

Analysis of the Writ of Continuing Mandamus in the light of Laudato Si

Katherine Pia M. Cabatbat^{1*} and Teresa M. Camarines

¹De La Salle University, 2401 Taft Avenue, Manila, Philippines 0922

²De La Salle University, 2401 Taft Avenue, Manila, Philippines 0922

**katherine.cabatbat@dlsu.edu.ph*

Abstract

“Environment consists of land, water and air and is clean and pristine without pollution or human intervention (Ashraf, 2017)”. However, with rapidification (LS 18), the magnitude of environmental pollution and destruction ruined the once pristine environment. The earth with its self-healing capacity could no longer heal itself (Van Wieren, 2013).

Pope Francis, the leader of the Catholic Church calls upon the people to respond to the needs of the environment. According to him, “This sister (earth) now cries out to us because of the harm we have inflicted on her by our irresponsible use and abuse of the goods with which God has endowed her (LS 2).”

The judicial system of the Philippines is likewise aware of this reality. In the case Metropolitan Manila Development Authority vs Concerned citizens of the Philippines, (G.R. Nos. 171947-48, December 18, 2008), the Supreme court issued a writ of continuing mandamus to ensure the successful implementation of the order of the court for the protection of the environment.

This study is a textual analysis of the writ of continuing mandamus in MMDA vs Concerned citizens in the Philippines. The challenges posted by the writ were evaluated within the context of caring and conserving manifested in the encyclical Laudato Si by Pope Francis.

The result showed that the issuance of the writ of continuing mandamus is a way for the Filipinos to intervene in the healing of the earth.

Keywords: Environment, pollution, continuing mandamus, healing, human intervention

1. INTRODUCTION

The earth is good. It is created by God for the benefit of the human beings. However, with the continued acceleration of changes and intensified pace of life affecting humanity and the planet known as rapidification (LS 18), the environment becomes destroyed. There's forest degradation, oil spills, increase of landfills, air, water and land pollution. These poses threats not only to plants and animals but to the whole of humanity.

With the glaring negative effects of the environmental pollution and environmental destruction, the participation of every individual and the entire community is a necessity.

Enshrined in the Philippine Constitution is the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, and the correlative duty of the State to protect and advance that right. Specifically, Section 16 of Article II of the Philippine Constitution of 1987 provides: "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."

The said constitutional provision is protected and live out by the Philippine Judicial System. In the year 2008 the Supreme Court of the Philippines issued the Writ of Continuing Mandamus in the case MMDA vs Concerned citizens of the Philippines, (G.R. Nos. 171947-48, December 18, 2008). It is a writ for the protection of the environment specifically the Manila Bay.

This paper offers insights on the challenges posted by the Supreme court to different sectors to clean up, rehabilitate and preserve the Manila Bay. Such data is crucial in determining if the Filipinos are responding to the need of the environment within the context of caring and conserving as manifested in the encyclical *Laudato Si* by Pope Francis.

2. MAIN CLAIM

The researchers believe that the writ of continuing mandamus issued by the Supreme Court in the year 2008 in the case, MMDA vs Concerned citizens of the Philippines with G.R. Nos. 171947-48 is a concrete way by which the Filipino people through its judicial system responds to the challenges posted by the environmental pollution and environmental destruction in the present world.

"Continuing mandamus is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.¹" It is a command of continuing compliance which aims to ensure the successful implementation of the order of the court for the protection of a specific environment.

The Catholic Church through its leader Pope Francis, issued an encyclical entitled *Laudato Si*. The encyclical is a medieval Central Italian for "Praise be to you". It has a subtitle theme, "On Care for Our Common Home." In it, the Pope critiques consumerism and

¹ A.M. No. 09-6-8-SC RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Supreme Court of the Philippines, April 2010

irresponsible development, laments environmental degradation and global warming and calls all people to take “swift and unified global action.”

The challenges posted in the writ of continuing mandamus is in line within the context of caring and conserving manifested in the encyclical *Laudato Si* by Pope Francis. The writ calls for the different sectors of the society to act and do their respective parts in order to clean up, rehabilitate and preserve Manila Bay, and restore and maintain its waters to SB level² to make them fit for swimming, skin diving and other forms of recreation. It is a call to the Filipino people to help the earth heal.

3. METHODOLOGY

The researchers employed the textual analysis. As defined, “Textual analysis is the method communication researchers use to describe and interpret the characteristics of a recorded or visual message.” (Frey, Botan & Kreps, 1999). Further, Frey, Botan and Kreps said that “the purpose of textual analysis is to describe the content, structure, and functions of the messages contained in texts.

To acquire the data on the challenges in the writ of continuing mandamus the researchers retrieved the decision of the Supreme Court in the case *MMDA vs Concerned citizens of the Philippines* with G.R. Nos. 171947-48 dated December 18, 2008. Its content was analyzed to identify, enumerate, and analyze occurrences of specific messages and message characteristics embedded in texts (Frey, Botan & Kreps, 1999). These were further analyzed to find out its manifestation in the systematic structure of caring and conserving as expressed in *Laudato Si*.

4. FINDINGS

Challenge in the Writ of Continuing Mandamus

In the Supreme Court’s decision in the case *MMDA vs Concerned Citizens of the Philippines*, the Manila Bay was described as "a place with a proud historic past, once brimming with marine life and a spot for different recreation activities, but is now a dirty and slowly dying expanse because of the indifference of people and institutions." It is due to the situation of the Manila Bay which compelled the “concerned citizens of Manila Bay” to file a complaint to the court on the alleged inaction of the government to improve the bay’s condition.

In a unanimous decision penned by Justice Presbitero Velasco Jr., the High Court ruled in favor of "concerned citizens" for the clean-up, restoration and preservation of the Manila Bay. The court then issued a writ of continuing mandamus compelling fourteen agencies of the government namely, Metropolitan Development Authority, Department of Environment and Natural Resources, Department of Education, Department of Health, Department of Agriculture-Bureau of Soils and Water Management, Department of Agriculture – Bureau of Fisheries and Aquatic Resources, Department of Public Works and Highways, Department of Budget and Management, Philippine Coast Guard, Philippine National Police - Maritime Group, Department of Interior and Local Government, Philippine Ports Authority, Metropolitan Waterworks and Sewerage System and the Local Water Utilities Administration to each submit to the Court a quarterly progressive report of the activities undertaken in order to rehabilitate the Manila Bay.

² Class B Sea Waters per water classification tables under Department of Environment and Natural Resources Administrative Order No. 34, 1990

The efforts to clean and protect the Manila is bestowed in not only in a single government entity but with the fourteen government agencies which includes almost all sectors of the society. They will continue to do the respective tasks assigned to them until such time that the bay is restored to its beauty and cleanliness.

Mandate to Care and Conserve the Creation

In *Laudato Si*, Pope Francis emphasized how people disregard nature. He said; “This sister now cries out to us because of the harm we have inflicted on her by our irresponsible use and abuse of the goods with which God has endowed her. We have come to see ourselves as her lords and masters, entitled to plunder her at will. The violence present in our hearts, wounded by sin, is also reflected in the symptoms of sickness evident in the soil, in the water, in the air and in all forms of life. This is why the earth herself, burdened and laid waste, is among the most abandoned and maltreated of our poor; she “groans in travail” (Rom 8:22). (LS 2) “The earth, our home, is beginning to look more and more like an immense pile of filth. (LS 21)”.

There is therefore the need for every human being to respond to the environmental pollution and destruction. Pope Francis said; “All of us can cooperate as instruments of God for the care of creation, each according to his or her own culture, experience, involvements and talents (LS 14)”. He further said that; “we are called to be instruments of God our Father, so that our planet might be what he desired when he created it and correspond with his plan for peace, beauty and fullness. (LS 53). Pope Francis further said “Each community can take from the bounty of the earth whatever it needs for subsistence, but it also has the duty to protect the earth and to ensure its fruitfulness for coming generations. “The earth is the Lord’s” (Ps 24:1); to him belongs “the earth with all that is within it” (Dt 10:14).” (LS 67).

5. ANALYSIS

Challenge of Cleaning Up

The Writ of continuing mandamus calls the government agencies to sphere head the cleaning of the Manila Bay. The Manila Bay Clean Up is not an ordinary government project. This is in line with the call of Pope Francis to “cooperate as instruments of god for the care of creation...according to his own involvements and talents” (LS14).

According to Berry (2008), “Clean is a condition of the environment that is free of unwanted matter. Cleaning is the process used to achieve the clean condition. Best viewed as a fundamental environmental management process, cleaning is a systematic, science-based process that puts unwanted matter in its proper place or where it does not cause harm or adverse effects.” Therefore, the clean-up of the Manila Bay has a lot of challenge to the society not only to the assigned government agencies

Challenge of Restoring

The plan of the different government agencies to whom the writ of continuing mandamus was issued shows their desire to restore the Manila Bay to its beauty and cleanliness allowing the marine life to flourish once more address the problem of pollution.

In the study conducted by Rohr, et al (2015), they said that restoration can be done in two different ways. One is through Passive restoration while the other is through active restoration. In Passive restoration, it “describes when the source of the contamination has been eliminated and the system is allowed to recover through natural processes. By contrast, active restoration

describes when humans intervene to accelerate recovery, by mechanically planting trees for example.” In the writ of continuing mandamus issued by the Supreme Court, it does not state what kind of restoration must be done, what is important is for the bay to be restored. Pope Francis viewed restoration of the environment as the way human responds to the call to make the “planet (might) be what he (God) desired when he created” (LS 53).

Challenge of Preserving

The Writ of Continuing Mandamus is a relief given by the Supreme Court to different government agencies through a series of ongoing orders over a long period of time to ensure the preservation of the Manila Bay. The human being are called to preserve the Earth. This was emphasized by Pope Francis in *Laudato Si* paragraph #67. He said the earth is a gift from God to the people but as they till the land they have the responsibility “to ensure its fruitfulness for coming generations.”

6. CONCLUSION

The Writ of Continuing Mandamus was issued by the Philippine Supreme Court to compel the Philippine government to clean up Manila Bay. It is a continuing order of the Court to implement the action plan to remedy the environmental degradation and restore Manila Bay to its beauty and cleanliness which would lead to its restoration to the once productive state of its marine resources. The writ is extensive and persistent since it orders the government agencies tasked to clean up, restore and preserve to submit to the Supreme Court every ninety days written reports of the progress of the cleanup (Davide, 2012). The different agencies must then come up with a plan that will address the problem of water pollution, liquid and solid waste management, informal settlers, habitats and resource rehabilitation.

The decision given by the Supreme Court on environmental issues manifested the sense of awareness on the part of the highest court of the land to compel different sectors or agencies in the society on their grave responsibilities to be united by the same concern in order to protect the common home.

Laudato Si appeals for a new dialogue on how to shape the future of our planet. The environmental challenge that the people experienced affects the entire community, thus it includes everyone to reach out and do their fair share. The efforts made by the Supreme Court to unite different sectors in the society seek for concrete solutions to the prevailing environmental concern. The worldwide significance of different ecological movements made considerable progress in raising awareness of these environmental challenges. The decision of the Supreme Court can be considered a concrete evidence to raise awareness and unite different sectors in the society. “As the bishops of Southern Africa have stated: Everyone’s talents and involvement are needed to redress the damage caused by human abuse of God’s creation. All of us can cooperate as instruments of God for the care of creation, each according to his or her own culture, experience, involvements and talents” (SACB, 1999 as cited in LS#14).

Undeniably, despite of the many initiatives and efforts of the government, NGO’s and the church to protect, preserve and restore the common home, the challenge lies on the interest of intergenerational responsibility. “The earth was here before us and it has been given to us” (LS#67), and therefore, everyone should respond to take part of the initiatives.

The judicial body of the government through the Supreme Court, made the Writ of Continuing Mandamus, however, it was also mentioned in the decision “that the state thru the petitioners has to take the lead in the preservation and protection of the Manila Bay”. This is the same goal made by Pope Francis *Laudato Si*.

Therefore the decision of the Supreme Court decision on the case of MMDA vs concerned citizens of the Philippines is consistent with the challenges contained in the Laudato Si encyclical.

7. REFERENCES

- Berry, M. A. (2008). Introduction to Cleaning Science. Cleaning Industry Research Institute. In press.
- Frey, L., Botan, C., & Kreps, G. (1999). Investigating communication: An introduction to research methods. (2nd ed.) Boston: Allyn & Bacon.
- Hilario G. Davide Jr., The Environment as Life Sources and the Writ of Kalikasan in the Philippines, 29 Pace Envtl. L. Rev. 592 (2012)
- Rohr, J., Farag, A., Cadotte, M., Clements, W., Smith, J., Ulrich, C. & Woods, R. (2015). Transforming ecosystems: When, where, and how to restore contaminated sites. Integr Environ Assess Manag, DOI: 10.1002/ieam.1668
sc.judiciary.gov.ph/jurisprudence/2008/december2008/171947-48.htm
- Van Wieren, Gretel, (2013). Restored to Earth: Christianity, Environmental Ethics, and Ecological Restoration. Georgetown University Press, Washington DC.
- http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html