

Power and violence

COMMENTARY

Christopher Ryan Maboloc

meaning of freedom. For instance, monuments of capitalism like malls serve as new modes of confinement for those who struggle to find lasting contentment in life. Rising costs of tuition in the country's best schools exclude those who are born unfortunate in the natural lottery. Red tape in the bureaucracy makes people confused like psychiatric patients.

The good life that each one of us desires for ourselves is not without some price to pay. Even in our noble intent for true happiness, there are those people who are forced by circumstance to sacrifice themselves. Consider those people in the margins of society who toil in the harshest of conditions so that you may be able to enjoy a cup of coffee in the coziest corner of a café. Indeed, the noise of the busy city streets or the melody you hear from your latest gadget puts into silence the narrative of a hard life that those in the peripheries of society will have to contend with.

Human history is not only about the history of the heroes of wars. History is also about the history of the victims of oppression. Violence is most felt in the exploitation of the poor farmer, in the discrimination of homosexuals, in the abuse of children, in the stigmatization of the intellectually challenged, and in the subjugation of women. Sometimes, there is truth to the claim that justice is no more than a tool designed by our oppressors in order to perpetuate the silence of the powerless. While rules are meant to emphasize order and systematization, any observant mind can

easily say that bureaucratic procedures have not really improved the lives of people, most especially if those who are in positions of power and authority play god.

The discourse in Philippine politics today reveals a divided world. Such indicates the lack of cohesion in our society. Millions of Filipinos have not enjoyed the promise that politics is supposed to deliver. Real democracy can only thrive in the recognition of the value of every single voice outside the halls of Congress. Perhaps, we have not matured as a people.

Without tolerance, there can only be chaos. Forcing homogeneity in the world such as ours will only bring about more confusion than clarity. It is this search for an absolute totality that has comfortably designated some things, including people, as great and small. The real danger in a ruler who seeks homogeneity and absolute obedience among his subjects is that he can easily reduce them into automatons, into people who are no longer aware of a distinct identity and historicity. Freedom can only have its real value and meaning in the recognition of the differences in the lives that people have.

What I intend to say is this: The real danger in the future is a world where people behave like mindless and “docile bodies,” totally dominated by technology and oblivious to the truth of human history. Indeed, if one believes in the idea that “we should give to Caesar what is to Caesar, and to God what is to God,” what, in the end, would be left for the stranger, the widow, or the orphan?

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COMMENTARY

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At present, there is much techno-hype and much techno-phobia when it comes to robots and automation. And we still need to work out many practicalities on either side of that divide. For example, there are sweeping visions of a world of autonomous, driverless cars.

If you have ever been stuck in traffic for hours or travelled long distances, that sounds like a great idea. Until you read reports that, freed from the steering wheel and a strict forward orientation inside the car, drivers and passengers may experience motion sickness. Or until you hear about the vexingly complex implications for the insurance industry.

But creating more flexibility, and potentially value, for customers and drivers alike does not yet herald a world of new wealth. Some of the smartest thinkers in the field—and long-time techno-optimists—now worry that the basic promise of creating “more wealth with less labor” does have a negative impact on employment.

The best evidence we have collected so far points to negative employment effect for low-skilled and also some middle-skilled workers. However, Oxford University researchers forecast that, within 20 years, as many as half of all jobs could be affected. This includes job categories that are widely considered to require high skill levels. To guide policymaking, we will clearly need to track these developments carefully.

Change is always unnerving. And while the precise shape of the future is uncertain, we know about some key shifts. Lifelong employment by one firm and even formal employment contracts will become rarer than they were over the past three quarters of a century (at least in developed countries).

More “informality” in work arrangements—long considered a phenomenon mostly affecting developing countries—is also taking hold in developed

countries. It is, in fact, becoming a great leveler globally.

A future marked by less formal work relationships undoes a core feature that many people in rich countries have taken for granted. This trend also runs counter to what many people in developing economies are very much striving for.

The net effect of this global trend is that, on balance, the risks associated with work are transferred more to individuals. That is no news whatsoever to many societies and the overwhelming part of the world population, especially in the developing world. There are places that rarely ever had any dependable labor protections or social safety nets to begin with.

Here then is the key conundrum: To a considerable degree, the “new economy” gives people what they have asked for. There are fewer hierarchies, more flexibility and more goal orientation. The ability to act in a more entrepreneurial fashion is in demand, as is a compensation model based on results, not just on time put in.

The positives and negatives of the changing workforce and workplace will need to be balanced carefully and smartly. We should be confident in tackling that task. After all, the world's economies have grappled with far larger changes—and the social stresses and disruptions they have brought—in the past.

One need only look back a century and a quarter ago to find extensive public fretting—from literature and philosophy to political speeches—about what the advent of widespread industrialization, mechanization and electrification might mean for society.

The transformations of past eras—particularly the move of many millions of people from the fields to the cities—were indeed earth-shaking. But the result was dramatically improved standards of living and wider prosperity. And society adjusted to a “new normal” and life became better than it had been for the millions living on the brink of famine.

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Still no PNP chief, no Comelec chair

TWO OF the most critical and sensitive institutions of government in the conduct of elections are the Philippine National Police and the Commission on Elections. The coming 2016 presidential election is shaping up as one of the most important electoral contests in years. The results of this election shall determine whether we move forward or we fall back to the dark ages as the “sick man of Asia.”

Unfortunately, as we approach this election, the two agencies remain without stable leadership and in the minds of many of our people, ill-prepared to perform the tasks required of them.

For almost half a year now, the PNP has been without a chief, either permanent or one serving in an acting capacity. Deputy Director General Leonardo Espina, who was appointed as PNP officer in charge in 2014, continues to serve as OIC and is due to retire in July. If he were good enough to be retained in this post for such a length of time, perhaps it is only fair that he should be allowed to serve even in an acting capacity, if only to maintain morale in an organization that for some time now has been headless, without a sense of direction and with little esprit de corps. How can the men look up to their chief knowing that the commander in chief himself does not appear to appreciate his leadership qualities enough to designate him in a more permanent capacity than officer in charge?

Another vacancy that cries out for filling up is the chair of the Comelec. With the filing of certificates of candidacy only a few months away, it is important that the commission is properly and fully constituted so as not to overload the members with work that is expected in the coming months. The more time we allow the commission members to orient themselves in their new jobs, the better prepared they will be, come elections.

All sorts of reasons are being bandied about for the delays in making the necessary appointments. But instead of instilling a sense of confidence, the delays only give rise to suspicions of some dark agenda.

Let us not wait until the last two minutes to put things in place. This is not a basketball game. This contest involves the life and the continuing progress of our nation. The earlier we act, the more satisfying and rewarding will be the results.

Unlike in the two positions mentioned earlier, President Aquino took immediate action on the vacancy that was created at the Bureau of Customs with the departure of Commissioner John Philip Sevilla. There was no need to designate an officer in charge for transition purposes.

In accepting the resignation of Sevilla as Customs commissioner, Finance Secretary Cesar Purisima issued the following statement:

“The numbers do not lie: As head of the Customs reform team, he (Sevilla) has helped grow the Bureau's collection by 21% year on year, in 2014 versus 5% in the pre-reform period, transformed Customs to be one of the most radically open and transparent agencies in government, has made government regulations more efficient for doing business in the country, and has taken great strides to thwart graft, technical and outright smuggling by filing cases, alert orders and seizures against erring importers, brokers and officials. The Bureau of Customs is the most improved national government agency in terms of revenue collection last year, thanks in no small part to the person who led it.”

With such effusive and profuse praise for the man, one wonders why the government had to let go of such a hard-working and effective administrator at a time when we should be encouraging our young people to serve their country in positions of responsibility in government.

Purisima added in his statement: “I think unleashing transformative reform in the Bureau of Customs will remain to be one of the pinnacles of his legacy in government.” Of course, it is important to keep in mind that reforms require time and a stable environment in which to prosper and grow.

A “balikbayan” returns to head the bureau. Ten years after serving briefly as Customs chief in 2005, Alberto Lina is once again back in the saddle at the waterfront.

One of the most successful entrepreneurs of the country, Lina built his Lina Group of Companies (LGC) from scratch, turning it into an 18-company conglomerate of diversified interests that is a leader in today's cargo-handling and logistics industry.

While in the tedious process of divestment as required by law and with barely over a year left in the present administration, Lina may have very little time remaining for him to carry out his programs for an agency that continues to remain engulfed in controversy and dispute. But as Lina himself explains, it is time to serve his country, which is as good a reason as any to accept one of the most difficult positions to handle in government. Unfortunately as he steps into the job, he is immediately embroiled in legal entanglements with staff members.

As I have mentioned in the past, Customs has basically two main functions: First is to collect revenues for the government. In fact, it is the second largest revenue collecting office after the Bureau of Internal Revenue. Second, to combat all forms of smuggling operations involving goods, arms and illegal drugs. All other activities are subordinate to or in support of these two primary duties.

If you cannot meet your targets on a fairly regular basis, you ought to be able to keep smuggling at tolerable levels. If you fail to curb smuggling, then you ought to be able to meet revenue goals more consistently. If you fail on both counts, your days are numbered.

The environment in the bureau continues to be “personality-oriented and patronage-driven.” The situation will not change overnight and the leader must be able to operate and deliver under these conditions and challenging restraints.

We wish Lina good health and clarity of mind in a job that will certainly tax his wellbeing, shake his equilibrium, and test his leadership skills.

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AN ANALYSIS of the prevailing social pathologies in Philippine society only maps the surfaces of the reality of violence. Pictures of people in despair, broken lives and shattered homes, or bodies of fallen men, bring into the fold the markings of various power struggles. Without a doubt, as the dust of war settles down, some will be enshrined as heroes and there are those who will go down in history carrying the vile of hatred.

However, there is often a failure on our part to realize why social conflicts emerge. More often than not, we point to unenlightened self-interest as the root cause of all wickedness in the world. Whenever we question the reality of evil, we point to human fallibility or to the very finitude of man, for man's imperfection means his existence is tied to sin, guilt and remorse. But such is no more than moral individualism. What it fails to show is how dominant practices, systems and discourses in society, for instance, control the play of power.

Consider the case of Mary Jane Veloso, a Filipino domestic helper who has been meted the death penalty in Indonesia. While human civilization indeed has come a long way in the casuistry inherent in the discourse on power and justice, the ideal of a world, where respect for the human being as person is the standard norm of morality, is still a thousand years away. In the dynamics of international politics, our country has remained powerless and carries not a single leverage to depend on against its neighbors. Its harsh impact is most felt in the pain and horror that this poor domestic helper and her family, including her young children, are going through.

The dominant structures we find in social institutions, including the state, the Church, the academe and the hierarchical relations in the family and our communities continue to deprive the poor, the hungry and the voiceless of the real

The big tradeoff in the world of labor

MANY PEOPLE dream of becoming less chained to their workplace. Their vision is to become freer in managing their various tasks throughout the day. They especially want to be able to better blend work and leisure. Others dream of no longer having to do monotonous, highly repetitive tasks.

That world is getting ever closer to becoming reality. Even so, instead of feeling freed from past shackles, there is great nervousness all around. The questions anxiously raised now are: Will we run out of work? More specifically, will there be a job for me in the future?

Remarkably, these worries actually unite much of the world, developed and developing. After all, this is a time when the focus even in China's manufacturing sector is on installing massive amounts of industrial robots. Part of the reason is that the size of China's labor force—long the source of existential worries in the Western world about assembly jobs being shipped to China—has peaked.

If anyone needed a wake-up call about how much the world as we know it is changing, consider this: China betting its future on robots is certainly about the starkest signal imaginable.

Labor market pressures are also felt elsewhere. In India, soon to be the world's most populous nation, over 10 million new jobs are needed each year—just to find employment for new labor market entrants.

And worldwide, university graduates—whether in “rich” or developing countries—find that their academic degree alone is no guarantee for getting a job.

Meanwhile, robots don't threaten just assembly-line jobs in the manufacturing sector. So-called service robots and computerization are bound to take a toll on a range of occupations—from airline pilots and truck drivers to surgeons and cooks.

Even the military, long a source of steady employment for young men across all skills levels, from frontline ground troops to fighter pilots, is changing. It has begun to rely much more on robots, from unmanned fighter vehicles and aircraft to cyber-defenses and bomb defusing rovers.

Junjun Binay's lawyers ask SC to rewrite constitutional law

MUCH DRAMA followed the second Supreme Court hearing regarding Makati Mayor Junjun Binay last April 22. Renowned former justice Vicente V. Mendoza disapproved of Chief Justice Maria Lourdes Sereno's scolding of Binay's lawyers for invoking the “condonation” doctrine memorialized as gospel in law schools. Former chief justice Artemio Panganiban scolded Sen. Sonny Trillanes for accusing without evidence Court of Appeals justices of favoring Binay. Four high court justices inhibited themselves without explanation.

Acting Solicitor General Florin Hilbay presented a simple argument: The Court of Appeals' temporary restraining order against the Ombudsman's preventive suspension of Binay, pursuant to its investigation of an allegedly overpriced parking building, is invalid because the Ombudsman Act prohibits TROs that would delay an Ombudsman investigation. The Court of Appeals' jurisdiction is set by and may be further limited by law.

Binay's lawyers countered with the convoluted theory that a TRO is a matter of court procedure and the high court has sole power over procedure. They invoked the Supreme Court's so-called “rulemaking” power.

This power emerged only after a selective reading of the Constitution's Article VIII, Section 5(5) in 2007, the one invoked by then Chief Justice Reyna Puno to issue protective writs against extrajudicial killing. Few challenged its tenuous foundations then, given Puno's stature and government inaction on extrajudicial killing. Then INQUIRER columnist (now publisher) Raul Pangalangan was one of the few, questioning Puno's circular to judges to impose fines over jail terms in libel cases, which in effect changed the penal code without an amending law.

In contrast, Hilbay's position is traced all the way to the 1803 Marbury decision, the great grandfather of US decisions on judicial power. It nullified the US Judiciary Act of 1789, reiterating that Congress has the power to set lower court jurisdiction but not the high court's.

Taking this rulemaking power too far—such as to nullify the Ombudsman Act—is dangerous because such would allow unelected judges to

SISYPHUS' LAMENT

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exercise judicial power even if there is no case before them to decide. Binay's lawyers' radical position thus demands a complete rewrite of our separation of powers.

Senior Associate Justice Antonio Carpio caught on and asked why the existing law prohibiting TROs against national infrastructure projects would not end up unconstitutional. Justice Marvic Leonen added that judicial power in the Constitution is subject to the explicit line in the Constitution that lower court jurisdiction is set by law. Hilbay previously summed up that Congress can prevent a lower court from exercising judicial power by abolishing it, so arguing inherent power makes no sense.

Binay's lawyers also strangely argued that the case was solely about the TRO's validity, and it would be improper for the high court to revisit the “condonation” doctrine before a full appeal from a Court of Appeals decision. Sereno confronted this, reiterating that the high court may review any aspect of a case to decide it. Leonen argued that Binay's lawyers assail the Ombudsman for going to the high court without moving for reconsideration from the Court of Appeals, yet Binay's lawyers likewise went to that court without moving for reconsideration from the Ombudsman, thus both sides should not nitpick over procedure given their own violations.

Multiple justices discussed the “condonation” doctrine from a 1959 high court decision that administrative (but not criminal) cases regarding an elected official's previous term may not be brought against him if he was reelected, because the electorate is deemed to have condoned these. Carpio laid the context that it is the first time this doctrine was questioned after the 1987 Constitu-

tion created the Ombudsman and reinforced principles of accountability.

Sereno's questioning lasted almost an hour, used unprecedented language such as “you have to face your own conscience,” and harshly implied that a lawyer who invokes the condonation doctrine lacks integrity. She raised strong points such as how 17 US states have abandoned condonation. Still, Binay's lawyers made their best points against Sereno, noting “bad precedent is still precedent” and fairness demands that any change in the doctrine should be applied to future cases and not to Binay.

Carpio laid a clever intellectual trap, positing that condonation in the executive branch is done only by the president as part of his power to pardon, and no one may delegate the power to pardon, not even to a city's voters. Binay's lawyers failed to counter that voters are the source of sovereignty, not delegates. Justice Lucas Bersamin reiterated that condonation should be a matter of defense, not raised during preventive suspension.

Binay's lawyers reiterated how the Court of Appeals found Binay's suspension ordered with undue haste. Sereno asked Binay's lawyers to explicitly confirm if they agreed that the Ombudsman and the justices could read voluminous evidence in a short time. Bersamin stressed that the Ombudsman, who formerly chaired his high court division, was a fast reader.

Justices beyond Sereno voiced displeasure. Leonen pointedly asked why Binay had not cared to appear in person. Carpio admonished that “you are twisting our decisions” after Binay's lawyers summarized a line of cases on suspensions.

Binay's lawyers seemed to falter with ill-advised, radical theories. Perhaps they should have stuck with more conventional arguments that some TROs do not delay an Ombudsman investigation and are allowed under the Ombudsman law, or that the condonation doctrine already absolved Binay even if the high court changes the doctrine.

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