

Liberty, Prosperity, and the Rule of Law as the Nexus of Holistic Societal Development

The aspiration of any organized entity generally comprises two things: liberty and prosperity. From the most basic social institution (i.e., families) to the most complex political entities (i.e., States), the free exercise of rights in conjunction with access to sufficient resources for that purpose is desirable, if not indispensable. But liberty and prosperity are mere abstract concepts, aspirations that must be brought to life, for they are grounded on facts. They are not created *ex nihilo* but made possible under a framework that will guarantee liberties and guide society to prosperity. Liberty and prosperity must find their way to human experience, and this is only possible through the law that was forged by human experience, the law that must rule and not be ruled if liberty and prosperity are to be realized, and which law must be brought to the people it seeks to protect.

I. ON LIBERTY AND PROSPERITY

A. *Two Facets of Liberty*

Liberty, as a broad concept, has been defined by Justice McReynolds to include

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.¹

This definition of liberty incorporates the philosophical notion of liberty as having two facets: negative and positive.² Negative liberty is the concept of liberty at the center of Thomas Hobbes' philosophy of the human person. It is liberty in its most basic form — action unimpeded by external obstacles like bodily restraint.³ I am free because no one is stopping me from doing what I want to do. This is the first part of the *Meyer* definition above.

1. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

2. Stanford Encyclopedia of Philosophy, Positive and Negative Liberty, *available at* <https://plato.stanford.edu/entries/liberty-positive-negative/#ParPosLib> (last accessed). *See, e.g.,* Isaiah Berlin, *Two Concepts of Liberty*, in *LIBERTY: INCORPORATING FOUR ESSAYS ON LIBERTY* 169 (Henry Hardy ed., 2002).

3. David van Mill, *Hobbes's Theories of Freedom*, 57 J. POL. 443, 443 (1995).

On the other hand, positive liberty is intimately connected with self-realization. It is about taking control of one's life and realizing one's fundamental purpose.⁴ The second part of the *Meyer* definition contemplates this facet of liberty, as seen from its very language that refers to liberty as the right *to* do something (e.g., to marry, to acquire knowledge, etc.).

B. Prosperity: More Than a Number

Whereas liberty encompasses the range of actions that one can perform, prosperity affects the means with which and through which liberties may be exercised. Similar to liberty, I also understand prosperity as having two facets: prosperity as the means and prosperity as the end. The former is associated with economic development and the plethora of metrics and indices that measure it, such as Gross Domestic Product (GDP), Gross National Income (GNI), Gross National Product (GNP), among others. Prosperity as an end, however, is concerned with improving the well-being of the people and enabling the full enjoyment of their freedoms. It is the view that income growth is important, but only as a means of enabling the enjoyment by the members of society of their freedoms. Otherwise stated, prosperity is more than the accumulation of wealth but rather concerns itself also with “enhancing the lives we lead and the freedoms we enjoy.”⁵

Viewing development merely based on income-related variables has been criticized for being narrow.⁶ These criticisms are not unwarranted but are by no means intended to denigrate the importance of income. Undeniably, financial resources are necessary for the establishment of institutions, infrastructures, and systems that will guarantee the people their freedoms. The provision of quality education, social services, and healthcare, among others, depends to a great extent on the financial resources of the entity obliged to provide them.

C. Interdependence of Liberty and Prosperity

Liberty and prosperity are interdependent in a functioning society. As already mentioned, access to sufficient resources is necessary to guarantee the liberties of the members of society. Yet, prosperity cannot be achieved without a minimum grant of liberties that do not necessarily require significant resources.

Even if one fixates on the idea of prosperity as the accumulation of wealth — that is, purely economic prosperity — it is not possible without the basic liberties that permit innovation, free trade, and property ownership. People must have the

4. Stanford Encyclopedia of Philosophy, *supra* note 2.

5. *Id.* at 14.

6. AMARTYA SEN, DEVELOPMENT AS FREEDOM 3 (2000). For purposes of this Essay, I am using the words “development” and “prosperity” interchangeably.

freedom to pursue their economic interests and retain the fruits of their labor if a nation is to accumulate wealth. To this end, restrictions and conditions imposed on trade and property ownership, such as taxes (whether regulatory or as a revenue measure), must be reasonable and not confiscatory — sufficient to achieve the objectives of the government and protect its interests without discouraging innovation.

In addition, the liberties necessary to achieve prosperity laid down above entail some degree of prosperity on the part of the government. Where there is a right, there should be policies for its protection and a remedy for its violation. In the case of innovation, trade, and ownership, this requires the establishment, at a minimum, of mechanisms to enforce property rights. That the government allows individual ownership is immaterial in a Hobbesian world where a person can hold property only for so long as he/she can keep others from taking it.⁷ Thus arises the necessity of allocating resources for the establishment and maintenance of judicial systems, law enforcement, and other mechanisms for the protection of property ownership, such as land registration.

The interdependence between liberty and prosperity becomes even more pronounced when we enter the realm of true prosperity, where the well-being of the people, individually and collectively, becomes the core of development. True prosperity would require the realization of positive liberties, such as the acquisition of skills and knowledge, healthcare, social security, equal economic opportunity, and many others. These are necessary for the nation to achieve a just and dynamic social order that will ensure its prosperity and independence and free the people from poverty.⁸

Unfortunately, people cannot realize that goal on their own. Financial constraints can inhibit a person from becoming educated, which can result in many economic opportunities becoming out of reach, thereby leaving them vulnerable to the economic repercussions of hospitalization, incurring debts beyond their capacity to earn, and so on. Without external support, they stand to languish in the vicious cycle of living from paycheck to paycheck, or as the Filipino idiom goes, *isang kahig, isang tuka*. There is no self-realization in such a situation. While their actions may be unimpeded by physical obstacles, they are forced to exercise certain liberties at the expense of others. But for the government to undertake the realization of these liberties would be costly and entail some level of prosperity beyond the bare

7. See THOMAS HOBBS, *LEVIATHAN* 85 (J.C.A. GASKIN, ED., 1998).

8. PHIL. CONST. art. II, § 9.

minimum. It would require a positive act on the part of the government and not just non-interference.

Therefore, liberty and prosperity, when realized, create a virtuous cycle. Liberty enables economic activity, facilitating the accumulation of wealth by the nation, i.e., economic prosperity. On the other hand, prosperity unlocks other liberties necessary for their self-realization, thereby creating a society where individual and collective well-being are ensured.

II. ON THE RULE OF LAW AS THE FRAMEWORK FOR DEVELOPMENT

Liberty and prosperity are mere abstract concepts in themselves, only realized by infrastructures that will give effect to them. When one speaks of human rights, there is a consensus that these rights need not be codified to be enjoyed. Nevertheless, they are embodied in international legal documents and domestic law to ensure that there are remedies for their violation. This, therefore, is the importance of the rule of law: it provides a framework to operationalize the liberties that every person enjoys. The rule of law is a term that, to my knowledge, the Supreme Court has only discussed in descriptive terms but never defined with exactitude. Essentially, the rule of law provides that no one is above the law.

Historically, among the foremost figures who espoused the centrality of the rule of law is Sir Edward Coke, who constantly upheld the primacy of the law even as against the powers of the King of England (then King James I).⁹ So important is the rule of law that even Coke's harshest critique and the foremost supporter of authoritarianism, Thomas Hobbes, implicitly admits that an absolute monarch should still operate within existing laws, for his freedom from laws requires the positive act of "repeal[ing] those that trouble him."¹⁰

In the Philippines, the rule of law is embodied by the 1987 Constitution and enunciated in its Preamble.¹¹ As former Chief Justice Corona once said, "[t]he concept of the Constitution as the fundamental law, setting forth the criterion for the

9. See Swarna Jaiswal and Sandeep Mishra, *Navigating Legal Waters: A Comprehensive Analysis of the Rule of Law*, 7 INT'L J.L. MGMT. & HUMAN 920, 920 (2024) & Jacquelin Stevens, et al., *The Case Against Absolute Judicial Immunity for Immigration Judges*, 37 LAW & INEQ 309, 319 (2019).

10. See Thomas Hobbes, *supra* note 7, 176.

For having power to make, and repeal laws, he may when he pleaseth, free himself from that subjection, by repealing those laws that trouble him, and making of new; and consequently he was free before. For he is free, that can be free when he will: nor is it possible for any person to be bound to himself; because he that can bind, can release; and therefore he that is bound to himself only, is not bound.

Id.

11. PHIL. CONST. pmb1.

validity of any public act, whether of the highest official or the lowest functionary, is a cornerstone of our democratic system. This is the rule of law.”¹² It is intended to guard against arbitrariness, ensure consistency in the legal system, and protect the reasonable expectations of the people about what the law is.

In a society governed by the rule of law, liberties are safeguarded because the provisions of law intended to recognize, protect, and enforce them cannot be set aside; liberties such as freedom of movement are guaranteed except upon a lawful order of the court. But this only contemplates the non-interference aspect of liberty, only those rights that can be found under the Bill of Rights of the Constitution,¹³ which imposes negative obligations on the State, or Article 32 of the Civil Code in the case of private persons.¹⁴ Laws should also create conditions for the full and meaningful enjoyment and exercise of liberties. After all, a person can be prevented from exercising such liberties through financial or other non-physical constraints just as well as physical restraints.

For a more holistic protection of the liberties of a person, social legislation has been made to partially insulate the person from the exigencies of life in the form of health insurance,¹⁵ social security,¹⁶ employees’ compensation,¹⁷ and protection

12. *Francisco, Jr. v. House of Representatives*, G.R. No. 160261, Nov. 10, 2003, *available at* <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/47018> (last accessed) (J. Corona, concurring opinion).

13. PHIL. CONST. art. III.

14. An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act No. 386, art. 32 (1949).

15. *See generally* An Act Instituting a National Health Insurance Program for All Filipinos and Establishing the Philippine Health Insurance Corporation for the Purpose [National Health Insurance Act of 2013], Republic Act No. 7875 (2013) & An Act Instituting Universal Health Care for All Filipinos, Prescribing Reforms in the Health Care System, and Appropriating Funds Therefor [Universal Healthcare Act], Republic Act No. 11223 (2019).

16. *See generally* An Act Rationalizing and Expanding the Powers and Duties of the Social Security Commission to Ensure the Long-Term Viability of the Social Security System, Repealing for the Purpose Republic Act No. 1161, as Amended by Republic Act No. 8282, Otherwise Known as the “Social Security Act of 1997” [Social Security Act of 2018], Republic Act No. 11199 (2018).

17. *See* A Decree Instituting a Labor Code, Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace Based on Social Justice [LABOR CODE], Presidential Decree No. 442, arts. 172-78 (1974) (as amended).

of labor.¹⁸ There are also laws to ensure free public education.¹⁹ Such laws provide for their coverage, conditions for eligibility of beneficiaries, disqualifications, and modes of dispute resolution in certain cases. The government must comply with such provisions and act within the limits of the law, lest the law be rendered nugatory to the detriment of the public.

The existence of social legislation is a step towards prosperity in the sense of an improved quality of life for the people. However, liberties cannot be enjoyed if the people who stand to benefit from them are unaware of the existence of such benefits. It is therefore necessary to bring the law to the masses by democratizing the law.

IV. DEMOCRATIZING THE LAW

Among my frustrations when talking to doctors about medical matters, such as when I had my appendectomy, is the overreliance of some doctors on medical jargon that patients with no medical background have never even heard. The patient stands to benefit or be prejudiced by the treatment he or she will receive or knowledge of his or her illness more than the physician, so it is also important for the patient to understand his or her remedy.

If there is anything doctors and lawyers have in common, it is that they are both tasked with providing remedies to their clients. So, the same criticism can be made of members of the legal profession. Ignorance of the law excuses no one, yet the law is filled with esotericism due to its technical language. A language barrier, therefore, arises between the law and the people, and it becomes the function of lawyers to overcome that barrier for their clients and bring the law to the masses. Yet, this is something that law students appear to have some difficulty overcoming, whether due to their unfamiliarity with the local languages or overreliance on legal jargon. In either case, the effect is the same.

While my capacity and resources as a law student are limited, I have always endeavored, at the very least, to ensure that I can explain provisions of the law in the simplest terms that I can. This method may be superfluous in the context of law school, but it has helped me outside of law school whenever any of my friends or relatives ask me to clarify certain legal terms or provisions, such as when a frivolous

18. *See Id.* 293-301.

19. *See generally* An Act Promoting Universal Access to Quality Tertiary Education by Providing for Free Tuition and Other School Fees in State Universities and Colleges, Local Universities and Colleges and State-Run Technical-Vocational Institutions, Establishing the Tertiary Education Subsidy and Student Loan Program, Strengthening the Unified Student Financial Assistance System for Tertiary Education, and Appropriating Fund Therefor [Universal Access to Quality Tertiary Education Act], Republic Act No. 10931 (2019).

criminal case was filed against my cousin after filing a labor case against their employer. This small act, however, can go a long way in bringing the law to the people.

Bringing the law to the people is essential for the people to continue to enjoy the liberties that we have. I recall a webinar a while ago, where Atty. Erin Tañada said, “We can put all the safeguards we want [in the Constitution] but it only takes one [person], who will manipulate and disregard the rule of law, coupled with widespread acquiescence and apathy, for the darkness of the martial law regime to loom over our country once more.”²⁰ Acquiescence can result not necessarily from apathy but from lack of awareness of one’s rights and the limits of government power, such as that they may refuse an “invitation” from a police officer unless there is a warrant of arrest, which was actually the very first thing I advised my cousin.

The task of safeguarding liberty falls not on any particular group of people, much less on those of the legal profession, but on every person. The Constitution empowers the people to petition the government for redress of grievances, yet free speech cannot be exercised without information. Given this, it has always been my dream to teach. Among the courses that I want to teach in a law school is one about bringing the law to the masses. I intend the course to focus on developing the skill of talking about the law in simple terms. The students may speak in an informal language and are prohibited from using hifalutin or technical words unless they can explain such words in the simplest terms. I want to ensure that there will at least be a handful of lawyers every year who can teach the law to anyone, regardless of background, and equip the latter with sufficient information to defend the liberties that our heroes died to protect.

V. CONCLUSION

Holistic societal development is possible only with liberty, prosperity, and the rule of law as the core of development. Liberty and prosperity rely on each other for their realization. Prosperity without liberty is a façade of progress, where the accumulation of wealth is made to mask the poor quality of life of the people. Liberty without prosperity is superficial and relies on a narrow understanding of liberty as the mere absence of bodily restraint. Both must be realized if true societal development is to be achieved. They are not mere visions from wishful thinking but are goals that society must take steps to achieve.

20. De La Salle University Tañada-Diokno School of Law, Video, *Balik-Tanaw, Balitang Totoo: Talakayan sa Batas Militar*, FACEBOOK, available at https://www.facebook.com/watch/live/?ref=watch_permalink&v=474483921316520 (last accessed).

Finally, the goal of holistic societal development is only possible with the rule of law at the fore, which is not only the absence of arbitrariness but also the faithful execution of laws. But the law can only truly serve its purpose when it is accessible to those it seeks to protect or benefit. The law is a tool, and tools are only as good as the person who wields them. The task before us, therefore, is to make the law useful to the people; an effective instrument in the hands of every person, not just of the knowledgeable few.