

## **An Interlink between Liberty, Prosperity, and Rule of Law with the Criminal Justice System**

By: Stephanie Mae B. Domingo

“Safeguarding of liberty and nurturing of prosperity under the rule of law.” This is the philosophy of the Foundation for Liberty and Prosperity (FLP). This is the spirit that gives FLP life and direction. It encapsulates the values that gave birth to FLP and the fuel that allows FLP to continue. For me, FLP’s philosophy consists of three important core values namely: liberty, prosperity, and rule of law. These three indispensable elements complement each other and lead FLP to the great organization that it is today.

What better way to understand FLP’s philosophy than knowing its meaning from the words of the founder himself, retired Chief Justice Artemio V. Panganiban. In a speech, Chief Justice Panganiban stated that, “In its most abbreviated sense, ‘Liberty and Prosperity under the Rule of Law’ means that our judiciary should not only safeguard the political and civil liberty of our people, like the freedom of expression, freedom of suffrage, the right to due process and the right to be presumed innocent till proven guilty. Equally important, the judiciary must also nurture the prosperity of our people, and secure them from illness, poverty and disease.” Chief Justice Panganiban further added, “To me, justice and jobs; freedom and food; ethics and economics; democracy and development; liberty and prosperity must always go together; one is useless without the other.”

As a law student, let me share my understanding of FLP’s philosophy based on its three core values.

**Liberty.** Liberty is one of the most treasured right that every individual has. It is enjoyed by everyone without regard as to one’s color, religion, ethnicity, or even socio-economic status. In simpler terms liberty means freedom. Our love of freedom is one of the most notable values that Filipinos have. In our history Filipinos have proven in many instances that we are more than willing to sacrifice our lives in order to fight for the freedom that we deserve. Jose Abad Santos, the fifth Chief Justice of the Philippine Supreme Court once said that, “It is an honor to die for one’s country. Not everybody has that chance.” The Filipinos are truly freedom loving people and aside from the stories we read in history books, our love for freedom is also immortalized in our laws. The 1987 Constitution enshrined several freedoms that are enjoyed by the citizens, like the freedom of expression, freedom to peaceably assemble and petition the government for redress of

grievances, freedom from unreasonable searches and seizures, freedom of religion, and other forms of liberty we experience. The liberty that we enjoy today is the result of all the struggles that previous generations of Filipinos have fought against and won over. Thus, we must value the freedom that we have today by discovering its essence and using it to uplift ourselves and our fellow countrymen.

**Prosperity.** Prosperity is defined by several dictionaries as the state of being successful usually by making a lot of money or the condition of enjoying wealth, success, or good fortune. This is the most common idea that comes into mind when encountering the word prosperity. Nevertheless, prosperity can have a deeper meaning than just wealth. In a speech, Chief Justice Artemio V. Panganiban referred to prosperity as the three “Ts:” time, talent and treasure. Time so that we may share our knowledge to our fellow human beings. Talent that we can use to improve not only our lives but also the lives of others. And treasure that we may acquire from our experiences in life. Also, in the societal context, we look at prosperity as the ability to live a decent and dignified life. Prosperity involves the ability to have a job that will feed one’s family, buy groceries, pay the bills and satisfy other necessities of life. Prosperity can even be defined as the freedom not only from poverty but also from ignorance.

**Rule of Law.** Rule of law is a means through which we can achieve both liberty and prosperity. To borrow again the words of Chief Justice Panganiban, he stated that, “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.” This statement encapsulates the essence of the rule of law. The rule of law is also related to the concepts of due process and equal protection which aid in preserving a civilized society. The presence and our adherence to the rule of law help maintain a just and organized community for us to live in. Moreover, the importance of the rule of law was highlighted by former US President Theodore Roosevelt when he stated that, “No man is above the law and no man is below it: nor do we ask any man’s permission when we ask him to obey it.”

The combination of these three elements made me realize that we can protect our liberty and at the same time attain a better quality of life. These elements are therefore not mutually exclusive. It made me see that we would have a brighter future when we value our freedom and at the same time strive to achieve prosperity under the rule of law.

As a Criminologist, let me also impart my knowledge on how liberty, prosperity and the rule of law intertwine with our Criminal Justice System (CJS);

especially so when one's liberty can be validly restricted while undergoing through the different pillars of the CJS.

The CJS is defined as the machinery that the society uses in the prevention and control of crimes. The Philippine CJS is composed of five pillars namely the law enforcement, prosecution, court, correction, and community. Each pillar is independent and has its own objectives but all pillars must cohesively work together in order to achieve the main goal of preserving peace and order. The CJS envisions itself to achieve a peaceful society where the people enjoy both liberty and prosperity.

The Law Enforcement pillar is tasked to implement the laws crafted by Congress. The Philippine National Police (PNP) is at the forefront of this pillar. The Law Enforcement pillar is also known as the prime mover of the CJS because it initiates the whole system through the arrest of an individual. Law enforcers deal directly with the liberty of a person because the conduct of arrest constitutes restraint in one's physical freedom. The 1987 Philippine Constitution protects the right of a person against illegal arrests, searches, and seizures. Thus, law enforcers are being trained to follow rules in the conduct of a valid arrest. One notable concept on this subject is the so called Miranda Doctrine. The Miranda Doctrine was derived from a case decided by the Supreme Court of the United States entitled *Miranda v. Arizona*. In this landmark case, the US Supreme Court ruled that police officers must advise suspects of certain legal rights before arrest and questioning. In *Miranda*, the Court described a four-part warning that police officers must give to a suspect who is arrested or otherwise detained. The warning is designed to inform suspects of their rights not to incriminate themselves and to have the assistance of counsel. This doctrine has served as a tool that would ensure that arrested individuals are properly informed of their rights before being curtailed of their physical freedom. Our PNP and other law enforcement agencies composing the first pillar of the CJS is bound by the duty to protect the liberty of the public that it serves and to be more cautious in cases of restraining one's freedom arising from a violation of the law.

One example on how the law enforcement pillar interacts with one's individual liberty is the program of the administration regarding the crackdown of loiterers or more popularly known as "*tambays*". The administration of President Duterte instructed the PNP to rid the streets of "*tambays*". This endeavor, however, had received a major backlash from several sectors of the society because it has the tendency of violating the right to liberty and basic freedoms of our people especially so when police officers arrest individuals who did not even violate any law. It is well settled that the enjoyment of liberty is not absolute and can be

restrained but only for valid causes. The authorities cannot just arrest a person for being idle and who is not committing any offense. In criminal law, this concept can be gleaned from the Latin maxim – “*Nullum crimen, nulla poena sine lege*”. If there is no law punishing the act or omission, then it cannot be considered as a crime and ultimately the police officers would not have the power to make an arrest. The authorities, on the other hand, explained that they will only arrest those “*tambays*” who violate any ordinance or law. Nevertheless, law enforcers should be the one striving to protect the liberty of the people and not the one violating their basic rights and freedom.

Another two important pillars of the CJS are the prosecution and the court. The Prosecution pillar aims to determine probable cause that would serve as a basis for filing cases before the courts. Prosecutors conduct preliminary investigations and inquests to ascertain the cases that should be forwarded to the courts for trial. The Court pillar, on the other hand, is the one charged with the proper administration of justice. These two pillars deal with the concept of due process which is in turn touches one’s liberty. The 1987 Constitution provides that no person can be deprived of life or liberty without due process of law. Due process is the guaranty against arbitrariness on the part of the government. Due process is used by the government to guarantee that the rights and basic freedoms of its citizens will not be trampled upon. Thus, the prosecution and court pillar ensures that a person would not be unjustly deprived of his liberty.

The Correction pillar is the one entrusted with task of reforming convicted felons. It is also dubbed as the weakest pillar of the CJS because it accordingly fails to rehabilitate offenders leading them to repeatedly commit crimes. This pillar provides several programs aiming to rehabilitate convicts. A few examples of these are spiritual, educational, and livelihood programs. Life behind the cold bars of prison is ultimately aimed at rehabilitating these law violators, but wretched conditions inside our prisons prevents the correction pillar from achieving this laudable purpose.

To give an example, the Bureau of Corrections reported that as of June 30, 2017, the National Bilibid Prison alone houses 24,780 inmates yet its capacity is only at 10,082. Moreover, an article published in the Philippine Daily Inquirer provides that our prisons are working on a P50-a-day food budget for prisoners and detainees, as well as the overcrowding and other subhuman conditions that seem to regard inmates no better than beasts.

But, one might say, that the very reason why we throw them in prison is to punish them right? Or that they deserve to be treated with less because they interfered with the peace and order of the community. These statements may make some valid points; however, these do not properly address the cause, rather this mentality just deals with the symptoms of a bigger problem. Yes, I agree that criminals need to be punished for their transgressions but at the same time they also need to be reformed. I am not trying to argue that committing a crime is right, because obviously it's wrong to violate the law. But a more civilized response to them is not pure inhumane punishment like what they did in the dark ages, rather a combined element of penalty and rehabilitation. Hence, having a well-developed and humane Correction pillar promotes prosperity in such a way that it transforms the convict to a better version of himself. Convicts, through rehabilitation, can become productive members of the society and contribute in the economic growth after serving their sentences.

The Community pillar is the largest pillar of the CJS because it is composed by every member of the society. This pillar includes the family, the barangay, the school, the church, the media, and other aspects of the society. The family is considered as the basic social unit which hones the character of a child. The school is considered as the second home which educates the youth of the importance of liberty. Also, a peaceful community breeds prosperity among its members.

The community pillar plays a vital role in achieving safeguarding liberty and nurturing prosperity mainly because it is in the community where every one of us interacts. However, the community is also where poverty lies. The Asian Development Bank (ADB) stated that in the Philippines, 21.6 % of the population lives below the national poverty line in 2015. As we know, solving poverty is not an easy task. It requires our constant effort and innovation to put an end or at least lessen the poverty being experienced by the Filipinos. One way of alleviating poverty was mentioned by Chief Justice Artemio V. Panganiban in a speech when he said that, "The best way to conquer poverty, to create wealth and to share prosperity is to unleash the entrepreneurial genius of people by granting them the freedom and the tools to help themselves and society." The Filipinos are indeed creative and resourceful. These characteristics must be tapped by the government by providing several avenues in which the people can unleash their unique skills especially in the field of entrepreneurship.

An article published in the Philippine Daily Inquirer provides that the experience of countries that are now highly developed show that entrepreneurs and business enterprises are the ones that create wealth, not government. But

government can provide the enabling environment to make this happen. Thus, we need to develop thousands of these entrepreneurs and businesses. Also, according to Schumacher, the dynamic force of capitalism is the entrepreneurs. They are the ones who introduce innovations – new inventions and ways of doing business that disrupt the old order, and create new ways for capitalism to prosper. In doing so, they generate profits and spur investment and growth. In short, it is the entrepreneur who creates wealth (Gayo 2013). I believe that our fight against poverty has a long way to go, but we have already made a few steps in the right direction when we gave value to the ingenuity of our people especially in the field of entrepreneurship.

Now, again as a law student and hopefully a future member of the legal profession; the question is: how can I espouse the philosophy of FLP? For me I can advocate FLP's philosophy in three main ways namely, through education, sharing, and practice.

**Education.** The founder of the University of the Cordilleras (UC), Benjamin R. Salvosa firmly believed that education is a birthright. As a student, I will do my best to learn about the law and its relation to the core values of liberty, prosperity, and the rule of law. As the famous quote goes, “knowledge is power”. I will seek to empower myself about relevant matters that can contribute to achieving FLP's philosophy.

**Sharing.** Having knowledge confined in one's realm of thought would be useless. Thus, I will endeavor to share my knowledge to others. I will give my best to enlighten the minds of my fellow citizens especially on the issues related to liberty and prosperity. Sharing one's knowledge should not be considered a loss; rather it should be seen as an opportunity to gain friends, experiences, and wisdom.

**Practice.** To truly embody the philosophy of FLP, I will strive to practice the core values in my everyday life. I will endeavor to make FLP's philosophy alive by upholding the rule of law. In my future legal career, I will continuously strive to be a guardian of liberty in and out of court. I will promote prosperity by joining in organizations that reach out to those who have less in life. I will adhere to the ethics and values of the legal profession.

The interlink between liberty, prosperity, and the rule of law with the Criminal Justice System is a concept that allow us to gain better understanding on how we can achieve an organized and prosperous society. Thus, by integrating

FLP's core values to our CJS, we can achieve a better Philippines for everyone to live in.

## *References*

*13 Most Famous Last Words Ever Uttered in Philippine History*. Retrieved from <https://filipiknow.net/famous-last-words-in-philippine-history/>

Asian Development Bank - Bank Statistics (2018) *Poverty in the Philippines*. Retrieved from <https://www.adb.org/countries/philippines/poverty>

Cruz, I.A. & Cruz, C.L. (2015) *Constitutional Law* Quezon City, Philippines: Central Book Supply, Inc.

Gayo, J.C. (2013, May 27) *Family economic enterprises: A strategy to fight poverty*. Retrieved from <http://business.inquirer.net/123817/family-economic-enterprises-a-strategy-to-fight-poverty>

*Inmate Profile*. Retrieved from <http://www.bucor.gov.ph/BuCor%20Land%20Area.html>

*Living Hell*. Retrieved from <http://m.inquirer.net/opinion/96973>

Manahan, J. (2018, June 29) *20 Things you need to know about the 'anti-tambay' drive*. Retrieved from <https://www.philstar.com/headlines/2018/06/29/1829055/20-things-you-need-know-about-anti-tambay-drive>

"*Miranda v. Arizona*." Microsoft® Encarta® 2009 [DVD]. Redmond, WA: Microsoft Corporation, 2008.

Panganiban, A. V. (2014, February 23). *Safeguard Liberty, Conquer Poverty, Share Prosperity (Part One – For the Alumni Mapa High)*. Retrieved from <https://cjpanganiban.com/2014/02/23/safeguard-liberty-conquer-poverty-share-prosperity/>

Panganiban, A. V. (2015, February 26). *Unleashing Entrepreneurial Ingenuity*. Retrieved from <https://cjpanganiban.com/2015/02/26/unleashing-entrepreneurial-ingenuity/>

Prosperity [Def. 1] (n.d.) In *Merriam Webster*. Retrieved from <https://www.merriam-webster.com/dictionary/prosperity>

*The 1987 Constitution of the Republic of the Philippines*. Retrieved from <http://www.officialgazette.gov.ph/constitutions/1987-constitution/>

Timpac, T.M. *Handbook on Philippine Criminal Justice System*. Philippines: RMC Publishing Haus.