

Salus Populi Est Suprema Lex: Deliverance or Damnation

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In the direst times, the people have always had the safety provided by collective will. The 1896 Revolution, EDSA I, EDSA II—no matter the strict letter of the law—the will of people reigned supreme. It yielded to no one. It formed constitutions. It effected political and social change at a national scale and gave our nation the global reputation as a people unwilling to succumb to the caprice and tyranny of oppressors. This foundation built our country and made it what it is today. *Salus populi est suprema lex*: the welfare of the people is the supreme law. Yet when we need it desperately to effect changes in our country, where is it? Or rather, what has it become?

The Concept

Salus populi est suprema lex translates to “Let the good of the people be the supreme law.”¹ It finds its origin as early as 100 BC – 1AD in the book *De Legibus* written by Cicero the renowned philosopher, politician, and lawyer. It was also used by eminent personalities in politico-legal history such as John Locke and Francis Bacon. Too, the concept serves as the foundation of Philippine law including all the Constitutions we have had and their corresponding amendments, representative of the needs of the people in times past. Simply put, this principle places the welfare of the many above the welfare of the few. The will of the individual must yield to the needs of the society, even if his life, liberty, or property is put in jeopardy.² It follows therefore, that no law and no officer of the people, elected or appointed, is above the will of the people. Not even the constitution. Rather, it is a manifestation of the will of the people as affirmed by Justice Malcom: “The written instrument enacted by the direct action of the people...”³

The will of the people is ultimately represented by the government we vote into office to run our country, to represent our interests. Of these people, the commander-in-chief is the President. It may be said that he is the ultimate representative of the people, the representative of the will and welfare of the people.

The Present

President Duterte was elected into office with a landslide victory. As CNN Philippines put it, “Duterte, who promised ‘genuine change’ and campaigned on a hardline anti-crime platform, garnered 16,601,997 votes, over 6.6 million more than his closest rival, administration candidate Mar Roxas”.⁴ This puts him more than a million votes ahead of his predecessor, former president Benigno Aquino III⁵ and 3.5 million more than the latter’s predecessor, former president Gloria Macapagal-Arroyo⁶. Participation in the 2016 national elections was at

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¹ Marcus Tullius Cicero, *On the Laws “De Legibus”*. Translated by David Fott. Ithaca, N.Y.: Cornell University Press. 2014.

² Broom, H., *A Selection of Legal Maxims* (London, Sweet & Maxwell Limited, 1939), page 1

³ Nachura, A., *Outline Reviewer in Political Law* (VJ Graphics Arts Inc., 2015), page 2, citing Malcolm, *Philippine Constitutional Law*, page 6.

⁴ CNN Philippines (2016, May 30). Official count: Duterte is new president, Robredo is vice president

⁵ Jalea, M. (2016, June 26). Aquino’s satisfaction ratings decline: Not the worst. Retrieved from www.rappler.com/newsbreak/in-depth/137614-benigno-aquino-iii-satisfaction-decline-not-worst

⁶ IFES Election Guide (2004). Retrieved from www.electionguide.org/elections/id/1927/

an all-time high with the extensive political involvement of the masses. There was no shortage of representation of the people's interests, with each presidential candidate fighting fiercely for his or her platform. The well-documented election numbers truly represented the people's collective will.

According to Pulse Asia, President Duterte's approval rating remained at 83 percent for the last quarter of 2016. This remarkably followed a season of controversy led by the resignation of Vice President Leni Robredo from the Cabinet, the Senate probe of the Espinosa killing, the Senator De Lima row, and the government-sanctioned burial of former President and dictator Ferdinand Marcos, among numerous other controversies.⁷ In perspective, the normal "honeymoon stage" ratings of previous presidents averaged at 60 percent.⁸ Is it the charismatic disposition of our new commander-in-chief? Is it his tough-talking, uncompromising, straight-up bad ass character? No. Charisma only goes so far. This is the nation talking. This is the Philippines saying "We love him and everything he has done so far, everything that he promises to do, and everything he stands for." Undoubtedly, satisfaction ratings cannot be scientifically linked with acceptance of any and all actions of the government. However, satisfaction ratings represent public sentiment. Since intangible concepts as public welfare and public good cannot be quantified, polling is the tool left to us.

The Problem

"The welfare of the people is the supreme law." However, who dictates what constitutes this welfare? Who drops the gavel and adjudges an act good for the community and by what standards?

Change has indeed come. The country has been on a political frenzy since President Duterte assumed office, if not even before he officially announced his candidacy. No issue beyond challenge, no norm or custom above critique. Amidst the rampant online campaigns and rallies of the pros and antis, one fact remains: the vocal majority reigns. Any anti-Duterte sentiment posted on any social media platform is met with overwhelmingly rabid accusations of treason, ignorance, and unwillingness to accept the new order, eerily similar to the problems faced by the opposition in 1933 Germany. There is next to no space for pacific and properly informed political discourse. Yet the seemingly incredulous opposition by the majority of what was thought to be long-settled political issues, such as the right to due process, is more and more being adopted as the societal standard.

The people decide what the greater good is. The people define welfare. The people are the final arbiters through public opinion and sentiment of what is right and wrong. It would seem therefore, that the good this country needs is more killing without due process, more sexism and social class profiling, less discourse and more bullying, more death and less reformation. This is the only logical conclusion that may be drawn from the aforementioned facts. The stance of our government is clearly defined with the laws passed, statements made, and the political activity well documented. On the flip side, the people agree with the government with an 83% approval rating.

Enough debate has been forged regarding our enigmatic president and his

⁷ Sabillo, K. (2017, January 6). Duterte Approval Rating At 83%—Pulse Asia. Retrieved from newsinfo.inquirer.net/859906/duterte-approval-rating-at-83-pulse-asia.

⁸ Jalea, M. (2016, June 26). Aquino's Satisfaction Ratings Decline: Not the Worst. Retrieved from www.rappler.com/newsbreak/in-depth/137614-benigno-aquino-iii-satisfaction-decline-not-worst

controversial policies. Not enough debate on why do we, the people, so readily acquiesce to such radical reform promoted by this administration. It has been blamed on administration after administration of incompetent leaders. It has been reasoned that the people are sick of inaction and stagnation in social reform and state-wide progress. So why are we clamoring for change that will run our country deeper into the ground rather than change that will pull us out of it? Where does it end? Where does the continued disregard of established norms and principles of natural law and statutory law, in the name of collective will, end?

The Limit

Salus populi est suprema lex does not have a virtual end. It is an inherent plenary power of the people and as such it enjoys boundless application. Or so thought Nazi Germany. Just like vested and statutory rights, which end where other's rights begin, the will of the people must yield to *Jus Gentium*, the Law of Nations.⁹ Rafael Domingo stated "Every age has its law."¹⁰ This is established by historical and widespread application in response to both the unique and common conditions faced by the global community of that age. Cicero, the proponent of *salus populi est suprema lex* is also the proponent of *jus gentium*, even though the latter concept received much less attention in his various works. He stated: "...because of the degradation of social mores, certain things not forbidden by customs, statutes, or civil law are nonetheless punishable under the law of nature." This is the limit. If the concept of *Salus populi* was intended for unrestricted application, it would legitimize every fascist regime in history. It would justify extremists ridding the world of non-believers; it would justify radical leaders disregarding established mores in statutory law.

Justice Oliver Wendell Holmes stated, "The life of the law has not been logic: it has been experience."¹¹ Experience throughout countless years of war, strife, and social change. The law has molded into what it is on the global scale because our predecessors fought each other to find that golden mean between right and wrong. Universal acceptance of social mores is not baseless. This is why there are so many common threads that link fundamental laws of different nations. Ignoring the time-tested and universally-accepted principles of law does not make us revolutionary, it makes us fools. Reverting to summary execution puts us back thousands of years to 117 AD in Rome. Accepting the chauvinistic objectification of women leaders spits on the rich historical development of women's rights. Disregarding the separation of powers and the blessings of democracy overlooks the hardships of our forefathers in obtaining true independence from foreign and local dominion.

We want change, yet we are revisiting the wrong side of the coin. We are regressing, not progressing. *Jus Gentium* tells us this. *Salus populi est suprema lex* is ominously becoming this nation's ride back into the dark ages where the law is what a few men dictate it to be. Sadly, there is no means of reversing this, given the toothless enforcement of international law. Our hope lies in those who are keen enough to hear what *jus gentium* is saying, to re-evaluate the direction our nation has taken, and to steer us back on the track of true social progress with justice at the helm. Only then can *salus populi* be the deliverance of this country once more.

⁹ Domingo, R. From The *Ius Gentium* To International Law. Cambridge University Press.

¹⁰ Domingo, R. From The *Ius Gentium* To International Law. Cambridge University Press. Page 1

¹¹ Oliver Wendell Holmes, *The Common Law* (Little, Brown & Company, Boston, 1881; reprint ed. Marc de Wolfe Howe, Harvard University Press, Cambridge, Massachusetts, 1963), p. 5.