

Full Steps to Full Democracy through the People

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Democracy is not a static but an evolving concept whose sustainability is keyed to the capacity of its form and substance to meet the changing exigencies of time. John Keane in his book entitled ‘The Life and Death of Democracy’ explained the reasons for the durability of democracy and I quote him:

x x x The exceptional thing about x x x democracy is that it demanded people see that nothing which is human is carved in stone, that everything is built on the shifting sands of time and place and that therefor they would be wise to build and maintain ways of living together as equals, openly and flexibly. Democracy required that people see through talks of god x x x and claims to privilege based on superiority of brain or blood. x x x It implied that the most important political problem is how to prevent rule by the few or by the rich or powerful who claim to be supermen. x x x Democracy was to be the government of the humble, by the humble and for the humble. (XII).

John Keane then traced the origin of democracy from its obscure past, its present preeminence and the multiple threats to its sustainability. He examined the primitive beginnings of democracy as a direct rule by the people. In its first historical phase, democracy was peremptorily dismissed as a government of the mob by the early philosophers, and the idea evaporated from the face of the earth for a thousand years.

Democracy, however, was not to remain in the graveyard forever. The resurrection of democracy and its second historical phase, started around the tenth century. In its resurrected form, it slowly took the shape of representative democracy, or, the indirect rule by representatives of the people. But even in its resurrected form, it took representative democracy up to the early years of the 21st century to prevail. Along a tortuous way, it has to break down all accretions of antipathies to the notion that the people are sovereign. These antipathies came from powerful secular and sectarian forces -- from kings who refused to give up their royal prerogative to rule the people by virtue of their bloodline, to theological tyrants who claimed infallibility beyond the spiritual realm, to dictators who hallucinated they knew everything and could order everyone around. It took numerous national, regional and two world wars for representative democracy to beat the last of the isms - communism. Even then, in the course of navigating its history, democracy metamorphosed into several variants -- democracy has appeared dressed as ‘aristocratic democracy,’ as ‘social democracy,’ as ‘christian democracy,’ and as ‘socialist democracy.’ But there is no doubt that today, democracy has gained global currency. By the end of the 20th century, 119 out of a total 192 countries could be called electoral democracies and they cover 38% of the world’s population. Hence, no less than Nobel Prize Winner, Amartya Sen, considers democracy as a “universal value.”

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For more than a hundred years, Filipinos have been aspiring to become a full democracy. As we celebrate Constitution Day, we should ask ourselves the tormenting question: how does the world view our state of democracy? Freedom House is a US based “non-profit, non-partisan organization that supports democratic change, monitors freedom and advocates for democracy and human rights.” In its latest report, it again evaluated the state of freedom all over the world in year 2013, and categorized countries as free, partly free and not free. For the nth time, the Philippines was rated as partly free, and not as a fully free democratic state. This has been the sorry story of our democracy. Since we won our independence from Spain, we have exerted robust efforts to erect a democratic regime in our country. We made that covenant in the Malolos Constitution, and in our 1935, 1973 and 1987 Constitutions. But after a century, our dream to establish a democratic state is turning out to be a delusion. As defenders of the Constitution, I invite you to focus on some of the reasons why we have not put to bed this problem.

First, consider the kind and quality of our democracy -- a representative democracy. In representative or indirect democracy, the people elect the officials who will govern them. Election is the life force of a representative democracy for thru the proper choice of rulers it avoids the unwieldiness of a democracy where the people rule directly. But it is also its Achilles heel for thru elections, government can be captured by a small elite that promotes its selfish interest and neglects the bigger interest of the people. Hence, the electoral process in a democracy must meet some irreducible requirements. For one, the conduct of election from beginning to end must be free from any form of unfairness, insulated from any specie of fraud and immunized from any degree of discrimination. The evidence that our electoral process has failed to pass these basic criteria cries to high heaven. Our elections are highly driven by money, especially dirty money. Shocking complaints such as the non-disclosure of source code, elimination of minimum safeguards to assure the sanctity of the votes, abdication of COMELEC power to control the conduct of elections to a foreign corporation remain unresolved by the authorities. Our elections are controlled by political dynasties that continue to monopolize power in almost all our electoral units. Dynasties are poison to the principle of majority rule which is the essence of democracy. They choke the access to political power by the people in the same way the old monarchs and modern dictators claim the exclusive franchise on the right to rule. Political dynasties result in a government of the few and for the few, a government that is the antithesis of democracy.

Second. We can never attain the status of “full democracy,” unless we follow with unflinching fidelity, the rule of law. In unadorned language, rule of law simply means that those who govern the people must be under the law and no one is above the law. History teaches us that the rule of law is the sine qua non for democracy to start and still is, the sine qua non for democracy to survive. As chorused by political scientists: ‘From the start, the state must be organized on the basis of the rule of law. Those who govern must be accountable to the people x x x The transparency of the governing process must permit the citizenry to keep a watchful eye on state officials so as to detect corruption and punish those who perpetrate it. Corruption can strangle a democracy at any stage of its development x x x Legislatures must have real law making powers as well as the right to hold the executive up to scrutiny. The judiciary must be independent of political manipulation by the executive and legislative branches x x x and the military must abide by the rules of democratic government and accept civilian control x x x’ (Sodaro et al. *Comparative Politics*, p. 225). Sad to state, the rule of law is weak in our country. Lawlessness reigns king in almost every level of our society. Lawlessness rules in our

streets where simple traffic rules are not enforced. Lawlessness has reared its ugly head in some branches of government where not infrequently no respect is given to the constitutional principle of separation of power and its corollary doctrine of checks and balances. When the sanctity of these touchstone principles is trashed, the inevitable result is eruption of corruption. The PDAF anomaly could not have happened if some of our legislators did not usurp the power of the Executive to implement our laws. By striking down the pork barrel practice, the Supreme Court bluntly ordered the legislators to stick to lawmaking and stop contracting. We are now hanging in suspense waiting for the decision of the High Court on the so called DAP petitions. These petitions will enable the High Court to elucidate and educate all and sundry how far the President can intrude into the power of the Congress over the purse. The decision of the Court is ultra-important to our democracy for the powers between Congress and the President cannot be bound by blurred lines. A tiny error in drawing their balance can result in dominance by one branch over the other and give tyranny a toehold in the entire bureaucracy. All these underscore the imperative need for an independent judiciary. Only an independent judiciary can decide without fear whether a powerful branch of government has overreached its powers. Recent events show that we need to further strengthen the sinews of independence of our judiciary. One area of concern is its lack of financial independence from the political branches of government. Over the years, we see the judiciary's independence disrespected come budget time. Always, the judiciary has to crawl and to beg Congress for sufficient funds and always, their efforts have proved futile. Hobbled by an indecent budget, the judiciary has still to make a beeline to the DBM for the release of its appropriation. The result is an anemic and demoralized judiciary. A judiciary that is financially bleeding means a lot of courts without judges, a lot of judges without sufficient staff, a lot of staff without computers or a judiciary so disadvantaged it can hardly fulfill the expectations of the people. Worse, it can tether the judiciary to the caprices of the political branches for our government and compromise its independence. Another danger to the independence of our judiciary is the continuing threat of impeachment against some of its members. At least two aspects of our impeachment process deserve our hard and harsh look. One is whether we should continue giving this great power to the political branch of our government -- the Constitution gives the power to initiate impeachment proceedings exclusively to the House of Representatives and the power to try impeachment cases exclusively to the Senate. In other jurisdictions, where the power of impeachment has been misused to bludgeon their judiciary to submission, they lodged this awesome power in a body that is apolitical, whose composition is a mixture of jurists, barristers, academicians, and other major stakeholders of the constitutional system. Second, we need to define with precision the nature of impeachment, whether it is judicial, quasi-judicial, or political in character. The correct characterization of the impeachment process will determine its fairness and impartiality. It will also clarify, among others, the standard of justice that ought to guide the impeachment court, the code of ethics that will bind its members and the core constitutional rights that can be invoked by respondents. If impeachment is to be credible and accepted by the people, it must be wielded as a tool of good governance and not as an instrument of partisan politics.

Thirdly, if we want to qualify as a full democracy, there are certain democratic norms which we must substantially satisfy. These norms provide democracy's moral content and undeniably, among the norms that command the highest importance are equality and inclusiveness. The norm of equality demands that human rights must be equitably distributed to everyone. The norm of inclusiveness requires that economic progress should not be restricted to the rich but should include the poor for democracy cannot thrive on the poverty

of the many. Studies on democracy overwhelmingly show that “wealthy and upper middle income countries tend to be democracies and semi-democracies and x x x conversely, poor countries tend to be semi authoritarian.” In the case of the Philippines, democracy rests on a foundation of sand because it has a missing middle class. Worse, the galloping gap between the rich and the poor is getting more unconscionable and intolerable. The statistics say that in our country, ‘4 million families own nothing while the top 40 own everything’ (Ronquillo, Sunday Times, Dec. 15, 2013 p A-4). We do not need the omniscience of the divine to warn that our democracy cannot succeed where you have a multitude of people with heads without roofs, with backs without shirts, with stomachs without food, with feet without shoes. It hurts that millions of our countrymen believe that the best way to live in the Philippines is to leave it, hence, they consider a foreign visa as their most valuable possession.

Today, democracy is going through its 3rd historical stage - from direct democracy to representative democracy and to what John Keene calls monitory democracy. Monitory democracy means a democracy where those who govern are monitored by the people moment by moment. It has come about because of the declining trust of people on their elected representatives. Hence the metamorphosis of representative democracy to monitory democracy where watchdogs, guidedogs and barking dogs of all kind keep a tight watch on their representatives and agents in government. The emergence of a monitory democracy is patent in our 1987 Constitution. It is the reason for the establishment of such independent bodies as the COA, the Commission on Human Rights, the Office of the Ombudsman, an activist judiciary and an interventionist civil society. Our 1987 Constitution recognized that the people are the ultimate watchdog of their own interest. For this reason, our 1987 Constitution redesigned our state not only as republican in character but as democratic at its core. It again stressed that sovereignty resides in the people and all government authority emanates from them. The people are the sun of sovereignty and their representatives are but the moons that reflect the people’s sovereignty. Prescinding from that premise, the 1987 Constitution affirmed the power of the sovereign people to remove thru recall some elected officials, the power to enact local and national laws and the power to change the Constitution itself, in effect the power to create and recreate government itself. I keep on stressing that the 1987 Constitution merely affirmed and did not grant the sovereign power of the people. The sovereignty of the people is inherent in them as a people and cannot be granted by any piece of paper even if that tissue is called a constitution. The power of the people as sovereign preceded and antedated all Constitutions. There is no power higher than the sovereign power of the people as all other powers are merely delegated by the people. Hence, the delegated power to execute laws on the Chief Executive, the delegated power to enact laws on Congress, the delegated power to interpret laws on the Supreme Court cannot be used nor abused to nullify the sovereignty of the people. To further fortify the power of the people, the 1987 Constitution made it the duty of the military to protect the people whenever they exercise their sovereign power, including the power to change their own government. Indeed, one of the finest moments of our military was when they upheld the exercise of people power against people in power in the 1986 EDSA revolution.

Let me end by saying we will never be a full democracy unless and until we fully enthrone the people as the real sovereign in our country. If democracy has not fully flowered in the Philippines, it is because the people have been betrayed by some of their so called representatives time and time again. If democracy has not been deeply rooted in our soil, it is because it has often been hijacked by a small but powerful cabal of political and economic

elite. In other words, the story of democracy in the Philippines is the story of betrayals after betrayals of the interest of the people. Democracy will succeed in the Philippines only if we can stop these betrayals. Only the people can stop these betrayals for only the people will not betray themselves, only the people will not betray their interest. Let us support all initiatives of the people, all initiatives for the people and all initiatives by the people.

A pleasant evening to all!