

The Rule of Law Defines the “Soberano” - MabuhayRadio

Written by Ado Paglinawan

Wednesday, 18 August 2010 07:17 - Last Updated Wednesday, 18 August 2010 14:34

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“Crisis of Sovereignty” Series (Part 20)

By Ado Paglinawan

In Avatar the movie, Jake Sully warns Omaticaya clan that “The sky people are all up there.”

The sky people or humans of course came to the Na’vi planet to force the natives to leave their Hometree, so that they could destroy the tree and harvest the significant deposit of unobtainium under it.

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Jake learns the ways of the Na'vi hunters from Neytiri, the daughter of Na'vi clan leaders Mo'at and Eytukan. They met as she saved Jake life when he was being attacked by a pack of viperwolves. Soon after he and Neytiri fell in love and eventually Jake joins the Na'vi to help Neytiri and the others save their tribe.

This is what is direly lacking in the Philippine romance. Every Filipino must love his country even to the extent of dying for her.

Our national anthem reads:

“Alab ng Puso, sa dibdib mo’y buhay” (In your heart burns a living fervor). “Lupa ng araw ng luwalhati’t pagsinta, buhay ay langit sa piling mo” (Land of the sun, glory and love, life is heaven in thine embrace).

“Sa manlulupig, di ka pasisiil” (To invasions, you will not submit). “Aming ligaya na pag may mang-aapi, ang mamatay ng dahil sa iyo” (‘Tis our bliss, in the presence of oppression, to lay down our lives for you).

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Wherefore are these bold words for our Motherland? Sorry but we cannot be born a new nation without undergoing through this catharsis towards a national resolve.

But to love is to know first.

A question often asked is when will the Filipinos be ever united? But perhaps even before unity, he must first be unleashed from the perdition of ignorance of who he really is. The question the old man in Palawan asked Dean Magallona resounds, why indeed do our people do not know that they are the sovereign and that in them rests all sovereign power?

The answer is not hard to come by.

Allan Pagua postulates “the holders of derivative sovereignty are stealing true sovereignty from the rightful owners of original sovereignty. That is why it is essential to make distinctions in order to arrive at the truth. This is why true sovereignty disintegrates at every turn of political chance. The superior class has mastered extracting sovereignty from the electoral process.”

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Dean Magallona narrates that during his short stint as undersecretary of foreign affairs, he asked for direct consultations with overseas contract workers in Kuwait after being shown a safehouse for runaway maids. During the dialogue, a woman gathered enough air to come forward to share her experience.

“Alam po ba ninyo kung gaano kahirap and buhay namin dito?” (Sir, do you have an idea how life is so hard for us here?) Then she narrated various sins both of her own and her home country, ending with “Pero tinitiiis namin ito dahil wala na pong halaga ang buhay naming mga maliliit na Pilipino sa sarili nating bayan. (But all this we have to endure because our lives have no more value for us small people in our own country.)

“There are 37,000 Filipinos in Kuwait, 35,000 of them are domestic helpers. I do not have to enumerate the dangers of mostly women serving domestic helpers in Arab households. Our leaders have all been desensitized to that,” he said.

“What further shocked me, however, was that our domestic helpers were not placed under the jurisdiction of their foreign relations office or labor but under the Chief of Intelligence and National Security. My God, what I was carrying all along was the foreign policy for domestic helpers!” shared Mr. Magallona.

“The statement of Noynoy Aquino in his inaugural address when he said ‘My government...’ exposes the height of political greed that is revising constitutionalism in this country,” Allan

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Pagua quickly interjected.

Dean Magallona was quick to add, “if an unconstitutional and illegal process has given birth to a ‘president of sorts’, and we tolerate it, what do you call this situation?”

Everyone in the room said almost in unison – “a dictatorship”.

A dictatorship does not necessarily have to be a one-man rule. According to Encyclopedia Britannica, it is form of government in which one person or a small group resorts to force or fraud, to gain political power, which is maintained through suppression of basic right and manipulation through intimidation and deceit.

A republic cannot be a dictatorship. People who are loyal to a dictatorship swear allegiance to the person first and the country second. In a dictatorship, people have little or no say in the formulation of policy.

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In contrast, a democratic republic acknowledges the sovereignty of the people and the rule of law.

The rule of law is a legal maxim according to which no one is above or immune to the law.

The rule of law is by no means of modern development. It is an ancient ideal, and was discussed by Ancient Greek philosophers like Plato and Aristotle around 350 BCE.

According to Plato, “where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state.” Aristotle advanced the rule of law, in that “law should govern”, and those in power should be “servants of the laws.”

The supremacy of law is just as eastern as it is a western notion. In the Chinese philosophical school of Legalism in the 3rd century BCE

, Han Fei Zi articulated three principles of governance, the first being Fa (Chinese:

法

; pinyin: fǎ; literally “law or principle”), which states that laws, rather than rulers, run the state, and further that laws be written and made public.

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In 2004, the Secretary-General of the United Nations defined the rule of law as 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, as well, 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.

The letter of the law, consistent with our Constitution, is applicable and enforceable even against the political will of the people. Public opinion often relative and changing cannot render law mutable, unless said law undergoes a pre-process of policy change, or amendment, that is legally acceptable or allowable under the same principle of rule of law.

Strictly speaking, any deviation from this principle constitutes a revolution or a coup d'etat regardless of the intention.

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Yet as I have earlier illustrated, even the rule of law that is the supreme source of objectivity in rendering policy, is now regarded with subjectivism by the Supreme Court depending on whose favor they are accommodating a judicial position.

Totally wanting is the brilliance of truth.

Mr. Paguia said dishonesty in the law practice comes in three ways: “First, telling the exact opposite of what is true. Second, telling an incomplete truth. And third, telling the complete truth but mixing it with lies.”

In the preceding article, we have clearly established that the people have been denied access to the rightful information of the truth that in a republican state such as the Philippines, they are the sovereign and that all sovereignty resides in them.

There is definitely a need to inform the Filipino people of their God-given right to sovereignty. They are the holders of original sovereignty, and further there exists need to develop a working knowledge in every Filipino on how that could be nurtured into an effective sovereignty.

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What we have now is dysfunctional sovereignty that has thrown us into a constitutional crisis. Those in government have used that derivative sovereignty combined with powers that are generated from their own resources to con the nation and shackle it into subservience by their ignorance.

This dictatorship by those in government must be stopped.

To expose these usurpers to the light of truth, and make them understand that they instead must serve the people instead of their own interests, that they must promote the common good instead of enriching themselves in power, that they must dispense their borrowed powers to promote life, liberty and the pursuit of happiness of the sovereign people, the people themselves must first understand their proper places.

T wo articles ago, we coined the word “Soberano” to mean the sovereign Filipino people.

What, therefore, is a Soberano?

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A Soberano believes and fears God. As the supreme source of his right to sovereignty, he must understand that his power within the context of stewardship of God’s earthly resources.

A Soberano must love his country, and as expressed in his anthem he must be ready to give up his life for her. This is not an abstract truth. This is as real as his countrymen and the space around him. He must respect his countrymen, and serve them over his own needs. He must care and support the beauty as well as the productivity and goodwill of his own neighborhood.

But most especially, a Soberano believes that all men are created equal and have inalienable rights, foremost among these are life, liberty and pursuit of happiness. These are more than sheer shibboleths. He must act and live on his convictions towards life, liberty and pursuit of happiness.

And if it is only under a rule of law that such an equality can exist and those aspirations achieved, then he must submit to the law and uphold and protect it under any and all circumstances.

He must hold those around him to the same rule of law. There are no double lives here,

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because it is the rule of law that defines the Soberano.

Without the rule of law that ought to start and flow from the Constitution, among cowards and traitors, he loses his sovereignty. # # #

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