

## MESSAGE OF HON. MENARDO I. GUEVARRA

### *PWJA: Empowering Women Judges in the Cyber Age*

It is with great honor that I congratulate the members of the Philippine Women Judges Association on the occasion of your 25th Annual Convention Seminar.

The Cyber Age sounds like science fiction.

A decade or so ago, it was relegated to the realm of the imagination, made real only in stories contained in books, films, and other works of a fertile mind. Today, the line that demarcates the real from the imagined has moved in ways we have not anticipated.

The world we used to know has evolved, and continues to do so.

The mechanical systems that defined our economies in the past have been pushed to obsolescence.

Their place has been taken over by computer systems and networks upon which virtual communities have been founded.

The internet of all things – the system which connects everyone and everything and makes possible the collection of big data to understand patterns and predict outcomes – sounds like an alien concept.

But it is now everyday reality for every single one of us.

We are part of this system every time we open our phones and computers and allow the constant collection of data and information on our preferences in music, literature, food, and every imaginable aspect of our daily life.

We connect to the internet of all things when we post our whereabouts in social media; when we access applications which allow us to navigate through the traffic in our streets and by-ways; when we shop online; when we track our sleep patterns and waking hours.

Currency has likewise been evolving.

Coins and bills have morphed into plastic magnetic cards, which in turn have now been replaced by cryptocurrencies and bitcoins.

Wealth is being created, eroded, lost, distributed and re-distributed, in virtual pockets and accounts with the click of a button and across geographic regions and time zones.

Today, more and more markets are finding less use for money as economies shift to efficient systems for moving wealth around.

These two phenomena – the internet of all things and the rise of cryptocurrencies – do not only impact businesses and economies; they likewise present profound implications on the way our societies and governments are constituted and managed, and how our citizens live.

The internet of all things makes possible the collection of vast amounts of data about us.

Large swaths of data greatly improve our predictive capacity.

In the hands of pollsters and kingmakers, big data create vivid images of electoral preferences.

Knowing such preferences aids in strategizing campaigns to influence election outcomes.

Such knowledge, transmitted into political propaganda fed into computer applications and social media platforms, optimizes campaigns and secures electoral victories.

For medical scientists, big data will undoubtedly be useful in health profiling, allowing us to understand who among us are predisposed to specific diseases, what accounts for such predisposition, and how best to cure our illnesses.

HIV and AIDS took around two to three decades to understand, after scientific research institutions and medical facilities studied thousands upon thousands of patients – many of whom died under the observation of doctors and while in wait for a cure.

The fight against cancers and most other diseases that afflict the human race will most likely be won in the same way, but with big data, in time spans that will be significantly abbreviated.

Meanwhile, cryptocurrencies allow us to skirt banks, financial institutions and traditional middlemen, removing transaction costs.

They have made possible and easy investing in start-ups and companies whose business propositions and models are deemed too risky by conservative bankers and financial analysts.

These innovations are fueling greater innovation in the production, delivery and distribution of goods and services, and creating greater diversity in our markets of varied and sophisticated tastes and preferences.

But they are not without costs.

The internet of all things and the big data it generates rest on two systems that may be at odds with societal values we have been accustomed to.

The collection of data impinges on considerations of privacy, while profiling raises fears of discrimination.

Likewise, the interconnection fundamental to the internet revolution has made more efficient the dissemination of untruths with great potential to destroy not only our reputation but our societal peace and public order.

For example, the dissemination to almost anyone with a cellphone and internet connection of malicious and wrong information about the current virus has exacerbated fears and may have eroded our people's faith in our health authorities.

Its potential to sow massive panic and create societal chaos is beyond denial.

On the other hand, we are now being made aware of the reality that cryptocurrencies have become the lifeblood of every conceivable black market – in the trade for modern day slaves, the creation and distribution of pornography involving children, the illegal market for arms and munitions and drugs, among others.

Not a few investigations of our own cybercrime offices have recorded the use of cryptocurrencies for illicit online transactions.

Cryptocurrencies are specially used in the realm of the internet known as the dark web – that part of the internet, the contents of which ordinary search engines such as google and yahoo can neither reach nor index.

The dark web is the hotbed of criminality in the virtual world.

There, complete anonymity is not only possible but guaranteed since its dwellers can distort at will data used by law enforcement authorities to identify criminals and their locations.

These realities – and the fears they generate – should give us pause to ask fundamental questions.

For the longest time, many of us – especially those of us in the legal field – view empowerment in the cyber age as synonymous to being conversant in the new technology.

Familiarization with the technical jargons, understanding how systems operate, and being able to manipulate them have for so long been our most fundamental challenge.

And rightly so.

The lack of basic understanding of information and internet systems renders us blind to the activities that are commonplace in the cyber age.

But our struggle in understanding the basics of this technology should be merely seen as a starting point.

The real struggle lies in comprehending how and when cyber technology is used to undermine the very values we hold dearly.

We must begin to understand that in this cyber age, technology is not only being used to commit ordinary crimes.

It is used precisely because of the anonymity that shields its perpetrator from recognition and apprehension.

This anonymity affords impunity, allowing a criminal to replicate illegal acts and victimize multiple innocents without respecting legal boundaries and jurisdictions.

Do the strict guarantees in what we know as the Miranda Rights remain applicable in this new environment?

If so, how do we make more efficient the identification of authors of crimes if the new breed of criminals are precisely made unidentifiable by new technology?

Should the strict rules of privacy be upheld by our courts for criminals even as the rest of society has grown accustomed to making public every little detail in

their lives?

And if the strict rules of privacy will continuously be made to apply in criminal law, are we not in fact protecting the criminals who have the most interest in concealing their identity?

How do we apply the strict rules in the seizure and custody of evidence when drugs and other illicit objects of trade are distributed, sold and purchased in unconventional ways?

How do we interpret laws that were carved and remain hinged on the realities extant in generations past?

How do we make equitable the burden of proof when the technological means and resources preponderate in favor of the accused and stacked against a resource-limited government?

In this cyber age, how do we uphold the rights of an accused without unduly prejudicing the power of our prosecution to send those who violate our laws to jail, and without growing deaf to the demand for justice from the victims?

These are difficult questions.

But these are precisely the questions that our lawyers and judges must confront if we are to make relevant our criminal laws in this new technological terrain.

But another and broader set of difficult questions needs to be raised.

These questions are posed not only to judges and lawyers but to all of us who live in this cyber age.

To what extent must we surrender our privacy in exchange for the societal comforts afforded by technology?

Are we to trade our innermost secrets for longer life spans?

Is our surrender of some of our private spaces in exchange for superior knowledge in health and medicine worth the trade?

Are efficiency and optimization our most primordial values?

And in an age when possession and manipulation of data – today's most potent resource – have moved from governments to the hands of private corporations and entities, should we not hold these corporations to standards of accountability that are at par with those demanded of governments?

As a society, we must also constantly reflect on, critically assess, and interrogate technology as it is never value-free.

In the desire to utilize technology to increase efficiency, we may inadvertently surrender our ever shrinking space for personal privacy, and perpetuate biases against race, class, age, gender, and faiths.

Technology, cyber technology in particular, is testing our rights founded on experience from an entirely different setting and informed by a very different set of values.

We cannot go on refusing to recognize the fundamental changes around us.

We must articulate these changes and interpret our laws in this new light.

The role of empowered judges in this cyber age is to engage in these queries and philosophize about law and our societal values, making sure that the sophistication of the virtual realm will not cripple our capacity to deliver justice in the physical world.

That your Association has taken the initiative to engage in this discussion is therefore cause for comfort.

It signals your collective desire not only to be merely knowledgeable but also to remain relevant, ensuring that our legal thinking remains rooted on modern day realities and ever responsive to our needs today.

Thank you and a pleasant morning to all of you.