

Safeguarding Liberty and Nurturing Prosperity under the Rule of Law

An Essay by Karina Mae A. Badua

At the first instance, one would think that the title above-written is commendable, albeit also a tad bit natural, expected, and obvious. However, such a first impression is probably just a mere pretence. The point is: can anyone actually and instantly understand the various implications of the abovementioned phrase?

Introduction

Perhaps one of the most enduring topics in society today or under the present governmental set up is the dignity of human life and how the rule of law protects the rights of its subjects. The hope and ultimate goal of a leader is always to bring about change and create an envisioned nation wherein its people can enjoy liberty and live in prosperity. However, it is precisely this goal which is the root of the current political, social, and economic situation in the Philippines.

The Rule of Law

First of all, what is rule of law? We must be able to answer this first in order to lay down the groundwork for building the connection among the three concepts espoused by the *Foundation's* philosophy.

Dura lex sed lex: "the law may be harsh, but it is the law." This latin phrase is one of the first principles a law student learns upon entering law school. It embodies adherence to the rule of law for laws are necessary in maintaining public order. Without it, liberty and prosperity will be useless. These 'twin beacons', as retired Justice Artemio Panganiban aptly puts it, will be rendered inutile by the forthcoming possibility of abuse and perversion by self-interested persons. Of course, humans are not to be blamed for this tendency to put themselves above common decency; it is more of a by-product of human nature which has historically been centered on the maxim: survival of the fittest.

Quoting a simple statement made by the late US President Dwight Eisenhower, he said "The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law". Call it a logical fallacy if you must — that is, to define something through a description of the absence of its essentiality — but, in a country where extrajudicial killings, corruption, and impunity (to enumerate but a few) are rampant, perhaps such a definition can already be considered as more than satisfactory.

We live at time when, increasingly, the Philippine government operates in arbitrary and discretionary ways. To expound on the matter, President Rodrigo Duterte, even before the 2016 Presidential campaign started, had been very vocal and unyielding against criminality, especially the use and abuse of prohibited drugs. He considers the drug trade as the root cause of all the misfortunes plaguing our beautiful country. So when he won the Presidency, he declared an all-out-war against drugs.

At the outset, it is an undeniably noble cause. However, this movement has led to hundreds, if not already thousands, of bloody killings devoid of even the slightest grace of the constitutionally guaranteed right to due process of law. These killings have supposedly been committed by self-righteous individuals who took it upon themselves to determine the guilt, and only the guilt, of a suspected violator of the Dangerous Drugs Act. Arguably, since the highest official of the land never once gave any statement of condemnation against this situation, these people would feel a sense of protection through the President's unequivocal allegiance to the cause, which is, purportedly to eradicate the worsening influence of prohibited drugs to our beloved nation.

Yet, it is this great sense of non-culpability which also gives the ordinary folks the equivalent, if not a greater sense of fear. This fear, of course, is not only limited to the fear of being judged by armed and masked persons riding on motorized vehicles, or even by those who swore to uphold the law and protect the ordinary Filipino; there is also the fear of being publicly prosecuted without being given the chance to present evidence as to one's innocence just because a raggedy piece of carton with the words "[p]usher ako, wag turalan" over one's dead body already operates as a *customary* conclusive presumption of guilt beyond reasonable doubt.

One man's declaration; the police agency's resolve; and countless persons' determination to make the *cleansing* of this country their civic duty — these are all it takes to conceive a seemingly, if not already an anarchic State. Couple this blatant disregard of due process with the dearth of accountability from the administration itself which merely furthers the wrongs already plaguing our society; we could feel the ominous effects brought about by the absence of rule of law.

Needless to say, the way to assure that our society will live under a rule of law and not a rule of men is to insist that even those who implement and enforce the law be transparent and made accountable under clearly defined procedures in

their dealings with the citizenry. Under the rule of law, using their positions as shields from any liability shall in no way be countenanced.

Liberty and the Rule of Law

What about liberty? The basic conception regarding liberty is the respect of the various rights enshrined in the 1987 Philippine Constitution. Liberty centers on the notion of various freedoms, among others-- freedom to express oneself, to travel, to earn a decent living, to participate in political processes, to assemble peaceably, to worship as one's religion dictates, and to be secure not only from illegal searches and seizures but also from arbitrary and unreasonable punishments.

In reality, however, these liberties are put at the mercy of unscrupulous individuals whose power and influence seem to serve as a warrant to undermine and intimidate those beneath them, particularly those who have neither the knowledge nor the means to protect themselves. In this situation, the rule of law must come to play.

Laws, by nature, regulate a person's interactions with other persons and with the society as a whole. It sets delineations as to what a person may or may not do in order to prevent him from infringing the same freedoms others are entitled to as well. In a broader lens, the rule of law offers a distinctive opportunity in that it attempts, if not completely eliminates, to reduce as much as possible all arbitrary power in the hands of those who are seated in government and bend the laws according to their wills. In the simplest terms, the rule of law safeguards every person's liberty.

Prosperity and the Rule of Law

On the other hand, nurturing prosperity must itself be founded on rule of law. It cannot be gainsaid that economic development and well-being are among the greatest desires of all nations and of all peoples because the thinking is that security (in more senses than one) always follows prosperity. However, a country ruled by men rather than by law will always find a hard time achieving this prosperity because it is one which is unstable, volatile, and untrustworthy. In other words, such a State becomes a bad place for investment.

Fortunately, there is neither a need to exert herculean efforts to alleviate poverty nor to engage in immense philanthropic activities. The State may controvert it by simply upholding the rule of law, specifically through the proper balance of laws and regulations among the upper, middle, and lower classes of

society on the basis of the social justice principle embodied in no less than our Constitution.

Social justice, as defined by Justice Laurel in the landmark case of *Calalang v. Williams*, is "neither communism, nor despotism, nor atomism, nor anarchy, but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. It means the promotion of the welfare of all the people, the adoption by the government of measures calculated to insure economic stability of all the competent elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honoured principle of *salus populi est suprema lex.*"

In this way the State may be able to successfully facilitate the creation and accumulation of wealth and financial security, as well as the pursuit of inclusive growth because adherence to the rule of law and the social justice principle may serve as a deterrent against the whims and caprices of people involved in political and other partisan activities.

A Law Advocate's Role

As a student of the law and as a future member of the legal profession, the primary challenge is to come up with a way to contribute to the development of not only the administration of justice, but also of the protection of liberty and the promotion of prosperity under the rule of law.

In light of the unprecedented number of extra-judicial killings characterizing the current political administration, it is disheartening that the rule of law seems to have been reduced to a mere notion, serving as letters and ideals rather than as an effective safeguard from political tempests and partisan quibbles. Regrettably, the reality which presently confronts the Filipino people leads to a feeling of helplessness and skepticism. Still, we must not waver nor ignore the injustices happening all around us. It is at this very moment where liberty under the rule of law must be used as a tool to express the voices of rightful dissent which the government tries hard to silence. Furthermore, as we lament and empathize with every innocent victim of the war on drugs and their families, we must also come to the realization that achieving liberty and prosperity does not have to be at the expense of a human life; that is, although we share the same goals with the

President, the means to attain this end must be legally justifiable and in accordance with the established rule of law, i.e. respecting due process.

It is also important to note that to be able to respect the law, one must know the law. This is how I plan to promote and apply the *Foundation's* philosophy. Being an advocate of the law, regardless of the field I would venture in the near future, is a great avenue to disseminate legal information and create awareness as to the rights and obligations of each member of society. All humility aside, being a person learned in the law or a member of the Bar commands a certain degree of respect and influence as well as credibility that may be able to convince and enlighten other persons as to the importance of knowing and upholding the laws.

Certainly, the rule of law cannot be realized nationally unless it is upheld by each Filipino citizen individually. Although the rule of law may be enforced most prominently by the State, the citizens must be able to set up a strong antecedent from which rule of law may serve to prosper and liberalize the people. Thus, we not only need a principled government, but also a citizenry which knows how and prefers to insist on this accountability rather than one which chooses to desensitize themselves from the blatant disregard of the laws.

Liberty, Prosperity, and Rule of Law

Finally, I would like to end with the own enunciations of the FLP's founder, retired Justice Artemio Panganiban, he said:

“It is not enough that the goals espoused are laudable. It is equally important that the means employed to reach them is equally dependable. So, liberty and prosperity as goals must be attained through the rule of law. The rule of law reigns when a country is governed according to the constitution and the laws enacted by representatives chosen democratically by the people, not pursuant to the wiles and whims of the rulers.

Present day realities require not only the promotion of political and civil liberties but also of economic and social rights. Of what relevance is free speech to people who are hobbled by grinding poverty, debilitating disease or permanent physical disability. Our people need both justice and jobs, freedom and food, integrity and investments, ethics and economics, democracy and development; in short, liberty and prosperity under the rule of law.

Indeed, the Philippines, or any other country for that matter, can never attain liberty and prosperity without the rule of law; and it must not be just liberty, or just prosperity, or just rule of law, for these three concepts are not mutually exclusive — they are interdependent; that is, all three must be present in order to achieve a truly liveable society.