



THE BAR TRIBUNE

Official Publication of the Integrated Bar of the Philippines
15 J. Vargas Avenue, Ortigas Center, Pasig City

Vol. 6 No. 1

January 2010

Palawan Capital Hosts 19th House of Delegates Convention



(Left photo): Palawan Governor Joel T. Reyes and Mrs. Clara "Fems" E. Reyes (both in white shirt) flanked by Palawan Chapter President Gerardo S. Dilig, National Director for Legal Aid & Convention Director Rosario T. Setias-Reyes, National Secretary Tomas N. Prado, Ms. Aurora G. Geronimo, Asst. National Treasurer Maria Teresita C. Sison Go and Mr. George V. Saragena of IBP Palawan Legal Aid Office. (Right photo): IBP National Officers and staff led by OIC Justice Santiago M. Kapunan (Ret.) (rightmost) with Puerto Princesa City Mayor Edward S. Hagedorn.

Close to a hundred forty delegates would be descending on Puerto Princesa City in Palawan province on January 28 to 30, 2010 for the 19th House of Delegates Convention of the Integrated Bar of the Philippines. The chosen theme for the biennial event is "IBP: Revitalizing for the New Decade."

"The early Delegates Convention is a chance for chapter officers, active IBP members and the Board of Governors to know each other better. Holding it at the end of the officers' two-year term means there's little incentive to interact and get acquainted because their terms are ending anyway. We want a united IBP and a committed set of officers and delegates

who can be relied on to support and uphold the programs of the organization. So holding the Convention early is important," Atty. Rosario T. Setias-Reyes, Convention Director said.

Supreme Court Chief Justice Reynato S. Puno will be the keynote speaker of the Opening Ceremonies. Delegates from all over the Philippines, meanwhile, will be welcomed by Puerto Princesa City Mayor Edward S. Hagedorn and Palawan Governor Joel T. Reyes.

Important highlights of the Convention include workshops, presentations and plenary sessions on matters affecting the Integrated Bar, such as amendments to the By-Laws, creation and re-

distribution of chapters, the rotation rule, transfers of chapter membership, the IBP presidency, and election of delegates.

This year's delegation will be led by IBP Officer-in-Charge Justice Santiago M. Kapunan (Ret.) and Governors Ma. Milagros N. Fernan-Cayosa (Northern Luzon), Ferdinand Y. Miclat (Central Luzon), Amador Z. Tolentino, Jr. (Southern Luzon), Jose V. Cabrera (Bicolandia) Roland B. Inting (Eastern Visayas) and Roan I. Libarios (Eastern Mindanao). Delegates from all 85 local chapters nationwide are expected to attend.

The previous House of Delegates Convention was held in Subic, Zambales last November 20-22, 2008. ■

IBP Continues Justice Campaign for Maguindanao Massacre Victims



Last December 2, 2009, the IBP launched its Countdown to Justice campaign to draw attention to the legal community's need to take a united active role in prosecuting the perpetrators of the November 23, 2009 Maguindanao killings.

The organization staged a "March for Justice" in Ermita, Manila on December 10, 2009 with the twin objectives of seeking justice for the 57 victims of the massacre, and opposing the imposition of Martial Law in Maguindanao province. The march culminated in the filing of a Motion for Intervention by IBP Governors and national and chapter officers at the Supreme Court. Around 500 lawyers, government employees, IBP staff and law students joined the march.

The IBP and the National Committee on Legal Aid likewise spearheaded a series of meetings with lawyers' groups, civil society organizations and individual volunteers handling cases relating to the massacre. Representatives from the Free Legal Assistance Group (FLAG), Center Law, KARAPATAN, Public Interest Law Center, Union of People's Lawyers in Mindanao (UPLM), UP Women's Lawyers Circle (WILOCI), UNTV Legal, National Union of People's Lawyers (NUPL), Gender Justice Network,



(From left): Atty. Rowena V. Guanzon, Deputy General Counsel & Chief of Staff Rodolfo G. Urbiztondo, Southern Luzon Governor Amador Z. Tolentino, Jr., Quezon City Chapter Vice President Jonas F.L. Cabochan, Eastern Mindanao Governor Roan I. Libarios, Quezon City Chapter President Tranquil G.S. Salvador III, Bicolandia Governor Jose V. Cabrera, National Director for Bar Discipline Alicia A. Risos-Vidal, National Director for Legal Aid Rosario T. Setias-Reyes and Manila II Chapter President Jewel D. Bulos.

Women's Gender Network, National Union of Journalists in the Philippines (NUJP), and the Philippine Center for Investigative Journalism (PCIJ) attended. Counsel for victims, Attys. Nena Santos and Gemma Oquendo, and volunteer lawyers, namely, Attys. Argee Guevarra, Trixie Angeles, Charlo Paredes and Macky Hernandez likewise lent their efforts to the crusade.

Eastern Mindanao Governor Roan I. Libarios, acting as head convenor, emphasized the participants' crucial roles in sustaining the collective legal effort. He said there were many challenges in finding a common direction for such a diverse group, but they should set aside differences and bind together to seek legal redress for all the victims. ■

Cebu City Supports Metro Cebu Reformatory Center

The Integrated Bar of the Philippines Cebu City Chapter endorsed the establishment of a Metro Cebu Reformatory Center, a proposal of the Bureau of Jail Management and Penology (BJMP).

In the resolution of the Chapter, it was pointed out that present municipal and provincial jail facilities are overcrowded and detention prisoners awaiting trial are mixed with sentenced convicts. The supposed rehabilitative nature of jail confinement is not realized, the Chapter said.

Cebu City Adopts 2009 Guidelines for Bench/Bar Relations

IBP Cebu City Chapter, through its Committee on Bench and Bar, has finalized the 2009 Guidelines for the Bench and Bar Grievance Committee.

The adoption of the guidelines is aimed at addressing problems and issues involving the judiciary, court staff and lawyers. Copies of the guidelines were furnished to members of the chapter, law organizations, law schools, law alumni associations and other law groups in the province.

Misamis Oriental Condemns Brutal Slay of 2 Lawyers

The IBP Misamis Oriental Board of Officers headed by President Dale Bryan Mordeno condemned in a resolution the senseless killing of 57 individuals, including lawyers Atty. Concepcion Brizuela and Atty. Cynthia Oquendo-Ayon in Maguindanao last November 23, 2009.

That the two lawyers died while in the pursuit of their duties as lawyers made the crime doubly alarming, the Chapter noted.

The Board resolution further called for the early resolution of the killings.

New Antique Prexy Assumes Post

Atty. Cornelio P. Aldon has assumed the presidency of the Antique Chapter following the filing of a Certificate of Candidacy to an elective office of its President, Atty. Arturo F. Pacificador.

The Board of Officers of the Chapter elected the officers last November. Those elected were Atty. Samuel A. Galuego as Vice President and Atty. Jenalyn T. Alagos as Auditor.

Zamboanga Del Norte Expresses Outrage Over Killing of Lawyers

IBP Zamboanga del Norte Chapter issued a Statement of Condemnation and Outrage on the brutal slaying of Attys. Concepcion Brizuela and Cynthia Oquendo-Ayon, media practitioners and other civilians in Maguindanao.

Chapter members also wore black arm bands from the time of the killings up to December 10, 2009 or International Human Rights Day, to signify outrage and condemnation of lawyers over the incident.

(IBP Chapters are encouraged to send news on local activities for publication in THE BAR TRIBUNE. Email contributions to journal@ibp.ph)

Number of IBP Members per Chapter (as of August 2009)

NORTHERN LUZON (3,724)

1. ABRA	-	121
2. BAGUIO-BENGUET	-	1,066
3. BATANES	-	29
4. CAGAYAN	-	563
5. IFUGAO	-	74
6. ILOCOS NORTE	-	400
7. ILOCOS SUR	-	351
8. ISABELA	-	393
9. KALINGA-APAYAO	-	94
10. LA UNION	-	353
11. MT. PROVINCE	-	62
12. NUEVA VIZCAYA	-	177
13. QUIRINO	-	41

CENTRAL LUZON (4,455)

14. BATAAN	-	193
15. BULACAN	-	1,240
16. NUEVA ECUIJA	-	535
17. PAMPANGA	-	696
18. PANGASINAN	-	1,180
19. TARLAC	-	342
20. ZAMBALES	-	269

SOUTHERN LUZON (12,003)

21. AURORA	-	37
22. BATANGAS	-	812
23. CALMANA	-	1,092
24. CAVITE	-	817
25. LAGUNA	-	817
26. MARINDUQUE	-	82
27. OCC. MINDORO	-	77
28. ORIENTAL MINDORO	-	230
29. PPLM	-	1,688
30. QUEZON	-	492
31. RIZAL	-	2,932
32. MAKATI	-	2,927

GREATER MANILA (13,066)

33. MANILA I	-	599
34. MANILA II	-	1,078
35. MANILA III	-	1,445
36. MANILA IV	-	2,445
37. QUEZON CITY	-	7,499

BIGOLANDIA (2,081)

38. ALBAY	-	584
39. CAMARINES NORTE	-	156
40. CAMARINES SUR	-	868
41. CATANDUANES	-	110
42. MASBATE	-	180
43. SORSOGON	-	183

EASTERN VISAYAS (4,665)

44. BILIRAN	-	45
45. BOHOL	-	421
46. CEBU	-	1,070
47. CEBU CITY	-	1,628
48. EASTERN SAMAR	-	172
49. LEYTE	-	909
50. NORTHERN SAMAR	-	170
51. SAMAR	-	151
52. SOUTHERN LEYTE	-	99

WESTERN VISAYAS (3,834)

53. AKLAN	-	229
54. ANTIQUE	-	122
55. CAPIZ	-	280
56. GUIMARAS	-	18
57. ILOILO	-	1,196
58. NEGROS OCCIDENTAL	-	1,139
59. NEGROS ORIENTAL	-	547
60. PALAWAN	-	193
61. ROMBLON	-	82
62. SIOUJOR	-	28


EASTERN MINDANAO (3,174)

63. AGUSAN DEL NORTE	-	206
64. AGUSAN DEL SUR	-	63
65. BUKIDNON	-	159
66. CAMIGUIN	-	44
67. DAVAO CITY	-	1,203
68. DAVAO DEL NORTE	-	142
69. DAVAO DEL SUR	-	188
70. DAVAO ORIENTAL	-	54
71. MISAMIS ORIENTAL	-	873
72. SURIGAO DEL NORTE	-	153
73. SURIGAO DEL SUR	-	89

WESTERN MINDANAO (2,397)

74. ZAMBASULTA	-	454
75. COTABATO	-	218
76. LANA DEL NORTE	-	306
77. LANA DEL SUR	-	207
78. MISAMIS OCCIDENTAL	-	190
79. SOUTH COTABATO	-	375
80. ZAMBOANGA DEL NORTE	-	293
81. ZAMBOANGA DEL SUR	-	213
82. NORTH COTABATO	-	89
83. SULTAN KUDARAT	-	52
84. SARANGANI	-	35
85. ZAMBOANGA SIBUGAY	-	17

Total National Membership: 49,399
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The Two-Examiner per Bar Subject Rule

2009 BAR EXAMINATIONS	
POLITICAL AND PUBLIC INTERNATIONAL LAW	
06 September 2009	8 A.M. - 12 NN.
<p>INSTRUCTIONS</p> <p>This questionnaire is in TWO (2) PARTS: Part I with ten (10) questions (numbered I to X), contained in seven (7) pages; and Part II with eight (8) questions (numbered XI-XVIII), contained in six (6) pages, for a total number of thirteen (13) pages.</p> <p>Write your answers to Part I and Part II in the corresponding portions indicated in the booklet.</p> <p>Begin your answer to each numbered question on a separate page; an answer to a subquestion under the same number may be written continuously on the same page and succeeding pages until completed.</p> <p>Answer the questions directly and concisely. Do not repeat the questions. Write legibly.</p> <p>HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE.</p> <p style="text-align: center;">GOOD LUCK!</p> <p style="text-align: center;">ANTONIO EDUARDO B. NACHURA CHAIRPERSON 2009 BAR EXAMINATIONS COMMITTEE</p> <p>PLEASE CHECK THAT THIS SET CONTAINS FOURTEEN (14) PAGES (INCLUDING THIS PAGE).</p>	

The Supreme Court has implemented the Two-Examiner per Bar Subject Rule in the September 2009 Bar Examinations, pursuant to Bar Matter No. 1161 (Re: Proposed Reforms in the Bar Examinations), which was approved by the Court in a Resolution dated February 3, 2009. The pertinent text of the Resolution is quoted hereunder:

Bar Matter No. 1161.- Re: Proposed Reform in the Bar Examinations. - The Court Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to APPROVE, the proposal of Atty. Ma, Cristina B. Layusa, Deputy Clerk of Court and Bar Confidant, regarding the (1) implementation of Paragraph 4 Part B of Bar Matter No. 1161, or the designation of two (2) examiner per Bar subject; and (2) increase in the honorarium of the examiners from P130.00 to P200.00 per booklet.

Hence, every Bar subject shall be divided into two (2) parts - Part I and Part II. Each examiner shall be assigned a specific scope from which to formulate his/her questions. The time allotted for each Bar subject of four (4) hours for the morning subjects and three (3) hours for the afternoon subjects shall not change. In answering the questions, the Bar examinees have the discretion in utilizing the time allotted for answering. Thus they may opt to begin answering a particular part of the examination which he or she feels is relatively easier than the others.

As with the previous Bar examinations, only one set of test questionnaire and one examination booklet for each Bar subject shall be given to each Bar examinee. Each examination booklet shall also be divided into two (2) parts, marked as Part I and Part II, where the answers are to be written corresponding to Part I and Part II of the questionnaire, respectively. A separated card for the grades or rating received by the Bar examinee for each part of the examination shall be attached to the front cover of the booklets marked as Part I and Part II. Upon review and correction of the two examiners' respective part of the examination, the attached card shall be detached immediately thereafter before transmittal to the other examiner for review and correction of the other part of the examination. This is to ensure that the other examiner would not be influenced by the grade or rating given by the other.

The Bar Tribune sought the comments of some law deans, bar reviewers, and the Bar Confidant regarding the Rule and its implementation. Their comments are quoted below:

“The Two-Examiner per Bar Subject Rule is only one of the many innovations introduced by Bar Matter No. 1161 (Re: Proposed Reforms in the Bar Examinations). With the advent of the said Rule, it is hoped that correction of examination booklets will be expedited and thus, results of the bar examinations be released earlier. Also, it is envisioned that bar examinees would have better chances of passing since they will no longer be left at the kindness of one unusually strict examiner.”

- Atty. Ma. Cristina B. Layusa

*Bar Confidant and
Deputy Clerk of Court
Supreme Court*

“The two-examiner idea resulted in a lengthy Bar Exam. The number of questions per subject range from a high of 47 questions (with 10 true or false questions of one point each), 46 questions in Political Law and Civil Law with 44 questions, and a low of 35 questions for Taxation and Legal Ethics. The true and false portion should have been placed in the last part of the exam since it is given only one point each. This will allow a chance to finish the exam and possibly pass it.”

- Prof. Eduardo A. Labitag

*Head, Training and Convention Division
and Bar Reviewer in Property
and Obligations and Contracts
Bar Review Institute
U.P. Law Center*

“The adoption of the two-examiner rule by the Supreme Court is a welcome innovation as it will ease up the pressure on the part of the examiners in correcting the booklets of the examinees. We could not imagine the difficulty of

correcting more than 6,000 booklets. The new system gives the examiners more time to appreciate the answers, that's why we thank the Court for the bold move.”

- Judge Ed Vincent Albano

*Former Dean
College of Law
University of Perpetual Help System- Laguna
Bar and Pre-week Reviewer on Civil Law,
Remedial Law and Political Law*

“There is no issue as regards the difficulty or easiness of the questions as a result of the Two-Examiner Rule. Our only concern is that the questions were too long considering that there were two parts. The good side, however, is that the exam became more extensive and broader in scope as to questions asked. Also, corrections of the booklets will become faster, and the release of the results will possibly be earlier.”

- Prof. Augusto K. Aligada, Jr.

*Acting Dean
Faculty of Civil Law
University of Santo Tomas*

“It is practical and ensure quality correction of booklets. This kind of innovation will facilitate the release of the results. Since the bar examination has taken place already, there was a favorable reception of the idea from both examinees and the deans. We have to complement Justice Nachura and the Supreme Court for introducing this kind of solution to the delay of correction of papers.”

- Dean Amado D. Valdez

*College of Law
University of the East*

State Control of Diwalwal Mining Operations Upheld

Mining activities in the Diwalwal Gold Rush Area are within the control of the Executive Department. This was reiterated by the Supreme Court recently as it denied motions for reconsideration of its June 23, 2006 decision holding, among others, that it is within the prerogative of the Executive Department to directly undertake the mining operations in the disputed area and to award the operations to qualified private entities.

In a 46-page resolution penned by Justice Minita V. Chico-Nazario, the Court also clarified that the Mines and Geosciences Bureau (MGB) may process exploration permits, taking into consideration the applicable laws, rules, and regulations. The Court held that it cannot direct the MGB to accept applications for exploration permits since it is the Executive Department that has the sole prerogative to accept such applications.

The issue of the constitutionality of Proclamation No. 297, issued by

President Gloria Macapagal-Arroyo on November 25, 2002 which declared the Diwalwal Gold Rush Area as a mineral reservation and as an environmentally critical area cannot be belatedly raised on



a motion for reconsideration. The Court ruled that in any case, Proclamation No. 297, issued pursuant to RA 7942, the *Mining Act of 1995*, is in harmony with Art. XIII, sec. 4 of the Constitution. It stressed that mineral reservations can exist within forest reserves because of the

multiple land use policy in our laws.

The decision clarified that it did not overturn the July 16, 1991 ruling in *Apex Mining Co., Inc. v. Garcia* that Marcopper Mining Corporation (MMC) was legally entitled to exploration rights in the disputed area since the rights were extinguished by subsequent events such as the expiration of MMC's Exploration Permit (EP) 133 by non-renewal on July 6, 1994 and its transfer/assignment to Southeast Mindanao Gold Mining Corporation (SEM) in violation of the prohibition in the EP and of PD 463 requiring prior approval of the Secretary of the Department of Environment and Natural Resources. *GR Nos. 152613 & 152628, Apex Mining Co., Inc. v. Southeast Mindanao Gold Mining Corp.*; *GR Nos. 152619-20, Balite Communal Portal Mining Cooperative v. Southeast Mindanao Gold Mining Corp.*; *GR No. 152870-71, The Mines Adjudication Board v. Southeast Mindanao Gold Mining Corp., November 20, 2009*/Gleo Sp. Guerra

Partisan Political Acts Allowed Before Campaign Period

The Supreme Court, by a 9-5 vote, recently held as lawful partisan political acts of a candidate before the start of the election campaign period. Granting the motion for reconsideration of Rosalinda A. Penera, it reinstated her as mayor of the municipality of Sta. Monica, Surigao del Norte and set aside its September 11, 2009 decision upholding her disqualification by the Commission on Elections (Comelec) for premature campaigning.

Under the September 11, 2009 decision, a candidate may already be liable for premature campaigning after the filing of the certificate of candidacy and even before the start of the campaign period. The same considers a person who files a certificate of candidacy already a "candidate" even before the start of the campaign period.

In a 16-page resolution penned by Justice Antonio T. Carpio, the Court however held that the assailed decision



reverses its ruling in *Lanot v. Comelec*, where the Court held that a person who files a certificate of candidacy is not a candidate until the start of the campaign period. It noted that Congress had elevated the *Lanot* doctrine into law under RA 8436.

The Court ruled that under the law, a "candidate" has been defined as "any person aspiring for or seeking an elective public office, who has filed a certificate of candidacy" and that "any person who files certificate of candidacy within

[the period for filing] shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy." It stressed that when "the applicable provisions of RA 8436, as amended by RA 9369, and read together, these provisions of law do not consider Penera a candidate for purposes other than the printing of the ballots until the start of the campaign period."

The Court further noted the law also provides that "any unlawful act or omission applicable to a candidate shall take effect only upon the start of the campaign period." It said that "The plain meaning of this provision is that the effective date when partisan political acts become unlawful as to a candidate is when the campaign period starts. Before the start of the campaign period, the same partisan political acts are lawful." (*GR No. 181613, Penera v. Comelec, November 25, 2009*)/Jay B. Rempillo

“Hello Garci” Dinesisyunan na ng Korte Suprema

Sa botong 8-6, idineklarang invalid ng Korte Suprema ang naunang imbestigasyon ng Senado sa “Hello Garci” tapes dahil sa hindi pag-sunod ng Senado sa publication requirement sa imbestigasyon nito sa umano’y sabwatan sa pagitan ni Pangulong Gloria Macapagal-Arroyo at dating Commission on Elections Commissioner Virgilio Garcilano upang manipulahin ang resulta ng 2004 elections pabor kay Pangulong Arroyo.

Gayunpaman, maaari nang magpatawag ng panibagong imbestigasyon ang Senado hinggil sa “Hello Garci” matapos i-note ng korte suprema ang paglathala ng Senate Rules of Procedure sa dalawang pahayagan noong Oktubre.

Sa desisyong isinulat ni Justice Antonio Eduardo Nachura, inayunan ng

Korte ang petisyon nina dating Court of Appeals Justice Santiago Ranada at Oswaldo Agcaoili na humihiling na pigilan ang Senado sa pagsasagawa ng legislative inquiry tungkol sa isyu dahil anila ay labag ito sa Republic Act 4200 at Section 3, Article III ng Konstitusyon na nagbabawal at nagpaparusa sa wiretapping at iba pang kahalintulad na paglabag sa komunikasyong pang-pribado.

Sa pag-grant ng petisyon, sinabi ng Korte Suprema na hindi maaaring pahintulutan ang Senado na ipagpatuloy ang imbestigasyon nang walang published rules of procedure dahil ito’y malinaw na paglabag sa Konstitusyon.

Nakasaad sa Section 21, Article VI ng Saligang Batas na maaaring magsagawa ng imbestigasyon ang Senado o Kamara de Representantes, o

alinman sa mga komite nito, kung ito ay in aid of legislation at naaayon sa published rules of procedure nito.

Samantala, ibinasura naman ang petisyon ni Garcillano na humihiling na pigilan ang Kamara de Representantes sa pagdinig ng “Hello Garci” tapes at pagsama nito sa committee reports dahil sa pagiging moot and academic.

Sabi ng Korte na wala nang dahilan pa para ipagkaloob ang hiling ni Garcillano na pagbawalan ang Kamara sa pakikinig sa nilalaman ng “Hello Garci” tapes dahil nadinig na ito ng mga miyembro ng Kamara de Representantes at nakumpleto na ang mga committee reports hinggil sa “Hello Garci.” (*GR No. 170338, Garcillano v. House of Representatives; GR No. 179275, Rañada v. Senate, December 23, 2008*)/Maribeth C. Cruz



Candidate Elective Officials Not Deemed Resigned

The Supreme Court, by an 8-6 vote, struck down as unconstitutional certain provisions in election laws that deemed appointed officials automatically resigned once they filed their certificates of candidacy (CoCs).

In a decision penned by Justice Antonio Eduardo B. Nachura, the Court declared as unconstitutional the second provision in the third paragraph of Section 13 of RA No 9369, Section 66 of the *Omnibus Election Code*, and Section 4(a) of the Commission on Elections (COMELEC) Resolution No. 8678.

The Court held that there was no valid justification to treat appointive officials differently from the elective ones.

“In considering persons holding appointive positions *ipso facto* resigned from their posts upon the filing of their

CoCs, but not considering as resigned all other civil servants, specifically the elective ones, the law unduly discriminates against the first class. The fact alone that there is substantial distinction between those who hold appointive positions and those occupying elective posts, does not justify such differential treatment,” the Court said.

The Court further said that the challenged provision also suffers from the infirmity of being overbroad for the following reasons: First, the provision pertains to all civil servants holding appointive posts without distinction as to whether they occupy high positions in government or not. The Court said for a government utility worker, who will also be considered as *ipso facto* resigned once

he files his CoC for 2010 elections, to use his position in the government to wield influence in the political world was unimaginable.

Second, the provision was directed to the activity of seeking any and all public offices, whether they be partisan or non-partisan in character, whether they be in the national, municipal, or *barangay* level. Congress has not shown a compelling state interest to restrict the fundamental right involved on such a sweeping scale, the Court said. (*GR No. 189698, Quinto v. Comelec, December 1, 2009*)/Jay B. Rempillo

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Marching and Uniting for Justice

