



## **Essays on Political Philosophy, Part 2**

**Nonoy Oplas**

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### **Introduction**

This is a continuation of a compilation of my short essays on the subject. The first compilation, "Essays on Political Philosophy", was produced last February 20, 2009, [http://www.minimalgovernment.net/media/mg\\_20090220.pdf](http://www.minimalgovernment.net/media/mg_20090220.pdf).

Here is the list of these short papers, posted in my blog, <http://funwithgovernment.blogspot.com>, some of which were also posted in the online magazine, [www.thelobbyist.biz](http://www.thelobbyist.biz) where I contribute a weekly article. All dates refer to 2009:

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Thank you.

Bienvenido "Nonoy" Oplas, Jr.

## **Right of reply vs. privilege of publication**

February 27, 2009

The current legislative proposal by a number of Philippine Congressmen and Senators to have the “Right of Reply” Bill has the correct title but the wrong content. Right of reply is a right for people who would bother to reply to certain unfair accusations against them. But getting published in whatever media outlet, public or private, that the complaining person feels he was unfairly attacked, is a privilege, not a right.

If I attack a particular person in my blog and say that his face is ugly while his eyes are even uglier, and many people happened to read that particular blog entry of mine, the affected person can write a comment in my blog. Whether I will approve his comments and reply and have it posted in my blog, or reject and thrash it, is my right, not his right. If I decide to approve and have it posted, then I granted him a privilege.

Now that person can also put up his own blog, or send a blast email to many people, or write a letter to the editor of a big newspaper or go to a big radio or tv station and counter-attack me, saying that while my face may be more good looking than his face but my ears are as ugly as Yoda’s or ET’s ears, then I have the Right of Reply but have no Privilege of being Published or aired in radio or tv stations that broadcasted that person’s attacks against me.

Expanding this logic to mainstream media, when a politician or group of politicians are being attacked for being corrupt and/or lazy, they have the Right of Reply, definitely, but whether their reply will be published in the newspaper or magazine, or be aired in the radio or tv station that aired the earlier attack, is a privilege to be granted by the editors and/or owners of those media outlet. It is not a right by the complaining politicians.

The complaining politicians though, have the right to put up their own newspaper or magazine, radio or tv station, blog or website, to regularly carry their personal and official pronouncements, including making clarifications or counter-attack to accusations against them made elsewhere.

I would even assert further, that ALL legislators, mayors and governors, should have their own websites or blogs at least, because these are very easy to manage and would require almost zero cost to set up. Then they can display and publish all their Right of Reply, attacks and counter-attacks, praises and halleluiahs, to whoever will be the object of their anger or praises.

For the legislators who are intent on pursuing that bill to become a law, they should have at least the decency and wisdom of changing the title of their proposal from “Right of Reply” to “Right of Publication or Broadcast”, then push their dictatorial intents.

Since those legislators are not the owners of the media outlets that they wish to be heavily regulated and controlled, since they are not the ones who pay for the salaries and perks of the reporters, editors and administrative staff, the cost of printing and broadcasting, and there is supposed to be “private property rights” in this country,

those legislators should have the decency of realizing and recognizing the dictatorial intent and confiscatory scheme of their proposal.

## **Property rights and lefts**

March 2, 2009

The ability to own or control, to keep or exchange, to sell or give away, a particular product or service, is one major indicator of how free an individual is. For instance, a person owns a car but he believes or suspects that his car can also be claimed as a private property by other people, especially the bully and high-ranking government officials. The result is that he will have no peace of mind, always on his toes that his car can be taken or confiscated by other people any day and anytime. So he seldom uses his car, or he may have to hire a private security guard to help him guard his car. Lack of peace of mind means lack of energy to work productively and earn higher, while hiring a private security guard would mean higher monthly expenses and hence, lower disposable income and lower savings for the family.

Thus, societies that have well-defined private property rights and where the rule of law is properly and strictly observed, tend to have more economic stability. Consumers and producers, workers and entrepreneurs, have peace of mind knowing that whatever contract they will enter with other people within or outside the country will be honored and respected -- that whatever commodity or service they will buy or receive as grants from other people, will be protected as their own private property, and no other people can claim ownership or control of those commodities and services.

This philosophy and sentiment is captured by a Report released this week entitled "International Property Rights Index (IPRI), 2009 Report". This study is done and commissioned annually by the Property Rights Alliance (PRA) starting in 2007.

The 2009 IPRI Report compared the protections of physical and intellectual property to economic stability in 115 countries representing 96% of the world's GDP. The Report is a composite ranking of three comprehensive areas of property rights: Legal and Political Environment (LP), Physical Property Rights (PPR), and Intellectual Property Rights (IPR).

Among the general findings of the Report are the following:

- a. Countries that protect the physical and intellectual property of their people enjoy nearly nine times higher GDP per capita than countries ranking lowest in property rights protections.
- b. Of the 115 countries included, the top quartile averaged \$39,991 in GDP per capita while the average in the bottom 20% was only \$4,341 per capita. The second, third and fourth quartiles averaged \$23,982, \$11,748, and \$4,891 respectively. The nearly linear data trend shows that countries placing a high priority on property rights see increased economic security.

c. The result of scoring and ranking of each country and city, especially for Asian countries, is shown in this table below:

Table 1. Overall IPRI score and ranking, 2008

Rank, Country, Score	Rank, Country, Score
1. Finland 8.7	17. Japan 7.6
2. Netherlands 8.5	19. Hong Kong 7.3
Denmark 8.5	24. S. Korea 6.8
4. New Zealand 8.3	29. Taiwan 6.5
Sweden 8.3	36. Malaysia 6.2
Germany 8.3	46. India 5.6
Norway 8.3	51. Thailand 5.4
8. Switzerland 8.2	68. China 4.7
Australia 8.2	71. Sri Lanka 4.6
10. Austria 8.1	74. Philippines 4.5
Iceland 8.1	77. Vietnam 4.4
Singapore 8.1	87. Indonesia 4.1

The Philippines had a respectable score in PPR (5.5) but was pulled down by a low score in LP (3.3), so that based on LP score, the Philippines ranked 95th out of 115 countries!

It is not healthy therefore, for an economy to embrace left-leaning policies that attempt to disrespect individual talents and performance, and forcibly collectivize things.

Property rights is not a result of positive accidents that allowed the rights owner/s to own and control something without hard or meaningful work. Neither is it a privilege that was bestowed by the gods of the earth to their current right owners. Leftism cannot guarantee the respect and expansion of private property rights.

## **AIG bonuses and the rule of law**

March 18, 2009

A corporation aiming to keep its bright people to produce bright work needs to provide them bright incentives. Bonuses are one of such incentives. So when AIG decided to give bonuses to its people who stuck with it through these past few months, so that those people will help the company recover from its shameful position of being bailed-out by a government just to escape bankruptcy, AIG was doing the right thing.

Unfortunately for AIG, by soliciting and accepting bail-out money from taxpayers and the politicians in the first place, AIG has politicized its corporate nature. It has abdicated its corporate independence and embraced political dependence. The moment it accepted the bail-out money, it should expect intervention anytime anywhere by politicians and taxpayers. The current howl against AIG giving bonuses to its personnel is understandable, but AIG's desire to keep its people is also understandable, and that those bonuses are stipulated in the contract between the company and its personnel, and that contract was made before the financial crisis emerged.

If the rule of law is to be respected, US legislators and the President should stay away from internal arrangement and contract between employers and employees. The rule of law also stipulates that AIG should pay each and every single dollar and cents that it owed the US Treasury. There are harsh penalties if the debtor will not fulfill its obligations. This gives teeth to the rule of law.

If giving bonuses will keep good staff or attract new people who can make the company recover financially so it can pay all its debts to the government and other private creditors, so be it. What the US politicians and taxpayers are howling is that by giving huge bonuses at the time the company is bleeding financially and asking for billions of \$ of bail-out money, the likelihood of that company paying back all its debt to the government and taxpayers will become small.

The politicians and bureaucrats who extended the bail-out, as well as private citizens who supported the bail-out, are playing double-talk when they howl against the AIG bonuses. Governments and corporations have their own set of profligacies and wastes. That is why it is important that they keep to themselves those profligacies, and not extend or infect the other. Government bail-outs are perfect tools of co-inflicting those profligacies.

Should AIG justify and proceed the bonuses?

I say Yes.

Should AIG get more bail-out money?

I say No.

AIG should limit the foolishness of losing its corporate independence and embracing political dependence. The sooner it can do it, the better for its staff, shareholders and clients. By cutting or reducing its bail-out loan, the better. When it has brought down its bail-out debt to zero, then it can give double, triple, or whatever multiple, of current bonuses or whatever profligacies to its people.

## Liberty and liberty forum

March 19, 2009

Liberty is a philosophical concept often associated or deemed synonymous with freedom, democracy and sovereignty. But while freedom can be a close synonym of liberty, democracy and sovereignty may not be. This is because liberty has two wide connotations: collective liberty and individual liberty. Democracy (the will of the majority) and sovereignty (freedom from foreign colonialism or domination) therefore, connotes more of collective (national, regional, community) liberty and cannot be a substitute for individual liberty.

This distinction is very important because most -- if not all -- public policies and institutional or organizational tools and rules that oppress or harass the individual, are done in the name of the collective, in the spirit of "country/nation first before self" or "community first before the individual".

There is one case though, when collective liberty can be equivalent to or synonymous with individual liberty: when the collective is done or aggregated in a voluntary way, and not forcibly imposed. Examples of voluntary collectivism are civic organizations, sports clubs, neighborhood associations, among others. Here, individuals join voluntarily, or were invited and sponsored by their close friends or associates, and individuals have the option or freedom to get out of such collective. And the voluntary organization or collective can possibly die when it no longer enjoys the support of its members. This is also the essence of "civil society".

When a collective is done forcibly, ie, individuals are mandated or coerced to belong to a collective, this is considered "forced collectivism" and cannot be considered as synonymous with individual liberty. The single biggest example of forced collectivism is Government (local or national). There are plenty of public policies that assert or impose forced collectivism, foremost of which are the various taxes and regulations, restrictions and prohibitions unless those regulated will first secure the approval and signatures of the regulators.

In many lectures, symposia and conferences on economics, business and politics, the primacy of individual liberty and the dangers of imposed collectivism are hardly mentioned, or none at all. The mere absence of this reminder or distinction already reflects the triumph of forced collectivism in the minds of the public.

Thus, if one finds a symposium or conference where the primacy of individual liberty is often mentioned, if not made a central theme of the activity, one is considered very lucky.

The annual "Atlas Liberty Forum" by the Atlas Economic Research Foundation ([www.atlasnetwork.org](http://www.atlasnetwork.org)) can be considered as one of those very few conferences around the world where individual liberty and the importance of free market is a constant central theme. Some panel discussions that mention collective liberty refer to the voluntary collectivism strand.

When I and a few friends in Manila formed "Minimal Government" around February 2004, we knew that we were free marketers, we knew that we believed in "minimal

government = minimal taxes = minimal bureaucracy”, but we did not realize much the distinction between individual and collective liberty, we did not know much about the free market and liberty movement around the world, we barely knew any free market-oriented think tank or institute outside of the Philippines.

These all changed, almost abruptly, when Atlas offered me an international fellowship in April 2004. There were several activities for an international fellow, one of which was attend the “Atlas Liberty Forum”. It was the 4th liberty forum and held in Chicago. That was my first “baptism” of what a liberty forum looks like, and a wide world of free market-oriented independent think tanks from many countries and continents around the world slowly unfolded before my eyes.

The forum and various panel discussions were very helpful and educational, but the most important aspect of the activity that I later realized, was the “liberty networking”. First, my roommate in the hotel would turn out to be among my closest friends in the liberty movement, Mr. Barun Mitra, founder and Director of Liberty Institute in Delhi, India. Second, a number of new friends and allies that I met there five years ago, especially those from Asia, I would meet in other succeeding international and regional conferences and meetings; or at least correspond regularly by email. And third, collaborative work and campaigns among ally think tanks would soon be initiated and sustained.

My second attendance of the Atlas Liberty Forum was in Atlanta, Georgia, April 2008. This time, I was a confident participant who knew a number of other international and American participants and speakers. And this time, my interest was more on the panel discussions on fund-raising, though the discussions on liberty issues, like the panel on “Promoting freedom in difficult countries”, were also very informative.

Any serious liberty-oriented think tank or political movement needs substantial financial resources, for obvious reason. But a more specific reason not known to many people, is that more serious free marketers do not solicit or accept any government money (local, national or inter-governmental/multilateral) or funding from any political party, to keep and sustain their full independence from governments and political parties. Whereas most think tanks and political groups, including many NGOs and civil society organizations (CSOs) get substantial funding from governments, inter-governmental or multilateral institutions, and political parties.

Thus, fundraising is a recurrent topic in every annual Atlas Liberty Forum. This coming Liberty Forum will be held in Los Angeles, California, April 24-26 of this year.

Participants of this forum, as well as symposia, training and conferences by allied think tanks and institutes, are constantly reminded, explicitly or implicitly, that they are fighting for a society, they are envisioning a world, where the individual is not taken for granted or oppressed, in the pursuit of collective freedom and economic development.

## **School choice and classroom language**

April 1, 2009

The old debate of what language should be the medium of instruction in Philippine schools keeps on resurfacing. There are 3 dominant groups and lobbyists: the English group, the Filipino or Tagalog group, and the vernacular group.

I strongly believe in more personal and parental responsibility, I do not agree with many public policies that ask for "more government responsibility". Education is primarily parental responsibility, but with the triumph of forced collectivist thinking, we all now believe that education should be government responsibility.

I also believe in diversity, not uniformity. People like diversity, that is why there are millions of t-shirts designs, jeans designs, running shoes and basketball shoes, etc. With diversity, individuals express their specific preferences and desires, as well as express their financial constraints.

With more government role, there is more uniformity and very often, with uniformity comes closely mediocrity. Pull down the most ambitious and the brightest and pull up the laziest and the zero ambition people. Then there will be equality and uniformity in society.

The use of whatever language in elementary education should never be a public debate. The old and current debate on what should be the main language as medium of instruction in schools, is a debate among different type of dictatorial tendencies.

Whoever wins, the losing dominant groups plus many other minor groups will feel unhappy. The will of the strongest lobbyists will prevail over others, and parents will have to send their children to public schools whose medium of instruction they are not happy with. Even if the vernacular group will win, it's still not as democratic as proponents would want to show.

For instance, in my home province, Negros Occidental, Hiligaynon or Ilongo is the main language spoken and understood by most people. So the provincial or regional education department will order that Ilongo will be the medium of instruction for public elementary schools, say at least until Grade 3. But there are 4 or 5 cities and municipalities in Negros Occ. that are Cebuano-speaking. So the people in these places will be unhappy and may not understand the Ilongo language that will be used in the schools.

Only private schools catering to private and differing needs of parents and their children can sufficiently respond to such needs. If many parents want to have their elementary level children learn Ilocano or Cebuano or English or Mandarin or Arabic or French or Spanish or Ilongo or Waray, etc. etc., then there will be schools that will be more than willing to provide ALL such services at varying prices and standard of teaching. So there is no need for language dictatorship.

Parents would usually don't give a heck much about money, so long as they can provide good education for their children. They can work long hours, earn big, and



send their children to the "best schools" as they define and perceive it. But government hates this. If parents earn big, the first thing that governments will do is confiscate a big portion of their income, then chop-chop the money to various services that politicians and bureaucrats, not the parents themselves, think are "important".

So to my mind, the "solution" to whatever language will be the medium of instruction in schools, is not what the politicians, education bureaucrats and other pressure groups would want it to be, then ram down the "winning" language on the minds and philosophical biases of parents and their children.

The solution is to have a wide variety and diversity of schools offering their own brand of education and using different medium of instruction to cater to the needs and educational training of parents and their children.

The Department of Education can be shrank to possibly only 1/5 of its current size, allow more private schools, from nursery and elementary to tertiary levels. Government can move to voucher system, or move to drastically cut income taxes, allow parents to keep more of their monthly and yearly income, and bring their kids to schools they think can give their kids the best education they want. Whether it's a science and math school, or arts and culture school, or sports and ballet school, or Asian or European language school, etc.

## **Thailand crackdown and the rule of law**

April 18, 2009

Rule of law is perhaps the single biggest assurance of individuals to protect their liberty. This is because the principle explicitly specifies that "the law applies to everyone, rulers and ruled, no exception". The law applies equally to unequal people. So when the law says "no stealing", then no stealing should be allowed, either by a destitute and hungry man or by the President or Prime Minister of a country. When the law says "no killing", then no killing should be done, either by a hardened criminal or an ordinary man or by the military and the police, if there is no direct threat to them.

This makes the rule of law a dangerous principle and policy – dangerous to thieves and robbers, tyrants and dictators, liars and demagogues. Because whatever regulations and prohibitions they create will also apply to them, will also restrict them.

The continuing political instability in Thailand is another example of trampling of the rule of law principle. Of rulers and law implementers having discretionary power to decide whom the laws and prohibitions will apply, and to whom the laws will be relaxed and not implemented.

A few months ago, anti-Thaksin groups, particularly PAD and the Democratic Party who are now in government, blockaded some major roads in Bangkok for several months to force the government of former PM Samak to step down. The road blockade continued even after the Samak government was replaced by the short

administration of former PM Somchai. PAD demonstrators also camped outside the Parliament and Government House for many days, and the worst action they did, they forcibly occupied the international airport which caused endless misery to stranded passengers, both local and foreign. PAD succeeded in bringing down the Somchai government and installed the current PM Abhisit government.

What you sow, you will also reap. Tens of thousands of supporters of former PM Thaksin also went to the streets of Bangkok late last month and blocked some roads, also to force the resignation of current PM Abhisit government. This is essentially doing what the last group of demonstrators did. But there is one big difference here: the current Thai government implored the "rule of law" and launched a military crackdown to implement "the law".

Disrupting the ASEAN summit was a bad move by the "red shirts", but my source in Bangkok said that prior to such action, the red shirts were attacked on April 11 by plainclothes security force, many were injured and there was no government action and investigation for the incident. Nonetheless, even for the sin of disrupting the ASEAN summit, killing ordinary civilians is not an appropriate response.

While the government of PM Abhisit said that there were no casualties during the April 13 military crackdown, my friend in Bangkok said scores were killed. On that day, troops north of Bangkok moved in and opened fire at a small group of red-shirts, killing instantly some people there. When the "red-shirts" fought back, more people were shot dead by the soldiers and many more injured. My friend added that armed gangs organized by government politicians roamed the streets and beat up any red-shirts they met and several were beaten to death.

When the PAD demonstrators blocked several important streets of Bangkok for several months, when the PAD demonstrators occupied the Government House and the international airport for several days, moves that were clearly violent and disruptive, they were never attacked or killed by the soldiers. PAD was even rewarded for such violent acts by awarding some of their leaders high positions in the current government.

It never fails. The rule of law is always "name-dropped" by politicians and political groups whenever it suits them. When it does not suit them, it's always easy to do unconstitutional, violent means, in the name of "people power" and "fight for democracy".

So, what's next for Thailand? I guess another round of street demonstrations and occupation of government buildings, or disruption of another high-level regional or international event in that country. Some of the leaders of the anti-Thaksin groups that occupied the international airport by force are in government now. Their mere presence there can re-ignite another political vendetta anytime.

The Abhisit government can do several ways to help reduce the tension and the desire for another political vendetta. One, by asking all PAD leaders, other political leaders who were closely associated with the half-year street occupations and take-over of the international airport, who are currently in government, to resign and leave their posts. This way, impressions of double-standard in the application of the law

can be dispelled. When it's the anti-Thaksin group occupying airports and blockading streets, they get rewarded with government posts.

Two, make the responsible soldiers and their officers be held accountable for the killings. Killing ordinary and unarmed civilians in is a shameless and ruthless act that any government can do. And three, the government should refrain from media censorship, allow media and independent investigation on what really happened on the crackdown on April 13. The Thai government needs more transparency and accountability to avoid being compared as similar to the military junta governing Myanmar.

Countries that do not ensure the promulgation of the rule of law tend to suffer from continuing political instability.

## **Democracy and election watch**

May 15, 2009

Liberty Institute in India has made a great initiative -- a website and discussion forum to inform the citizens of the various political parties, their platform, candidates, election staff, etc.

In the Philippines, there are also major initiatives by independent groups, like the National Movement for Free Elections (NAMFREL) which was formed during the Marcos dictatorship in the mid-80s. Since election cheating is as natural as the Sun rising tomorrow until this day, NAMFREL continues to exist. Although recently, its reputation has been tainted with favoritism of certain political parties.

Then there are also church-based initiatives like Parish Pastoral Council for Responsible Voting (PPCRV), a few others. These are grassroots political education projects to inform mainly poor voters not to sell their votes to cheating politicians, corrupt politicians, etc.

These two plus a few others maintain websites that inform citizens of their rights and responsibilities as voters.

I think that in terms of voter education, there are enough initiatives in the Philippines. Political parties also have their own initiatives to cheat or counter-cheat since election cheating is a "given" reality. So many people want to "serve the public"! If they have to cheat, if they have to kill, if they have to sell their soul to the devil -- the monopolists, the drug lords, gambling lords, prostitution lords, etc. -- they will do it, so that they can "serve the public."

What is lacking in the country are initiatives to inform citizens to be more self-reliant and responsible individuals, not wait for the State and politicians to provide most (if not everything) that they want. Free market and individual liberty organizations in the country are very few and small. The bulk of intellectuals in the country are part of the big state machinery of big taxes, big welfare promises and programs, big intervention philosophy.

Here is an update from Liberty Institute, below.

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India is holding its 15th general election to elect new members to the Lower House of national Parliament, the Lok Sabha.

- \* 715 million voters
- \* 57% turned out to cast their ballot over the five phases of polling
- \* 8070 candidates are in the fray
- \* 543 seats in the Lower House are at stake
- \* 0.84 million polling stations
- \* 4.7 million polling staff
- \* 4.7 million security personnel deployed

Polling took place in five phases beginning on April 16, and ending on May 13. The votes will be counted on May 16. This is one of the most open election ever, with very little separating the two major political blocks.

Liberty Institute has undertaken an initiative - Empowering India - to improve our understanding of the miracle of democracy in India. Please explore the unique features on [www.EmpoweringIndia.org](http://www.EmpoweringIndia.org).

Empowering India is seeking to compile information about candidates, constituencies, political parties, so that the citizens and the voters are better able to empower themselves, and participate in this political experiment making democracy meaningful.

Liberty Institute, is an independent think tank, based in New Delhi. We believe that market economics and democratic politics, are two sides of the same coin. An open and competitive market empowers the consumer by enhancing freedom of choice in the economic sphere, while a free and open democracy empowers the citizens by ensuring freedom of choice in the political sphere. Empowering India initiative is being partly supported by the Friedrich Naumann Stiftung - für die Freiheit.

Blog: <http://empoweredindiaspeaks.blogspot.com/>  
Email: < <mailto:EmpoweringIndiaMail@gmail.com> >

Websites: [www.EmpoweringIndia.org](http://www.EmpoweringIndia.org), and [www.InDefenceofLiberty.org](http://www.InDefenceofLiberty.org)

## **IMF dinosaur: let it fade away**

June 16, 2009

There is a discussion in the Center for Global Development (CGD) blog where the think tank's president, Nancy Birdsall, testified before the US House Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade last week. Ms. Birdsall argued that support for the G-20 commitments to increase lending resources at the IMF is a critical part of ensuring U.S. recovery from the economic crisis and global prosperity and security.

see the blog entry here:

June 15th, 2009

Birdsall Tells Worried House Subcommittee Why U.S. Support to IMF Makes Sense  
By Sarah Jane Staats

<http://blogs.cgdev.org/globaldevelopment/2009/06/birdsall-tells-worried-house-subcommittee-why-us-support-to-imf-makes-sense.php#comment-1393>

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While Ms. Birdsall made good arguments saying that economic instability in the rest of the world, especially the large emerging economies, will also have negative effects on the US economy and national security, her argument is still too statist: the US government should increase its contribution for the IMF's new arrangements to borrow (NAB) by an additional \$100 billion.

I think it would have been better if the US government would borrow less to finance its ever-bloated expenditures and ever-rising public debt, and learn to cut spending. This move for fiscal responsibility should send a signal to other governments, especially in poorer countries, that they too, should take on more fiscal responsibility, not to expand expenditures if local revenues (taxes, fees, privatization proceeds, etc.) are not enough, so they don't fall in ever-bigger debts that can contribute to their external account imbalances, which force them to borrow from the IMF and other multilateral institutions.

The IMF is a dinosaur that has achieved its initial goal of helping stabilize global finance especially after WW2. It is time for it to slowly fade away, not expand even bigger.

## **Child murder and the rule of law**

July 1, 2009

There is an overseas Filipino worker (OFW) named May Vecina, who has been spared from death row in Kuwait for killing a 7-year old child of her employer, also attempting to kill two other children.

VP Noli de Castro, DFA Secretary Alberto Romulo, and Ambassador Endaya fetted her, shown on media smiling, flashing a peace sign, given cash assistance and a loan to start a business. Is this the way to treat a self-confessed murderer?

While it is possible that she indeed was maltreated by her employers, killing a child is not the right way to "get even". And the RP government officials who saved her from being killed in Kuwait should have kept a low-profile action on it. But since she was helped by high-profile officials with high media value and seeking high political mileage, the uneventful thing happened.

One major reason why societies are in disarray is because the leaders of societies -- the top government officials -- do not fully promulgate the rule of law. The rule of law says no one is above the law, the law is above everything else and no one else. So when the law says killing (and stealing, kidnapping, etc.) is bad, it is punishable, and some government leaders begged for exemption to the law, then there is disrespect of the rule of law there. Granting that the parents of the child and the government of the victimized citizens have granted her pardon for humanitarian purposes, still the murderer should be demonized as a killer. Because she killed a child, not a rapist or hold-upper who was on the act of assaulting her.

I would assume that the same high level politician and government officials -- VP Noli, Sec. Romulo, Amb. Endaya, etc. -- are among the top government officials who disrespect traffic rules in this country who drive with low-number and/or diplomatic cars and with police escorts on big bikes who think that a red light is also a green light, that a one-way street is also a two-way street, that a no left turn or no U-turn street is also a left turn or U-turn street.

The lawlessness in our streets by the supposed law enforcers in government is just one indicator of the weak promulgation of the rule of law in this country. And so we may have a warped sense of justice and morality, even in the case of that child murderer.

## Capitalism and individual liberty

July 18, 2009

The profit motive in capitalism in a competitive environment is perhaps the best antidote to global poverty and large-scale personal and governmental irresponsibility.

This is because in an economic environment of level and open competition among private enterprises, individuals and corporations can only make profit if they are able to satisfy certain needs and wants of their customers and clients. If they will not take care of their customers, others will. And their previous customers will make their current competitors become richer and bigger.

In a sense, all other things being equal, the level of profitability of a company is a proxy for its usefulness to society, an indicator of its efficiency and a reward for the hard work of the people working in that company. Looking at the other side, lack of growth if not bankruptcy of a company, is a proxy for its near uselessness in society, an indicator of its wastefulness and inefficiency, and a punishment for the complacency and irresponsibility of the people working in that company. .

Without profit, not a single bus company or airline, shipping line, taxi line, restaurant, barber shop, etc. will survive and continue giving us the services that we need for our daily and long-term existence. Internet giants and big capitalist enterprises Yahoo and Google are themselves driven by profit, they give us free services like free Yahoo Mail and Gmail, free Yahoo Groups and Google Groups, free Google Maps and search engines, and still they become big, rich and successful.

Adam Smith is so correct. It is the pursuit of their own corporate interest, the search for sustained and long-term profit and other civic pursuits which are the "invisible hands" that guide those capitalist firms, big and small, like Yahoo Google and mom-and-pop stores, to provide the various needs of the public, regardless of their nationality, gender, skin color, religious and cultural belief, and geographical location.

Capitalism's hunger for profit can drive capitalists to become greedy. But since our premise is that there is a level playing field and open competition among many enterprises, so other capitalists that may be equally greedy as the incumbent players, will "invade" the market and clients of the previous capitalists by offering better services and/or lower price. The competition among capitalists provides the "invisible hand" that lead to public welfare.

Any private enterprise or non-profit organization can become arrogant and insensitive to the public if it is a monopoly or a member of the oligopoly.

Imagine how arrogant Jollibee staff and how expensive their food products will be if there are no Mcdonalds, Burger King, Mang Donald, Pizza Hut, and other competing capitalist food enterprises, big and small. Imagine how arrogant Toyota people and expensive their cars will be if there are no Honda, Kia, Ford, Hyundai, GM, BMW, Mazda, etc. which are more than willing to provide different car models to different car buyers with different transportation needs and different budget.

Imagine how expensive and arrogant Yahoo will be if there are no Google, AOL, Hotmail, Naver, etc. to provide the public with alternative free online services.

With the "anarchy" of capitalist competition, we consumers benefit. We have the option to use free internet services and live a cosmopolitan life, or to live a hermit life in the mountains, no coercion involved.

Under free market capitalism, consumers do not make any distinction or discrimination between a local and multinational company. Consumers just pursue their own self-interest – finding the best clothing design, the most user-friendly cell phone or laptop, the tastiest pasta or vegetable salad, the most sturdy running shoes, the most durable hand tractor or fishing boat engine, etc., at a particular budget that they can afford. And dozens, if not hundreds, of suppliers from different cities or countries would come to present their products even to the most inquisitive customer who can afford their price.

Instead of demonizing multinationals, we should welcome them. From Coke and Pepsi, McDo and Jollibee, Hyundai and Toyota, Samsung and Nokia, Nike and Fila, Apple and HP, etc. Multinationals expand the range of goods and services that local industries and capitalists cannot sufficiently produce. It's us consumers who effectively dictate what the producers should supply. If local producers cannot supply the things that we need both in quality, marketing and price, multinationals come in. We consumers decide whether we buy from multinationals or not. There is no coercion involved, unlike big State taxation and regulations that thrive mainly on coercion.

Poverty can be eliminated by personal responsibility, ambition and hard work, all other things being equal. A social and economic system that rewards hard work and penalizes laziness is the best antidote to mass poverty. By then, to become poor and remain poor is mainly a matter of personal choice. When a person chooses to just party everyday and work as little as possible, then it is a self-imposed poverty and governments, the UN, the WB, ADB, USAID, and other multilateral or bilateral institutions that dream of "a world without poverty" with full hypocrisy should keep out and shut up.

It is also axiomatic that in a society where individual liberty is fully assured and fully protected by the rule of law, that social inequality will increase and sharpen. Not mainly because "the poor becomes poorer", but mainly because there is nothing we can do to people who are super-ambitious, super-talented, super-efficient and super-hard worker. If a group of such guys can develop medicines that can kill AIDS virus 100 percent in just one year, the ingredients of their medicines just come from the leaves of the most common trees in a particular continent, then those guys will become super-super-rich. Even if they will bring down the price of their medicines to just 1/5 or 1/10 of the price of the most popular incumbent medicines against AIDS that can only keep the virus at bay but never really kill it.



## Rule of law and the lawless state

August 1, 2009

Three days ago, I edited the definition of “rule of law” in Wikipedia. I provided the first 3 paragraphs, below –

[http://en.wikipedia.org/wiki/Rule\\_of\\_law](http://en.wikipedia.org/wiki/Rule_of_law)

“The rule of law, also called supremacy of law, simply means that the law is above everyone and it applies to everyone. Whether governors or governed, rulers or ruled, no one is above the law, no one is exempted from the law, and no one can grant exemption to the application of the law.

Friedrich Hayek in his book “The Constitution of Liberty” (1961), wrote: “By ‘law’ we mean the general rules that apply equally to everybody... As a true law should not name any particulars, so it should especially not single out any specific persons or group of persons... the rules must apply to those who lay them down and those who apply – that is, to the government as well as the governed – and that nobody has the power to grant exceptions.”

There are two important implications for this. One, the laws should be very transparent and clearly worded so that all mature citizens would clearly understand what are strictly prohibited and the penalties associated with violating the laws. And two, the laws and prohibitions should be as few as possible. Both citizens and law enforcers can easily remember them and people can grow in freedom, in an environment of very few restrictions and prohibitions.”

I posted this entry in my facebook Notes, tagged several lawyer friends. Within hours, several comments came in. Those with facebook account can view the comments here, [http://www.facebook.com/note.php?note\\_id=127804856018&comments=](http://www.facebook.com/note.php?note_id=127804856018&comments=)

I am writing below the important comments that I got. I cannot, however, give the names of those who wrote these as I did not have time to ask permission from each of them to use their comments in this article. But what is important are the messages and arguments being made. There were actually more comments, but I will include only 5 of them here –

(a) “Hayek’s definition is one acceptable way of understanding the rule of law. However, a fuller discussion should discuss efforts to deal with Legal Realism, i.e. Critical Theories, Postmodern views, Feminist Legal Perspectives and other challenges and accommodations to what appears to be a very liberal principle. The Rule of Law is vague, complex but a useful heuristic to understand the nature of the normative world. Its definition should reflect that.”

(b) “It should be clear enough, right? Until lawyers, politicians (and philosophers) discombobulate things.”

(c) “I believe the very basic need for people to understand the “rule of law” is to instill discipline, respect and selflessness to everyone....especially in the mass base at the local level...”

(d) "There is literature on the equivalence between "Rule of Law" and Due Process. And, of course, it originated with the revolt against kings who were traditionally "above" the law, since they were The Law."

(e) "What lawmakers don't get is that their readiness to pass new laws, undermines the rule of law in general. The irony of utilizing the law for purposes of social engineering is that it actually detracts from the objective of creating a more moral society. The more laws there are, the more the public is alienated from the law.... the more the law becomes unrepresentative, and the only logical consequence of this is that more people become impelled to evade or break laws, which ultimately erodes respect for the rule of law in general."

I do not think that the concept of 'rule of law' is vague, save for those politicians who use the term as they need it for their political interests, but totally disrespect the laws when no one is watching. Rule of law's definition is very clear, categorical and explicit: The law rules above men and women, over and above their arbitrary interpretation, administration and implementation of the law. For instance, when the law says "No murder, No stealing", then no if's and but's, whether the murderer or thief is a King, a President, a priest or a beggar, the law will apply equally to all or any of them.

Hayek wrote about "equal application of the law to unequal people". When people understand and respect the rule of law, there will be peace and order in society as they perfectly know what the prohibited actions are, and the consequences for violating the law. There is very little or no allowance for arbitrary interpretation and application of the law by the judges and law enforcers because those laws are abstract and general, they were designed against no one individual or group, but are designed to apply to all, no exception.

Most laws are prohibitions: laws against pollution, against drunk driving, against smoking in public places, etc. So a tautological definition is: Rule of Law = Rule of Prohibitions.

When there are plenty of prohibitions, then there is less freedom in society. Another implication is that when there are too many laws, it will be impossible for ordinary citizens to remember them, or even fully comprehend those laws that they can remember. Thus they will need lawyers, advisers, and consultants. Lots of talent in society are diverted from actual production to personal and corporate advising on the various laws, including their revisions and amendments.

Contemplating on these things and the President's State of the Nation Address (SONA) last Monday, I can conclude that the State itself is among the biggest violators of the rule of law.

Before and after the SONA, Metro Manila's roads saw the anarchy of the State's police forces and patrol vehicles going against in-coming traffic flow, going even on red lights, making left-turns or U-turns even if such acts are clearly prohibited, parking their cars and motorcycles in areas with clear "No Parking". The State's police and patrol vehicles were busy "assisting" the many legislators, Cabinet

officials, local government officials, diplomatic officials, and other people and guests who were going to the President's SONA at the House of Representatives.

It was also very noisy as those police vehicles were saying, "We are the kings and owners of these roads! We do what we want, the loudness of our sirens are directly proportional to our power and lawlessness."

And to the legislators, Hayek also said something like "not all products of the Legislature can be considered as 'laws' in the sense of abstract and generalized commands that targets no one or any group in particular." For instance, those laws giving subsidies or entitlements to some groups are not real laws because they are focused on a particular group or sector. They are commands, not laws. Laws should not make any exemption, and no one can grant exemption. If legislators give subsidies to some sectors but not to other sectors, then there is arbitrary granting of favor for some while exempting from such favor other sectors or group of people. They are commands, not laws.

Commands and lawlessness. We hear and see them everyday in our streets and in the various regulations and prohibitions that average citizens are being subjected to.