

WEALTH IN NATIONS: ON LIBERTY AND PROSPERITY UNDER THE RULE OF LAW

Geremae Mata
University of San Carlos

What makes a nation wealthy?

Is it the amount of gold the nation has for reserves? Is it the government and its effective policies? Or rather is it the citizens and their collective net worth?

Wealth has been defined as the abundance of valuable material possessions or resources.¹ However, does wealth of nations pertain to mere material possession?

The Foundation for Liberty & Prosperity's precept, *Safeguarding of Liberty and Nurturing of Prosperity under the Rule of Law*, is further expanded in this wise: (1) Safeguarding Liberty: Eternal Vigilance is the Price of Liberty, (2) Nurturing of Prosperity: Shared Prosperity must Permeate among All Persons and (3) Rule Of Law: The Great Emulsifier of Liberty And Prosperity.

Allow me to discuss the points in turn in an attempt to answer the question posed to illustrate that wealth in nations is a concoction of the efforts of the government and its citizens to uphold liberty and prosperity under the rule of law.

SAFEGUARDING LIBERTY: ETERNAL VIGILANCE IS THE PRICE OF LIBERTY.

History is a memorial elegy narrating generations of struggle, within and without, for deep-seated causes of humans yearning to acquire civil and political and socio-economic rights all over the world. Wars have been fought and blood has marked the institutions upon which we, *free* citizens, now rest our rights.

The word "liberty" is a word often used but seldom understood. Time and again, *liberty* has been abused to forward political propaganda or to exploit others for their personal agenda.

What, then, *is* liberty?

¹ "Definition of Wealth," *Merriam-Webster*, <https://www.merriam-webster.com/dictionary/wealth> (accessed September 27, 2019).

In the early case of *Rubi v. The Provincial Board of Mindoro*², liberty was defined to include the right of the citizens to be free to use his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling and to pursue any avocations. The fundamental idea of it is that of protection in the enjoyment of one's own rights, up to the point where we begin to trench upon the rights of others.

Liberty is not license for man to have unbridled access to his very whims at the expense of others. It does not pertain exclusively to physical freedom from violence and restraint but include the freedom from curtailment of thought, speech, movement, assembly, redress to grievances and religion, among others. In our Constitution, liberty is first marked under the Declaration of Principles and State Policies by design and not by accident. To quote, it provides that 'the maintenance of peace and order, the protection of life, *liberty*, and property, and the promotion of the general welfare are *essential* for the enjoyment by all the people of the blessings of democracy'³. Notably, the idea is situated in the very same sentence with general welfare and orderly society.

Indubitably, the concepts of liberty and rule of law are not incompatible, for there is no such thing as absolute freedom—even in a democratic country as ours. The Constitution is our guardian of liberty; but it does not provide a total guarantee of the enjoyment of rights for it balances the pervasive powers of the government and the freedoms of its citizens. For truly, without these due limitations, 'society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy'⁴ and driving us back where we started.

Liberty is a *sense of direction*—an amalgamation of progressive thought and continuous positive action that we, as a nation, must uphold lest the efforts of those whose lives have been sacrificed be for naught. It is our *duty*, we who enjoy the blessings of democracy, to unceasingly take measures to protect it from those who threaten the very virtues of what has made us free men.

In a national scale, the fight to defend liberty has become a perpetual advocacy traced way back when Dr. Jose Rizal's work inspired the citizens to take up arms against the Spanish colonizers down to the streets of EDSA in 1986 to remove the dictator from office. These inspiring scenarios have sparked the Filipino nationalism be on constant guard from inroads to liberty.

² *Rubi, et al. (Manguianes) v. The Provincial Board of Mindoro*, G.R. No. L-14078, March 7, 1919.

³ THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, Article II, §5.

⁴ *Harlan, J., In Jacobson v. Massachusetts*, 197 U.S., 11 (1905).

Upon closer inspection, we, as individuals, have our everyday fights for freedom. To a large extent, such freedoms have been recognized and honored by our nation in a host of laws and international treaties and agreements.

Fortunately for Filipino women, our country is among the few states all over the world with the smallest rate of gender disparity. In 1937, women's suffrage was legalized in the country. 1948 marked the Philippines' ratification to the Universal Declaration of Human Rights. Two decades after, we acceded successively to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). In 1997, President Fidel Ramos signed into law the Indigenous Peoples' Rights Act (IPRA) which had a goal of cultivating the cultural rights of indigenous peoples, access to benefits and defining their land ownership and consequent rights. The adoption of these laws have become external manifestations of our dedication to safeguard our own liberty—and we continually do so.

The Philippine legal system is, admittedly, far from being a perfect regime of liberty. While society in general is steadily accepting the lesbian, gay, bisexual, transgender/transsexual and queer community (LGBTQ Community), their rights and protection are yet to be codified. Anent is the recognition of the issues that surround mental health, same-sex marriage, divorce and abortion, which have become a worldwide trend. While our culture and belief hinder us from conforming into such ideas, it would be more prudent to provide advocates an avenue to be heard and their submissions considered for they too are fighting for their freedoms.

In the words of Thomas Jefferson, 'eternal vigilance is the price of liberty'. Aspects of vigilance include *awareness*, *action* and indispensably, *monitoring and evaluation*. Checks from society itself is necessary if we are to uphold our liberty.

NURTURING OF PROSPERITY: SHARED PROSPERITY MUST PERMEATE AMONG ALL PERSONS.

Prosperity is defined as 'the condition of being successful or thriving especially on economic well-being'⁵. As individuals, our best gauge for prosperity is the ability to provide for our individual needs and wants, and our family's. At the base level, the minimum wage should ideally support the standard of living of a regular Juan without foregoing our very basic necessities.

⁵ "Definition of Prosperity," *Merriam-Webster*, <https://www.merriam-webster.com/dictionary/prosperity> (accessed September 26, 2019).

On a national scale, it includes an environment which supports and provides citizens with an opportunity to work, earn, save, take risks and succeed. The idea starts from an individual and eventually *permeates* to others then collectively to the society. The government, through effective legislative structures and good governance, should be the passive partner of their citizens towards a more progressive economy.

According to the Legatum Prosperity Index™⁶, the Philippines ranks as the 62nd of 149 countries worldwide based on nine pillars of economic quality, business environment, governance, education, health, safety and security, personal freedom, social, capital and natural environment. This emphasizes that while the traditional view of prosperity focuses more on financial wealth, the modern view adopts a broader and inclusive definition of what prosperity should be for nations.

A nation's shared prosperity, therefore, depends largely on the symbiotic relationship between the public sector and the private enterprise. The government, in its mandate for public service, should facilitate the legal machinery upon which the private sector can move about and promulgate rules and regulations to level the ground for all players. Its duty includes the supervision of wealth distribution among its citizens, direction for advanced policies and resolution of pressing concerns. Reigning in the list of concerns include political nepotism, expensive healthcare services, inferior education system, poor urban planning and monopolies. The responsibility for developing the economy's country after all rests primarily on its political leaders. Failure to do so can be remedied through the next elections.

The society at large, on the other hand, should act with truth and integrity in their business dealings. People should similarly be advocates of social responsibility and nation building because these goals are not a one-man job. The tools that the government has accorded to its citizens would be useless if people do not utilize them to grow into their potential and share them with others. While the state creates a congenial atmosphere to thrive, each individual should cultivate their talent through knowledge acquisition, skills development, positive attitude and tenacious resolve to be the best version of themselves and serve as an inspiration to others. So that they too may spread the ingenuity they have acquired and teach it to others.

⁶ "Philippines ranks 62nd on the Legatum Prosperity Index, *The Legatum Prosperity Index*™, <https://www.prosperity.com/globe/philippines> (accessed September 26, 2019).

State interference over the free market through a stricter application process for business licenses, faithful imposition of taxes, rigid monitoring of labor law compliance and ensuring protection of individuals in enterprises imbued with public interest can be permitted for they are the rules of the game. Such laws ensure the cogs of the system are well-oiled and eliminates, if not mitigate, the ills that amputate the nation from truly reaching its potential growth.

When the state affords every citizen an opportunity to transform his passion and strength into a business, vocation or something of economic value, individual success is definitely not far off the horizon. This would engender inspiration among like persons to work within the country and slowly eradicate the common Filipino mentality that greener pastures are found outside the borders. Keeping the human capital within, development of the business environment, prudent investments and well-negotiated treaties can cultivate prosperity within the nation.

RULE OF LAW: THE GREAT EMULSIFIER OF LIBERTY AND PROSPERITY

Law makes no distinction between the rich and poor, the high and low. It is the third and most essential element in the mix for it brings together two concepts while initially different, find a common ground in its unified objective to open the country up to perpetual advancement.

There is harmony in liberty when one exercises his rights without impeding that of others. The rule of law draws the line which we are to respect as others will if we are to live in a just society. In parallel, prosperity is better felt when it is shared and 'no one gets left behind'. While it is easier to prosper without restrictions, this situation, however, would inevitably result in unequal wealth distribution and unfair opportunities.

Rule of Law, as defined by the Department of Justice, is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers,

participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.⁷

The rule of law guarantees that no one is above the law for we are a government of laws and not of men. It promises that in the creation of law and in its enforcement, the principles and policies of the state are upheld. The notion, therefore, is that no person, natural or juridical, is provided a privilege not accorded to similarly situated persons.

True freedom can never be achieved while some men thrive under special privilege. Such situation severs from the ordinary citizen *their* liberty and prosperity and serves the two pillars only to a select few. The nation we envision our country to be is that which does not discriminate on the basis of unreasonable distinctions.

In particular, laws should be known to the public, universal in application and assures due process. The creation of the law is often strictly scrutinized—the policy it declares, the environment it creates, the effect it carries and the sanction it imposes. Legislation crystallizes the goal of promoting the general welfare of the society, implementation breathes life into it and upholding its legality gives it the dignity and meaning it deserves.

It thus becomes necessary that in institutionalizing the concept of rule of law a segregation of powers that provide checks and balances of each other be maintained. The system after all deals not merely with the government and its people but includes the relationship within the government itself. The creator of the law should be different from him who executes it otherwise, the system itself gives birth to another dictator. In the same manner, he who executes it should be different from the person who adjudges the legality of the action otherwise, the executor is afforded every impunity to escape from the consequences of his unrestricted actions. Lastly, the person who adjudicates the legality of the law should be monitored to prevent arbitrariness in the promulgation of decisions that bind the whole system.

Lastly, what purpose will a good law serve when there's a failure of the constituents to follow the very principle that separates us from the animal kingdom? Verily, the rule of law affects not just the government but also its members. We, as citizens, should take the positive duty and responsibility to assist the government to reaching its goals.

⁷ “Philippines Development Forum,” *Republic of the Philippines: Department of Justice*, <https://doj.gov.ph/philippine-development-forum.html> (accessed September 27, 2019).

Law students, in general, find that spreading awareness of the current issues that plague the country and the world through social media platform is the most effective way of fulfilling the duty. While I subscribe to the same view and sometimes share my thoughts as well, I find that a proactive move effectuates the outcome far better than the concentrated group of *millennials* bantering passively online.

In this era, everyone has access to the same media content as others and can check for themselves the veracity of news reports and videos they find online. There is a presumption of due diligence, discernment and responsibility inherent in every tech-user to use the tool in their hands to *do good* and *be good*.

Propagation of the Foundation's philosophy of *safeguarding liberty and nurturing prosperity under the rule of law* is more than just having online presence. Primordially, it is actively engaging in real life events that generate value to the society.

I find that my responsibility as a law student and as an executive assistant of a philanthropic businessman is to study the law—its motivations, mechanics and sanctions, and to learn the ropes of private enterprises—its relationship with its employees, with other entities, with the society and with the government. To quote retired Chief Justice Artemio 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.⁸

As a law student, my duty rests with gaining the knowledge and skill in law and in the profession to help out others in the future and objectively view and address the pressing issues in the country. Promoting awareness through social media of matters including the transboundary environmental haze caused by the forest fires in Indonesia to make way for multinational companies and effects of the country's withdrawal from the International Criminal Court and the matter of redress of grievances of the family of the victims of extra-judicial killings, among others.

As an executive assistant of a philanthropic businessman, I am learning by example the necessary skills and the business acumen to make a legal, effective and ethical trade. My employer has likewise mentored me to give back to society and to

⁸ Panganiban, Retired *C.J.* Artemio. *Unleashing Entrepreneurial Ingenuity*, an Address delivered during the Opening Luncheon of the 12th General Assembly of the Asean Law Association (ALA), February 26, 2015.

share prosperity. At the same time, I advise him of the possible legal consequences of his business decisions and tell him the recent developments in the field of law.

After continuously acquiring wisdom from my two areas of interest, I can use the knowledge I have gained as I aim to do the same in the future as corporate lawyer. I aim to assist the business entities of their corporate social responsibility to act without unduly offending the rights of others and of the environment and to give back to the society within the sphere of law. While not as visible as public prosecutors, corporate law is nevertheless as honorable for its function is of a different area entirely. I take my responsibility seriously and with dedication for while I aspire to work with the private sector, my goal is for the public to benefit from the blessings of safeguarding liberty and nurturing prosperity.

What makes a nation wealthy?

According to Adam Smith in his famous work, *The Wealth of Nations*, “no society can surely be flourishing and happy, of which the far greater part of the members is poor and miserable”. Wealth, therefore, is neither caused solely by governmental endeavor nor effected by its citizens in its continuous desire to prosper financially. It is a collective effort aimed at preserving the liberties granted to us by our predecessors and consequently, the nature of sharing prosperity among its citizens that gauge the abundance of resources, human capital and financial capacity, that a nation has. This becomes the compass upon which our institutions can live by in order to advance. The philosophy becomes the foundation and starting point for the nation to take off into greater heights.