Javier

Justice Lazaro-Javier, one of the only two female Supreme Court justices, served for more than twenty years in the Office of the Solicitor General before her appointment to the Court of Appeals and then to the Supreme Court in 2019. Holding a degree in education, she also taught in various schools in the country.¹⁷⁹

Justice Lazaro-Javier headed the committee which drafted the *Guidelines*, so it is not surprising that her decisions were predominantly gender-neutral. She was fairly consistent with the use of generic titles and occupations (e.g., “police officer”,¹⁸⁰ “doctor”,¹⁸¹ “seafarer”,¹⁸² and “chairperson”¹⁸³) and paired and plural pronouns (when referring to a generic “accused”,¹⁸⁴ “buyer”, “seller”,¹⁸⁵ “employer”,¹⁸⁶ and “nuisance candidate”¹⁸⁷). She also employed the technique of repeating a noun within the same

¹⁶⁵ *Chua v. Secretary of Justice*, *op. cit.*

¹⁶⁶ *Colegio San Agustin-Bacolod v. Montaña*, *op. cit.*

¹⁶⁷ *Palajos v. Abad*, *op. cit.*

¹⁶⁸ *People v. Enojo*, *op. cit.*

¹⁶⁹ *People v. Liwanag* (2022) G. R. No. 232245.

¹⁷⁰ *Career Philippines Shipmanagement Inc. v. Garcia*, *op. cit.*

¹⁷¹ *Heirs of Eñano v. San Pedro Cineplex Properties, Inc.* (2022) G. R. No. 236619.

¹⁷² *Colegio San Agustin-Bacolod v. Montaña*, *op. cit.*; *Pugoy-Solidum v. Republic* (2022) G. R. No. 213954

¹⁷³ *Paglinawan v. DOHLE Philman Agency, Inc.* (2022) G. R. No. 230735; *Career Philippines Shipmanagement Inc. v. Garcia*, *op. cit.*

¹⁷⁴ *CICL, XXX v. People* (2022) G. R. No. 230964.

¹⁷⁵ *People v. Liwanag*, *op. cit.*

¹⁷⁶ *Maitim v. Aguila* (2022) G. R. No. 218344.

¹⁷⁷ *Bruar v. Contreras* (2022) G. R. No. 205451.

¹⁷⁸ *Mega Fishing Corporation v. Estate of Gonzales* (2022) G. R. No. 214781.

¹⁷⁹ Justice Amy C. Lazaro-Javier, Supreme Court, <https://sc.judiciary.gov.ph/2014/>.

¹⁸⁰ *Garma v. People* (2022) G. R. No. 248317; *Ferrer v. People* (2022) G. R. No. 223042/G.R. No. 223769.

¹⁸¹ *Celestino v. Belchem Philippines, Inc.* (2022) G. R. No. 246929; *People v. BBB* (2022) G. R. No. 252507.

¹⁸² *Celestino v. Belchem Philippines, Inc.*, *op. cit.*

¹⁸³ *People v. Crisologo* (2022) G. R. No. 253327. Even if under the statutory basis, “chairman” was used.

¹⁸⁴ *Ferrer v. People*, *op. cit.*

¹⁸⁵ *Spouses Tan v. Vallejo* (2022) A. C. No. 11219; *Dala v. Auticio* (2022) G. R. No. 205672.

¹⁸⁶ *Agapito v. Aeroplus Multi-Services, Inc.* (2022) G. R. No. 248304.

¹⁸⁷ *Marquez v. Commission on Elections* (2022) G. R. No. 258435.



sentence.¹⁸⁸ For example, in *Garma v. People*,¹⁸⁹ a criminal case for grave threats against a male person, she spoke generally and used plural pronoun or repeated the noun:

The mens rea is that the accused intends that the recipient of their words to feel intimidated by their words or that the accused intended the words to be taken seriously.

Where doubt exists that hinges on the guilt or innocence of the accused, the Court is compelled to acquit and uphold the constitutional presumption of innocence in favor of the accused.

Justice Lazaro-Javier also neutralized legal terms which usually carry masculine connotations. In the same case of *Garma*, she used “reasonable person” instead of “reasonable man”; in *People v. Crisologo*,¹⁹⁰ she changed “thoughtless man” to “thoughtless person”.

Sporadically, Justice Lazaro Javier used masculine pronouns (referring to a generic “employee”¹⁹¹ and “complainant”¹⁹²) and failed to correct gendered words in block quoted materials.¹⁹³ In one case, she also used the term “GRO” to refer to a sex worker, a term that could be argued as outdated and derogatory, considering that she used “dancer” in most parts of the decision.¹⁹⁴

Justice Henri Jean Paul B. Inting

Justice Inting has worked in executive (Bureau of Lands, National Housing Authority) and judicial departments (staff assistant of an appellant court judge) before his appointment as a trial court judge in 1998. He is a career judge, having served as a trial court judge in the first and second level courts, then as a Justice in the appellate court before his appointment to the highest court in 2019.¹⁹⁵

Generally, Justice Inting’s decisions are in consonance with the *Guidelines*. For example, when enumerating elements of a crime or an administrative offense, he would simply repeat the term “accused”,¹⁹⁶ “respondent”¹⁹⁷ or “public officer”¹⁹⁸ in every elements instead of using pronouns, except for very few circumstances where masculine pronouns were used.¹⁹⁹ But when referring to the “victim” or the “offended party”, the result is a mixed bag – with some decisions using masculine pronouns²⁰⁰ while others used paired pronouns.²⁰¹ When the elements are directly quoted from previous case law, he also added “[or her]” when only masculine pronouns were used in the quoted case.²⁰² Even outside criminal cases, adding pronoun to neutralize quoted rules was a common technique used by Justice Inting,²⁰³ although block quoted excerpts were sometimes missed.²⁰⁴

¹⁸⁸ *People v. BBB*, *op. cit.*

¹⁸⁹ *Op. cit.*

¹⁹⁰ *Op. cit.*

¹⁹¹ *Agapito v. Aeroplus Milti-Services, Inc.*, *op. cit.*

¹⁹² *Marquez v. Commission on Elections*, *op. cit.*

¹⁹³ *Ta-Ala v. People* (2022) G. R. No. 254800.

¹⁹⁴ *Ferrer v. People* (2022) G. R. No. 223042/G. R. No. 223769.

¹⁹⁵ Justice Henri Jean Paul B. Inting, Supreme Court, <https://sc.judiciary.gov.ph/3969/>.

¹⁹⁶ *People v. Wu Jian Cai* (2022) G. R. No. 253186; *People v. Conde* (2022) G. R. No. 254251; *Cañaveras v. Gamboa-Delos Santos* (2022) G. R. No. 241348.

¹⁹⁷ *Chen v. Field Investigation Bureau* (2022) G. R. No. 247916.

¹⁹⁸ *Soriano v. People* (2022) G. R. No. 238282; *Chen v. Field Investigation Bureau* (2022) G. R. No. 247916; *People v. Adana* (2022) G. R. No. 250445.

¹⁹⁹ *People v. Ciudadano* (2022) G. R. No. 248182; *People v. Resurreccion* (2022) G. R. No. 248456.

²⁰⁰ *People v. Angeles* (2022) G. R. No. 254747.

²⁰¹ *Gumawid v. People* (2022) G. R. No. 248311; *People v. Resurreccion*, *op. cit.*

²⁰² *People v. Adana*, *op. cit.*; *People v. Conde* (2022) G. R. No. 254251.

²⁰³ *Carandang v. Ramirez, Jr.* (2022) A. C. No. 13343.

²⁰⁴ *Philippine National Bank v. Sps. Caguimbal* (2022) G. R. No. 248821; *Navarette v. Ventis Maritime Corporation* (2022) G. R. No. 246871.



In labor cases, Justice Inting often used paired pronouns like “he/she” to refer to an “employee” or simply pluralized the term,²⁰⁵ with masculine pronoun only used once in the several labor decisions that he penned.²⁰⁶ For the employer, on the other hand, the pronoun “it” was commonly used.²⁰⁷ In annulment of marriage case, he used terms that comply with the *Guidelines*, such as “spouses”, “husband and wife”,²⁰⁸ and “married man and woman”²⁰⁹ instead of “man and wife”; “Filipino citizen”²¹⁰ instead of Filipina. He also used paired pronouns to refer to a “spouse” or a “party” in the case.²¹¹

Justice Inting also used a lot of paired pronouns, which were, for example, used to refer to a “lawyer”²¹² and a “seafarer”.²¹³ Generic titles were commonly used as well, even when referring to a woman, such as “Dr.”,²¹⁴ “manager”,²¹⁵ and “chairperson”.²¹⁶ On the other end of the spectrum, some gendered terms Justice Inting used include: “warehouseman”,²¹⁷ “manning agency”,²¹⁸ “waitress”,²¹⁹ and “administratrix/executrix.”²²⁰

Justice Rodil V. Zalameda

Justice Zalameda started his career as a clerk in a trial court before engaging in private practice and then entering the prosecutor service. After more than a decade in the service, he joined the judiciary as a Justice of the Court of Appeals and then a member of the Supreme Court in 2019.²²¹

Justice Zalameda used masculine pronouns in doctrinal statements, such as when referring to an “accused”, “person”,²²² “landowner”,²²³ “corporate officer”, and “party”.²²⁴ In one case, he used the title “Mr.” even if the civil status of the party is relevant.²²⁵ He also used words with “man” to refer to a generic occupation or to subsume humanity, such as “chairman”, “workmen”,²²⁶ and “mankind”.²²⁷ In *Buenafe v. Commission on Elections*,²²⁸ for example, citing an earlier case on the definition of moral turpitude, he wrote:

We cited U.S. cases defining moral turpitude to pertain to an act of baseness, vileness, or depravity in the private and social duties that a man owes his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man or conduct contrary to justice, honesty, modesty, or good morals.

²⁰⁵ *Cambil v. Kabalikat Para Maunlad na Buhay, Inc.* (2022) G. R. No. 245938; *Adstratworld Holdings v. Magallones* (2022) G. R. No. 233679.

²⁰⁶ *Guinto v. Sto. Niño Lang-Zeny Consignee* (2022) G. R. No. 250987.

²⁰⁷ *Simon v. The Results Companies* (2022) G. R. No. 249351-52.

²⁰⁸ *Egmalis-Ke-Eg v. Republic* (2022) G. R. No. 249178.

²⁰⁹ *Galit-Inoy v. Inoy* (2022) A. M. No. P-22-051.

²¹⁰ *Republic v. Bayog-Saito* (2022) G. R. No. 247297.

²¹¹ *Baldovino-Torres v. Torres* (2022) G. R. No. 248675; *Republic v. Bayog-Saito*, *op. cit.*

²¹² *Heirs of Spouses Reyes v. Brillantes* (2022) A. C. No. 9594.

²¹³ *Navarette v. Ventis Maritime Corporation*, *op. cit.*

²¹⁴ *Alberto v. Alberto* (2022) G. R. No. 236827.

²¹⁵ *Guinto v. Sto. Niño Lang-Zeny Consignee*, *op. cit.*

²¹⁶ *Fua, Jr. v. People* (2022) G. R. No. 237815.

²¹⁷ *Guinto v. Sto. Niño Lang-Zeny Consignee*, *op. cit.*

²¹⁸ *Navarette v. Ventis Maritime Corporation*, *op. cit.*

²¹⁹ *Egmalis-Ke-Eg v. Republic*, *op. cit.*

²²⁰ *Tirol v. Tayengco-Lopingco* (2022) G. R. No. 211017.

²²¹ *Justice Rodil V. Zalameda*, Supreme Court, <https://sc.judiciary.gov.ph/5650/>.

²²² *People v. Arnado* (2022) G. R. No. 250100-02.

²²³ *Department of Agrarian Reform v. Itliong* (2022) G. R. No. 235086.

²²⁴ *Fernandez v. People* (2022) G. R. No. 249606.

²²⁵ *IEMOP v. Energy Regulatory Commission* (2022) G. R. No. 254440.

²²⁶ *Oceanmarine Resources Corporation v. Nedic* (2022) G. R. No. 236263.

²²⁷ *Maestrado v. People* (2022) G. R. No. 253629.

²²⁸ *Buenafe v. Commission on Elections* (2022) G. R. No. 260374/G.R. No. 260426.

However, albeit still inconsistent, Justice Zalameda’s decisions showed signs of compliance with the *Guidelines*. In some cases, he avoided gendered words by pluralizing the noun (e.g., “government officials”, “officers”,²²⁹ “police authorities”²³⁰, and “landowners”²³¹), using paired pronouns (referring to a “president”, “candidate”, “any person”,²³² “accused”, “person under investigation”,²³³ and “Filipino”²³⁴) or repeating the noun instead of using a singular pronoun (e.g., “person” and then followed by “said person”²³⁵). In the same case where he used the term “workmen”, the generic “worker” was also used. In *Department of Agrarian Reform v. Itliong*,²³⁶ he used paired pronouns to refer to a “child” and even corrected a direct quotation from a previous case to include a feminine pronoun.²³⁷ In *Heirs of Aniolina v. Bravante*,²³⁸ he changed the wording of a previous rule which used the gendered “men” and neutralized it as follows:

Necessitous [individuals] are not, truly speaking, free [persons]; but, to answer a present emergency, will submit to any terms that the crafty may impose upon them.

Justice Mario V. Lopez

Justice Lopez, the only Justice who had a stint in the Office of the Ombudsman, served as a Court of Appeals Justice before his appointment to the Supreme Court in 2019. He also served as professor and lecturer in various law schools.²³⁹

As the known leading Justice in criminal law, Justice Lopez’s decisions in criminal cases were generally conscious with the use of gendered language. When referring to the “accused”, he often used plural pronouns²⁴⁰ or avoided the use of pronoun by simply repeating “accused”, especially when enumerating elements of a particular crime or concept;²⁴¹ although in two cases he exclusively used masculine pronouns to refer to a generic “offender”²⁴² and “accused”.²⁴³ Meanwhile, paired pronouns were used to refer to a generic “private complainant”.²⁴⁴ He was even more consistent in family law cases, using generic terms such as “husband and wife”²⁴⁵ and paired pronouns when referring to a “spouse”,²⁴⁶ and in labor law cases, where non-gendered terms like “seafarer” and “mess person” were used together with paired pronouns or were simply repeated within the same sentence or paragraph.²⁴⁷

²²⁹ *Development Bank of the Philippines v. Commission on Audit* (2022) G. R. No. 210965, 217623; *Abrigo v. Commission on Audit* (2022) G. R. No. 253117.

²³⁰ *People v. Esperidion* (2022) G. R. No. 239480.

²³¹ *Department of Agrarian Reform v. Itliong*, *op. cit.*

²³² *Buenafe v. Commission on Elections*, *op. cit.*

²³³ *People v. Esperidion*, *op. cit.*

²³⁴ *Basa-Egami v. Bersales* (2022) G. R. No. 249410.

²³⁵ *Mendoza v. People* (2022) G. R. No. 248350.

²³⁶ *Department of Agrarian Reform v. Itliong*, *op. cit.*

²³⁷ See also, *Oceanmarine Resources Corporation v. Nedic*, *op. cit.*

²³⁸ *Heirs of Aniolina v. Bravante* (2022) G. R. No. 244422.

²³⁹ *Justice Mario v. Lopez*, Supreme Court, <https://sc.judiciary.gov.ph/9145/>.

²⁴⁰ *Abuyo v. People* (2022) G. R. No. 250495; *Turalba v. People* (2022) G. R. No. 216453

²⁴¹ *Austria v. AAA* (2022) G. R. No. 205275.

²⁴² *People v. Begino* (2022) G. R. No. 251150.

²⁴³ *Turalba v. People*, *op. cit.*

²⁴⁴ *Austria v. AAA*, *op. cit.*

²⁴⁵ *Alexander v. Spouses Escalona* (2022) G. R. No. 256141.

²⁴⁶ *Dedicatoria v. Dedicatoria* (2022) G. R. No. 250618; *Chingkoe v. Chingkoe* (2022) G. R. No. 244076.

²⁴⁷ *Skanfil Maritime Services, Inc. v. Centeno* (2022) G. R. No. 227655; *Junio v. Pacific Ocean Manning, Inc.* (2022) G. R. No. 220657.

Although masculine pronouns were sometime used, such as when referring to a generic “judge”²⁴⁸ or in block quoted excerpts,²⁴⁹ gender-neutral writing in Justice Lopez’s decisions was still more prominent.

Justice Samuel H. Gaerlan

Justice Gaerlan shortly engaged in private practice before joining the Public Attorney’s Office, an agency which provides indigent litigants with free legal assistance. He was then appointed as a first level trial court judge and climbed the career ladder until his appointment to the Supreme Court in 2020.²⁵⁰

Justice Gaerlan’s decisions were usually gendered, although several gender-neutral writing techniques have been prominently used. He had used masculine pronouns for the following terms, but also used paired pronouns in some instances: “lawyer”,²⁵¹ “commissioner”,²⁵² “accused”,²⁵³ “offender”,²⁵⁴ and “public officer”.²⁵⁵ He also alternated between the use of masculine pronoun, paired pronouns, and pluralized nouns and pronouns when referring to “candidate”²⁵⁶ and an “employee”.²⁵⁷ For the following terms, however, he was consistent with the use of paired pronouns and avoided masculine pronouns: “person”,²⁵⁸ “applicant”,²⁵⁹ and “declarant”.²⁶⁰ Further, he seldomly changed block quoted excerpts from case law. In one case, he did not transform the term “layman”.²⁶¹ He also used the following gendered terms in his decisions: “laundrywoman”²⁶² and “manning agency”²⁶³ In some cases, however, he added “[or her]” to pair with the use of masculine pronoun of the quoted text²⁶⁴ and used gender-neutral titles, such as “chairperson”²⁶⁵ and “police officers”.²⁶⁶

A gender-neutral writing technique that Justice Gaerlan employed often and well is the repetition of the noun or some other non-pronoun alternative (e.g., “one’s desire”) to avoid the use of pronouns.²⁶⁷ For example, in *People v. Cerezo*:²⁶⁸

... to constitute bad faith or manifest partiality, it must be proven that the accused acted with malicious motive or fraudulent intent. It is not enough that the accused violated a law, committed mistakes or was negligent in his or her duties. There must be a clear showing that the accused was spurred by a corrupt motive or a deliberate intent to do wrong or to cause damage.

Justice Ricardo R. Rosario

²⁴⁸ *Chevron Holdings, Inc. v. Commissioner of Internal Revenue* (2022) G. R. No. 215159.

²⁴⁹ *Abella v. Commission on Audit* (2022) G. R. No. 238940.

²⁵⁰ Justice Samuel H. Gaerlan, Supreme Court, <https://sc.judiciary.gov.ph/9770/>.

²⁵¹ *Calisay v. Espalana* (2022) A. C. No. 10709; *Mangayan v. Robielos* (2022) A. C. No. 11520.

²⁵² *Republic v. Robiegie Corporation* (2022) G. R. No. 260261.

²⁵³ *People v. Pimentel* (2022) G. R. No. 251587-88; *Malones v. Sandiganbayan* (2022) G. R. No. 226887-88; *People v. Cerezo* (2022) G. R. No. 252173.

²⁵⁴ *People v. Pimentel*, *op. cit.*; *Cheng v. People* (2022) G. R. No. 207373.

²⁵⁵ *People v. Pimentel*, *op. cit.*; *Valderas v. Sulse* (2022) G. R. No. 205659.

²⁵⁶ *Amad v. Commission on Elections* (2022) G. R. No. 258448.

²⁵⁷ *Hamid v. Gervasio Security and Investigation Agency, Inc.* (2022) G. R. No. 230968; *Valderas v. Sulse*, *op. cit.*

²⁵⁸ *Alarilla v. Lorenzo* (2022) G. R. No. 240124.

²⁵⁹ *Republic v. Buenaventura* (2022) G. R. No. 198629.

²⁶⁰ *Office of the Ombudsman v. Rodas* (2022) G. R. No. 225669.

²⁶¹ *People v. Ramoy* (2022) G. R. No. 212738; *Philippine National Bank v. Tad-Y* (2022) G. R. No. 214588.

²⁶² *People v. XXX* (2022) G. R. No. 218087.

²⁶³ *Crown Shipping Services v. Cervas* (2022) G. R. No. 214290.

²⁶⁴ *ABS-CBN Corporation v. Magno* (2022) G. R. No. 203876; *Office of the Ombudsman v. Rodas*, *op. cit.*

²⁶⁵ *Torres v. Salamanca-Guzman* (2022) G. R. No. 231508; *People v. Pimentel*, *op. cit.*

²⁶⁶ *Valderas v. Sulse*, *op. cit.*

²⁶⁷ *Hamid v. Gervasio Security and Investigation Agency, Inc.*, *op. cit.*; *Torres v. Salamanca-Guzman*, *op. cit.*; *Cheng v. People*, *op. cit.*; *Bollozos v. Heirs of Vda. De Aguilar* (2022) G. R. No. 194310.

²⁶⁸ *People v. Cerezo*, *op. cit.*

Justice Rosario had significant experience in criminal prosecution, having had prior experience as a legal officer of the National Bureau of Investigation and then as a prosecutor. He is also a career judge, having spent 23 years in the judiciary prior to his appointment to the Supreme Court in 2020.²⁶⁹

Like most Justices, Justice Rosario’s decisions adopted several gender-neutral writing techniques but was still inconsistent in some respect. In *Gana-Carait v. Commission on Elections*,²⁷⁰ he used paired pronouns to refer to a “child” and even added “[or her]” to a quoted rule which only uses “his”.²⁷¹ He also combined these techniques together with others, such as repeating the noun within the same paragraph or using other alternatives to using pronouns:

It is a status determination process which may result in the recognition of the refugee status of an applicant, thus enabling such person to enjoy and exercise rights and privileges accorded by the 1951 Refugee Convention, the most enduring of which is naturalization.

Meanwhile, the applicant must provide accurate, full, and credible account or proof in support of his or her claim. The applicant must also submit relevant evidence reasonably available.²⁷²

Justice Rosario also employed gender neutral terms for professions or occupations, such as “fisherfolks”²⁷³ and “director”.²⁷⁴ He has, however, used masculine pronouns (usually to refer to a generic “accused”²⁷⁵) or failed to modify their use in quoted rules or case law.²⁷⁶ In *People v. Asuncion*,²⁷⁷ for example, he failed to improve on a block quoted rule which used the term “thoughtless men” and used masculine pronoun to refer to a generic “public official”.

Justice Jhosep Y. Lopez

Justice Lopez, who was appointed in 2021, is the only Supreme Court Justice with experience in politics. He served as a city councilor of Manila for 11 years before he became a prosecutor. He was then appointed to the Court of Appeals and served for almost a decade before his appointment to the Supreme Court in 2021.²⁷⁸

Justice Lopez’s language in his decisions was mostly gender neutral. He skirted the use of gendered “man” or “he” by preferring plural nouns (e.g., witnesses, victims²⁷⁹) or neutral words (e.g., “persons”, “people”²⁸⁰), and then followed by a plural pronoun. In *People v. Jumarang*,²⁸¹ he even corrected a quoted line from a previous case – changing “prudent man” to “prudent person”. When quoting previous statements made by the Supreme Court, he corrected gendered language by adding “[or she]” to “he” or even completely replacing “he” with “[they]”.²⁸² He also did not shy away from using “they” when referring to singular nouns. In *People v. Haiyun*,²⁸³ for example, he made the following corrections in bracket:

²⁶⁹ Justice Ricardo R. Rosario, Supreme Court, <https://sc.judiciary.gov.ph/14038/>.

²⁷⁰ *Gana-Carait v. Commission on Elections* (2022) G. R. No. 257453. See also

²⁷¹ See also *Republic v. Villao* (2022) G. R. No. 216723, on Justice Rosario’s use of “[or her]”.

²⁷² *Sabir v. Department of Justice-Refugees and Stateless Persons Protection Unit* (2002) G. R. No. 249387.

²⁷³ *Go v. People* (2022) G. R. No. 249563.

²⁷⁴ *Fernandez v. Maaliw* (2022) G. R. No. 248852.

²⁷⁵ *People v. Ricketts* (2022) G. R. No. 250867.

²⁷⁶ *Sabir v. Department of Justice-Refugees and Stateless Persons Protection Unit* (2002) G. R. No. 249387; *Popiano v. Gappi* (2022) A. C. No. 13118.

²⁷⁷ *People v. Asuncion* (2022) G. R. No. 250366 and 250388-98.

²⁷⁸ Justice Jhosep Y. Lopez, Supreme Court, <https://sc.judiciary.gov.ph/16794/>.

²⁷⁹ *People v. Boringot* (2022) G. R. No. 245544.

²⁸⁰ *Lerias v. Ombudsman* (2022) G. R. No. 241776.

²⁸¹ (2022) G. R. No. 250306.

²⁸² *Mabalo v. Heirs of Mabuyo* (2022) G. R. No. 238468.

²⁸³ *People v. Haiyun*, (2022) G. R. No. 242889.

... the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which [they] can view a particular area ... it is immediately apparent to the officer that the item [they observe] may be evidence of a crime, contraband[,] or otherwise subject to seizure.

Justice Lopez also used gender-neutral titles in almost all cases (e.g., police officer²⁸⁴), although in one instance, he used the gendered “middleman” instead of non-gendered “mediator” or “intermediary”.²⁸⁵ Few other oversights committed by Justice Lopez, albeit seldom, include the use of masculine pronouns (referring to a generic “challenger” and “citizen”²⁸⁶) and not editing excerpts when they are presented in block quotations. Despite these, Justice Lopez remains to be one of the more conscious Justices when it comes to gender-neutrality in writing.

Justice Japar B. Dimaampao

Justice Dimaampao was an appellate court justice for almost two decades, one of the youngest to be appointed to the post, before his appointment to the Supreme Court in 2021. He is known for his expertise in taxation law.²⁸⁷

Although a few signs of gender-neutrality were evident in his decisions (e.g., using gender-neutral titles), Justice Dimaampao’s style was predominantly gendered. In a case, he referred to the generic “Solicitor General” as “he”.²⁸⁸ Quoted excerpts were also not edited per the *Guidelines*, such as retaining the use of masculine pronouns.²⁸⁹ In one case, he even quoted a case which reads:

The difference between the basis of the authority of a de Jure officer and that of a de facto officer [...] may be likened to the difference between character and reputation. One is the truth of a man, the other is what is thought of him.²⁹⁰

Justice Dimaampao also penned three decisions related to ethical violations of lawyers, where the application of the *Guidelines* varied. In *Pajarillo v. Yanto*²⁹¹ and *Dionisio v. Padernal*,²⁹² masculine pronouns were largely used to refer to a “lawyer” and “notary public”, even in quoted materials, with the use of their plural equivalents scattered in few paragraphs. Positively, in *Ang v. Marapao*,²⁹³ although masculine pronouns were still used, pluralization of nouns and pronouns were more copious.²⁹⁴

Justice Jose Midas P. Marquez

Justice Marquez is the only “homegrown” Justice, having been in the Supreme Court his entire judicial career. He served for several Justices before his appointment as Deputy Court Administrator. He served as the spokesperson of the Supreme Court at one time.²⁹⁵ As of writing, the Supreme Court has not published any promulgated decision he had penned post-*Guidelines*.

Justice Antonio T. Kho Jr.

²⁸⁴ *People v. Jumarang, op. cit.*

²⁸⁵ *Maristela v. Mirasol* (2022) G. R. No. 241074.

²⁸⁶ *Aguinaldo v. New Bilibid Prison* (2022) G. R. No. 221201.

²⁸⁷ Justice Japar B. Dimaampao, Supreme Court, <https://sc.judiciary.gov.ph/20903/>.

²⁸⁸ *People of the Philippines v. Court of Tax Appeals* (2022) G. R. No. 251270, 251291-301.

²⁸⁹ *Prime Steel Mill Incorporated v. Commissioner of Internal Revenue* (2022) G. R. No. 249153

²⁹⁰ *Alamed v. Commission on Audit* (2022) G. R. No. 254394.

²⁹¹ (2022) A. C. No. 13332.

²⁹² (2022) A. C. No. 12673.

²⁹³ (2022) A. C. No. 10297.

²⁹⁴ See also *Valera v. People* (2022) G. R. No. 209099-100.

²⁹⁵ Justice Jose Midas P. Marquez, Supreme Court, <https://sc.judiciary.gov.ph/22315/>.

Justice Kho served as a former undersecretary of the justice department before he was appointed as a commissioner of the Commission on Elections. After the end of his tenure as commissioner, he was appointed as a Justice of the Supreme Court in 2022 a day before the *Guidelines* was issued.²⁹⁶

Although only a few decisions penned by Justice Kho were promulgated and published, his decisions have been consistent and compliant with the *Guidelines* so far. He employed of a variety of gender-neutral writing techniques, including the use of plural nouns and paired pronouns,²⁹⁷ or avoiding the use of pronouns at all. In one case, for example, he used instead the word “latter” to refer to a generic “worker” previously mentioned.²⁹⁸ He also adopted Filipino terms that the law employs for government offices, avoiding any possible gendering if translated to English. Notably, when quoting prior case law, he has the tendency to refer to cases which are also written in gender-neutral language.²⁹⁹

Justice Maria Filomena D. Singh

Justice Singh is the youngest member of the Supreme Court, having been appointed only in mid-2022. Like the majority of the justices, she was a trial court judge and then a Court of Appeals Justice before her appointment to the Supreme Court last year.³⁰⁰

Being new to the Supreme Court, Justice Singh has the least number of promulgated decisions. So far, two decisions which she penned show both use and non-use of gender-neutral language. In *Tallado v. Racoma*,³⁰¹ referring to the generic “judge”, she used male gendered pronouns in most parts, “his or her” in others; although in the latter part of the decision she used the plural “judges” which avoided use of gendered pronouns. In *Department of Energy v. Court of Tax Appeals*,³⁰² the generic “President” and “Secretary of Finance” were followed by “he”, although in some parts, she simply repeated “President” within the same paragraph, which eluded the use of any gendered pronouns; but when she referred to the generic “Chief Executive”, the paired pronouns “he or she” and “his or her” were used.

6. Conclusion

The movement towards a more inclusive legal writing in the Philippines is arguably still at its early stage. A relevant prospect that has recently gained traction due to the comments of a lawmaker is the return to the use of Filipino in crafting laws and judicial decisions or, at the very least, have them published both in English and Filipino. As of writing, a bill is pending before the Philippine Senate to require all government issuances and documents, including judicial issuances and proceedings, to be issued and published in both English and Filipino.³⁰³ Although the primary purpose for such use is to ensure inclusivity and equality in access to government and court documents amongst Filipinos, it will have the incidental benefit of reverting to the gender-neutrality of Philippine languages.

Among the three branches of the government, without doubt, the Judiciary has been very proactive in recent years in its endeavour to advocate gender empowerment through language. Just a few months ago, the Supreme Court finished a report on legal feminism in Philippine jurisprudence which looked into how courts respond to gender-responsive laws and remedies, including the awareness of gender biases, gender inequalities, and discrimination among judges.³⁰⁴ Thus, it need not be passive and wait for a statutory enactment to start embracing the use of Filipino in court proceedings and issuances. In 2007, the Supreme Court actually piloted a project where three trial courts in the province of Bulacan were required to use Filipino in proceedings. Court stenographers were also taught *Ikilat*, a Filipino-

²⁹⁶ Justice Antonio T. Kho, Jr., Supreme Court, <https://sc.judiciary.gov.ph/24736/>

²⁹⁷ *Agapito v. Agapito* (2022) G. R. No. 255157.

²⁹⁸ *Paiton v. AMSCOR Global Defense* (2002) G. R. No. 255656.

²⁹⁹ *Magaluna v. Office of Ombudsman* (2022) G. R. No. 214747.

³⁰⁰ Justice Maria Filomena D. Singh, Supreme Court, <https://sc.judiciary.gov.ph/27072/>.

³⁰¹ (2022) A. M. No. RTJ-22-022.

³⁰² (2022) G. R. No. 260912.

³⁰³ S. B. 228, 19th Cong. (1st Sess. 2022).

³⁰⁴ SC Reaffirms Commitment Towards “Equal and Inclusive Justice”, Supreme Court (November 25, 2022), <https://sc.judiciary.gov.ph/31468/>.

based stenography. Majority of trial court judges did not view the endeavour enthusiastically and the pilot project failed to fully materialize. In 2010, the Supreme Court finally made the use of Filipino only optional in court proceedings, with only one trial court judge opting to continue the use of Filipino in her court.³⁰⁵

Recently, however, the use of Filipino has gained traction in the Court of Appeals.³⁰⁶ When this attracted the attention of several news outlet, including the Philippine News Agency – the newswire service of the Philippine government,³⁰⁷ reactions from social media users were positive. Perhaps the Supreme Court can take off from this initiative from the appellate court level and slowly integrate the Filipino language in its decisions and issuances to set an example for trial courts and the legal profession, in general. After all, while an all-embracing change in legal language is not within the realm of the Supreme Court’s authority alone, its initiatives and programs are always a welcome step towards gender equality, both in writing and practice.

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³⁰⁶ R. PANALIGAN CA issues decision written in Filipino, Manila Bulletin (September 20, 2022), <https://mb.com.ph/2022/09/20/ca-issues-decision-written-in-filipino/>.

³⁰⁷ Philippine News Agency (@pnagovph) TWITTER (September 20, 2022), <https://twitter.com/pnagovph/status/1572091515387912192?s=61&t=i8hKLvzfB364Oh4ucBooZg>

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