

Liberty and Prosperity

Florida K. Fomaneg

In the various speeches¹ and decisions² promulgated by Former Chief Justice Artemio V. Panganiban, he has consistently and admirably championed what he refers to as the “twin beacons of justice” – liberty and prosperity. In his words, liberty and prosperity, ethics and economics, justice and jobs, freedom and food, peace and development must always go together; one is useless without the other.³

In times when the Philippines is dubbed as one of fastest growing economies but at the same time ranked as one of the most dangerous places for civilians, safeguarding liberty and nurturing prosperity under the rule of law are never more important than they are today.

Liberty and prosperity in these trying times

Liberty is generally defined as freedom from arbitrary or undue external restraint, especially by a government.⁴ In the case of *Meyer v. Nebraska*⁵, liberty “denotes not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and, generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.” Such broad description of liberty encompasses not merely civil and political liberties, but also economic liberty or the right to participate in trade or occupation without unnecessary interference from the government.

Based on data from Freedom House⁶, the status of the Philippines’ civil and political liberties is categorized as partly free, with an aggregate score of 61/100. Accordingly, the rating was based on the fact that “the rule of law and application of justice are haphazard and heavily favor ruling elites.” The report also cites long-

¹ CJ Panganiban’s Speeches on Liberty and Prosperity. Retrieved at <https://libpros.com/cj-panganibans-speeches-on-liberty-and-prosperity/>

² *Tañada v. Angara*, G.R. No. 118295. May 2, 1997; *ABS-CBN Broadcasting Corporation v. Commission on Elections*, 380 Phil. 780, January 28, 2000

³ *Unleashing Entrepreneurial Ingenuity*. Address delivered by retired Chief Justice ARTEMIO V. PANGANIBAN during the Opening Luncheon on February 26, 2015 of the 12th General Assembly of the Asean Law Association (ALA) held at the Makati Shangri-la Hotel, Makati City, Philippines.

⁴ Garner, Bryan A. (LawProse, Inc.) (Ed.). (2009). *Black’s Law Dictionary* (9th ed.). Thomson Reuters.

⁵ *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.O. 625, 626 (1923).

⁶ Freedom in the World 2019. Available at <https://freedomhouse.org/report/freedom-world/2019/philippines>

term violent insurgencies and crimes against activists and journalists, as well as the ongoing war on drugs which has led to extrajudicial killings as well as vigilante justice. Furthermore, the report noted the decline in judicial independence during the current administration mainly because of the removal of a Chief Justice who is a known critic of the President. This resulted in a 1/4 rating as to judicial independence and an aggregate of 3/16 as to rule of law.

Despite this dismal assessment of liberty, the Philippine economy appears to be doing well and remains to have a positive outlook according to the World Bank.⁷

Looking deeper into this issue, however, the strong economic growth does not seem to create much impact in the lives of ordinary Filipinos, especially those who still live below the poverty line. In addition to the widening income gap between the rich and the poor, notwithstanding increases in minimum wage, other factors such as rising costs of living, the public transportation crisis and the hopeless traffic situation, lack of education and opportunities for the underprivileged, weak government policies and legal framework, contribute to the worsening conditions of the poor. In fact, the World Bank admits that growth alone would not be able to eliminate poverty. It would require government policies or programs that allocate more resources to the extreme poor.⁸

Clearly, economic growth by itself is insufficient to produce a long and lasting impact that will eventually reduce, if not eradicate, poverty incidences in the country. Safeguarding liberty includes not only the absence of government restraint, but also government enabling the people so that they can engage in trade or participate in the economic action. This means propagating more progressive policies and investing in the people to ensure that the people are also given the tools to jumpstart and maintain their economic activity. As espoused by CJ Panganiban, “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.”⁹

⁷ The World Bank. (2019). Safeguarding Stability, Investing in the Filipino. *Philippines Economic Update*. Retrieved from <http://documents.worldbank.org/curated/en/442801553879554971/pdf/Philippines-Economic-Update-Safeguarding-Stability-Investing-in-the-Filipino.pdf>

⁸ The World Bank. (2014). Ending poverty requires more than growth. *Press Release*. Retrieved from <http://www.worldbank.org/en/news/press-release/2014/04/10/>

⁹ *Unleashing Entrepreneurial Ingenuity*. *Supra* at 3.

Based on the 2019 Index of Economic Freedom¹⁰, the Philippines is ranked 70 out of 180 countries. It is considered moderately free with a score of 63.8. The report states that there is strong economic growth due in part to the current administration's *Build, Build, Build* projects; however, the "absence of entrepreneurial dynamism" continues to impede development. The report adds: "Despite the adoption of some fiscal reforms, deeper institutional reforms are needed in interrelated areas: business freedom, investment freedom, and the rule of law. The judicial system remains weak and vulnerable to political influence." In the same report, the rule of law in the Philippines is characterized as generally ineffective, noting that laws protecting property rights are weakly implemented, courts are biased and inefficient, and corruption is rampant.

On the other hand, Hong Kong, despite the political unrest, ranked 1st and maintains a strong economy. The rule of law in Hong Kong is described as one in which property rights are effectively enforced, the judiciary is independent¹¹, and with an excellent record of combatting corruption. In economic terms, Hong Kong has a combined value of exports and imports equal to 375.1 percent of Gross Domestic Product (GDP) and has an average applied tariff rate of zero percent. In contrast, the combined value of exports and imports of the Philippines is equal to 70.7 percent of GDP, which is merely 18.8 percent of that of Hong Kong. The remaining countries categorized as free, namely, Singapore, New Zealand, Switzerland, Australia and Ireland, are also characterized by an open and corruption-free business environment, excellent fiscal policies, market-oriented policies and transparent legal systems.

Similar to the philosophy espoused by CJ Panganiban, the findings in the 2019 Index of Economic Freedom¹² show that there is a link between liberty and prosperity. In general, it illustrates the fact that the people, given the right tools and with sufficient economic freedom, can contribute much in the development of a country. As mentioned previously, economic freedom includes the cooperation of the government – the executive, the legislative as well as the judiciary – in instituting reforms in the legal and judicial systems, in the creation of policies that promote liberty, in the efficient and effective implementation of such policies, and in providing immediate response to various challenges.

¹⁰ The Heritage Foundation. (2019). 60.6 60.8. *2019 Index of Economic Freedom*, 342–343. Retrieved from <https://www.heritage.org/index/pdf/2019/countries/philippines.pdf>

¹¹ Beijing reserves the right to make final interpretations of the Basic Law, which effectively limits Hong Kong's Court of Final Appeal.

¹² Key Findings of the 2019 Index of Economic Freedom. Retrieved from <https://www.heritage.org/index/book/chapter-3>

Liberty and prosperity in law schools, in the legal profession and as a personal philosophy

In safeguarding liberty and nurturing prosperity under the rule of law, lawyers and judges have an indispensable role in ensuring the primacy of the rule of law, and the protection of rights. Lawyers and judges have an essential role in maintaining the independence of the legal profession and in the effective administration of justice.

The formal introduction of a lawyer to the legal profession starts in law school where he or she is presented with and consequently, immersed into, various laws and court cases. It is within the walls of the law schools that future lawyers are shaped into who or what they would become in the future. It is here where their thoughts, values, ethics and legal knowledge are inculcated and molded. Thus, it cannot be denied that even professors of law are responsible for their students in the paths that they will take.

As a law student in the University of the Philippines and as one who comes from a family of farmers and miners, there is a great burden on my shoulders to do well, if not excel, in everything I do. In addition, aside from expectations of my family, I have also imposed upon myself to always give back to the society whatever I may have earned or to serve the community with whatever I may have learned. While this may not be substantial, this is my way of trying to bridge the gap between the privileged and the underprivileged.

When I was in college, I always chose to spend my summer breaks with the mother who lives alone in the province. My only goal was always to help her in the fields and to take care of her hogs and poultry. I believe that my mother always appreciated and anticipated my visits during the summers. Now in my law school years, I chose to spend my summers interning with different non-profit and non-government organizations whose purpose is to protect the liberties and the rights of persons. In 2018, I joined the Free Legal Assistance Group (FLAG) where I participated in a paralegal training covering practical aspects of human rights, developmental legal advocacy, affidavit drafting and basic rules on interviewing clients and witnesses. Together with my co-interns from other law schools, we worked alongside the team of People's Development Institute, a non-government organization geared towards asset reform and rural development, and the farming community in Laur, Nueva Ecija for one week to determine the problems encountered by farmers particularly with respect to land grabbing, illegal land conversion, and disputes in land distribution to qualified beneficiaries under the CARL, among others, and preparing a report for review by FLAG lawyers, who will evaluate and identify what legal

assistance may be provided to the community. Part of this internship includes documenting abuses and other actions of prison officials/guards relating to body/cavity searches on women and children visiting convicts at the New Bilibid Prison.

This summer 2019, I also participated in the Summer Internship of the Innocence Project Philippines Network, Inc. (IPPN), which is a network of law school clinics, scientific and academic laboratories and non-governmental organizations that seeks to make justice accessible for wrongfully convicted persons. The IPPN's work includes, among others, providing coordinated free legal assistance to persons wrongfully convicted; advocating reforms in policies, laws, judicial rules, legal education, and criminal investigative procedures and evidence handling to redress wrongful convictions in the Philippines; enhancing the capacities of justice stakeholders including judges, prosecutors, lawyers, criminal and forensic investigators, law students, etc. to eradicate or mitigate wrongful convictions in the country; and establishing an independent and accurate data bank containing all pertinent information on wrongful convictions in the Philippines. During this internship, we were engaged in the discussion of various cases involving DNA analysis in the Philippines and abroad and how this method was used to exonerate persons wrongfully convicted. Unfortunately, in the Philippines, there are no reliable data storage banks where DNA evidence may be stored and which may be extracted in the future for re-testing; hence, the work of the organization is very much limited.

Furthermore, I am also part of an organization, the UP Paralegal Volunteers' Organization, that actively engages with community. Through the paralegal trainings that we organize together with volunteer lawyers, we aim to equip the communities with the skills, as well as knowledge of their rights, for them to be able to help themselves in times of immediate need even in the absence of a lawyer. Our focus groups are on the following sectors: environment, gender, human rights, indigenous people, labor, peasant, and urban poor.

I believe that these experiences also exemplify the philosophy of protecting liberty and nurturing prosperity. By helping and enabling the underprivileged to stand up for themselves, we are also protecting their freedoms and in effect fostering progress.