

# An Ode to Re-Dimensioning: Philippine Institutions and Governance

EDNA E. A. CO  
NELSON G. CAINGHOG  
RUBEN JEFFREY A. ASUNCION

## **Background**

The Aquino administration has come under significant political pressure recently. This has tested the dynamics and the relations of the three branches of government—the executive, the legislative, and the judiciary—the institutions of governance. The administration of the budget, the power to decide over fiscal savings, and discretion over the use of funds tagged as priority by the administration were at the center of the institutional and public discourse. Similarly put to public scrutiny was the platform and mechanism for peace and development designed for the southern part of the country. Questions were raised by some quarters relating to the architecture of governance of the proposed changes and its consistency with the 1987 Philippine Constitution.

These burning issues compelled the Center for Integrative and Development Studies (CIDS) of the University of the Philippines to organize a soul-searching exercise in the manner that the university knows best: a series of no-holds-barred round table discussion among men and women of wisdom, most of whom had served in the public sector and who stand above particular interests. The CIDS

hopes that such an exercise, conducted with sobriety and balance, will contribute to move this country from the apparent impasse it finds itself on these questions. The discussions engaged academics and members of civil society groups, constitutionalists, former legislators, a former ombudsman, former members of the cabinet, former local officials, and civic leaders.

The discussions adopted the Chatham House Rule, which meant that key resource persons were asked to speak as individuals expressing their own opinions and not necessarily speaking for their organizations. No attribution of ideas to the persons who expressed them was allowed. The rule facilitated free discussion, having in mind mainly the resource persons' thoughts and aspirations as Filipinos and as thoughtful citizens.

This modest narrative is the product of such shared thoughts and discernment in a series of discussions held on 4, 11, and 18 September 2014 at the UP Executive House in Diliman, Quezon City. The discussions were on strengthening the country's institutions of governance.

### **A Framework**

Institutions, policy direction, and leadership are three important themes emerging from the three round table discussions. Clarifying the inter-related concepts provides a frame of reference in interpreting the shared thoughts of discussants on re-dimensioning Philippine institutions and governance. "A level playing field!" is the core message of Jose Almonte, former chief of the Philippine National Security Council, in his work *To Keep Our House in Order, We Must Level the Playing Field* (2007), an afterthought of his stint in public service. A nation that has unsteady growth and which cannot even be described as prosperous has also a stubborn and high level of poverty. Poverty is so steep and massive that economic growth has hardly overturned the equation in favor of those below the growth and prosperity bar. The way of the future for the Philippines, according to Almonte, is to level the playing field. Almonte attributes the uneven level of the playing field to persistent elite control—not just because of the existence of an economic elite but also because of the non-inclusiveness of institutions. The dilemma is also attributed to the lack of a national direction that is strategic, and to an apparent non-cognizance of the

developments around the region and the world thereby making the Philippines less mindful of competitiveness and how it wants to play its role across the region and the globe.

Acemoglu and Robinson (2013) recognize the factors that cause diverse countries in Asia, Africa, Latin America, and parts of the Middle East to fail. This failure is due to extractive institutions that “keep poor countries poor and prevent them from embarking on a path to economic growth” (Acemoglu and Robinson 2013, 398). Although there are notable differences among these countries in histories, cultures, social structures, and languages, and although poverty varies in intensity, Acemoglu and Robinson vividly dissect the cases across these continents and ascribe poverty to extractive and failed institutions.

The Almonte and the Acemoglu and Robinson theses pose challenges to a string of related factors that are crucial to move a nation forward: *institutions, policy direction, and leadership*.

In the historical account of modern public administration, *Twenty First Century United States Governance: Statecraft as Reform Craft and the Peculiar Governing Paradox it Perpetuates*, the scholar Richard Stillman II (2003) makes a narrative on state, public institution, institution-seeking behavior, and the demands of modern history in the West. Stillman highlights an American history characterized by an initial abhorrence for state bureaucratic power and centralized authority partly on account that the United States went through traumatic periods of strong state authority stigmatized by massive corruption of institutions in Europe. This was one reason that some of them fled from Europe and established the new land of freedom called the Americas. The trauma from abuse of state power in Europe caused some people to shun their belief in strong state authority and instead turn to individual liberty and civicism. Over time, however, America realized that bureaucracy and government were inevitable elements of putting system and order in society especially under a growing and complicated development in the realm of public service and processes. From there the incremental recognition of state functions and institutions grew into the United States system eventually crafting the American Constitution, albeit still strongly nurturing individual freedoms and civil liberties, values that are occasionally manifested in anti-statist postures.

The Philippines adopts an American philosophy and system, almost behaving like a copycat of its old colonial regime. Additionally, Philippine laws also carry vestiges of Spanish legal doctrine that are outdated or are incompatible with the distinct character, including indigeneity, of Filipino ways, values, and culture which often operate around customary laws and tradition. Having said all these, it is not surprising that Philippine institutions, policies, and leadership mold are caught in bewilderment. Conflicting or incoherent institutional behavior and policies result

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in an impasse that contributes to a retardation of institutions and policies. In some cases, the impasse brings about a never-ending discourse with no resolution in sight.

While wisdom identifies the crux of the problems surrounding institutions and governance, the search for solutions is a continuing national endeavor. Consensus building in the search for a

solution is itself a tough challenge to Philippine democracy.

It is wise and imperative that as institutions, policies, and leadership in the Philippines are reviewed, the exercise of re-thinking also revisits the essence of democracy, and particularly of the 1987 Philippine Constitution. Social justice is at the core of the 1987 Constitution. And social justice probably sets apart the Philippine constitution from that of the United States or of other countries. Social justice might as well be the main barometer by which Philippine institutions, including the courts, will have to weigh their decisions and judicial reviews. No one more succinctly articulates the essence of the 1987 Constitution than Christian Monsod does. For Monsod, social justice has a special place in the Philippine Constitution and he wonders why legal scholars, including Supreme Court justices, “shoehorn our concept of social justice into American standards and jurisprudence...” (Monsod 2014). Social justice is not just about equality (or getting closer to equality) in terms of incomes; it is more about adjustment in starting position and equality in opportunities. In the case of the Philippines, the long colonial history and inequality have brought about the wide gap

between rich and poor, and which therefore requires an adjustment in starting position before there could even be competitiveness. Thus, policies should be able to mirror such opportunities, and those who may formulate laws and policies and interpret the same must not miss the spirit of the Constitution namely, social justice.

This synopsis of the discussion series subscribes to a framework that puts premium on inclusive institutions, or what Acemoglu and Robinson describe as non-extractive institutions with goals of inclusiveness, a level playing field, and social justice. While inclusiveness, social justice, and a level playing field are the end goals of society, these are sustained by processes that are cognizant of Filipino culture, the values of which are to be embedded in the institutions making these processes adaptive and responsive to the changing realities and competition of the external environment. In the words of Neon and Cheng (2007), the strategies will require a constant and dynamic process of “thinking again,” “thinking ahead,” and “thinking across.” Thinking again means regular review and discernment, thinking ahead refers to strategic thinking beyond the horizon, and thinking across is the ability to see the challenges of dynamism and competitiveness that surround Philippine society. The round table discussion series by the CIDS is an exercise in thinking again.

### **Shared Thoughts from Three Round Table Discussions**

A number of key points emerged from among the principal informants and key experts during the three round table discussions. The major themes of the collective views pertain to the weak performance of political institutions and the underlying factors; and, the suggested reforms and expectations for the future.

#### **Institutional Performance and Underlying Factors**

1. Philippine institutions suffer an unstable development, often having had more misses than hits. The palliative solutions from administration after administration do not augur well for long-term solutions to governance in general. Quick fixes match with self-serving interests.
2. Institutions have had long years of poor performance and weak coordination such that one cannot say good performance is sustainable and institutions

tend to slide down rather than move upward. For institutions to be effective and reasonably functional, leadership of these institutions is crucial.

3. The poor performance of institutions is attributed to the low quality of elected officials who are on top of the hiring or the appointment of equally incompetent people.
4. The quality of elected officials is a product of the poor electoral choices and an electoral system that thwarts people's choices at varying levels and means. The poor choice of leaders by the electorate cannot be overstated. The country needs an educated electorate as well as a good and competent line up of leaders who have moral ascendancy and integrity.
5. The poor choice of leaders determines the quality of our government. Choosing leaders demand moral virtue, primarily one of courage.
6. Competing powers have effectively fragmented institutions and have not necessarily been exercised for the maintenance of institutional integrity. The ultimate purpose of the separation of powers is not the exercise of autonomous power per se but the insulation of decisions to ensure integrity, professionalism, and space for discernment.
7. The resolve of institutional functioning is the attainment of the collective goals of the nation, and this means that in the end, while there is separation of powers and distinctness in the responsibilities of the three branches of government, the common end of the three branches and of the state is the promotion of the commons—the promotion of public services, of social justice, and of prosperity across the board. In the end, the Filipino way is to reach out, converse, and converge rather than to move independently of each other, to seek consensus and to achieve the collective good.
8. It is a welcome idea to reconsider the architecture of our governance and institutions by starting to ponder on a system so that institutions could work in unity of purpose rather than being fragmented, and for the nation to achieve harmonious institutions that will promote the collective national goals rather than institutions that compete with each other. However, no matter the form or system of governance, the promotion of social justice is necessary in a society such as the Philippines. Blended institutions refer to institutions

that function and operate in supplementary to each other and they harmonize precisely because there are common goals to attain. For the longest time the Philippine institutions have been acting in disarray rather than in unity.

9. If there is harmony between the executive and the legislative to work on economic policies and thereby address poverty, then many of our poor people will benefit from the system.

#### Envisioned Reform and Aspirations

1. The journey to the virtues of courage and vision is not quick and may take generations, but courage and vision beyond the horizon are key to governance as a collective responsibility of society. Collaboration enhances performance and gains support of stakeholders. The journey involves not only a change in the landscape of governance but also character formation.
2. Choice of officials ought to be based on merit, competency and integrity—but these have not clearly been the bases of choice of leaders, which explains why decisions are messed up. Institutions tend to compete or overreach their powers over others, such as the executive branch overpowering the legislative or the judiciary overpowering the executive, and so on.
3. Sometimes there are failures or weaknesses of institutions and administrations; however, the weakness of an administration is not the failure of democracy. Democracy is an aspiration in a continuum which Filipinos as a freedom-loving people pursue. In the context of this discourse, democracy is briefly defined as the pursuit of effective functioning of institutions cognizant of and embracing their infirmities, which we all work at to correct or strengthen. If needed, debate and discourse should be encouraged because these are part of democracy, and debate is good for a vibrant democracy. If needed, we may be open to reconsider the architecture of institutions, such as switching to a parliamentary system.
4. In more operative terms, institutions call for defining, formulating, and enforcing key policies relative to the promotion of social justice and growth. These policies include asset reforms (in agriculture, industry, and the

manufacturing sector, among others, which have been sorely neglected). If only the Philippines looks across the horizon or beyond its parochial and immediate concerns, it will realize that significant policies have to be adopted and pursued with vigor first, to provide opportunities for human development and secondly, to become competitive and to make some headway as a nation.

5. On the policy front, the legislature plays an important role—its commitment and competency are imperative if it is to design policies that are responsive to social justice and growth. There are gaps between the functional goals of the legislature on the one hand and its performance in framing policies.
6. The American-style separation of powers of the three branches of government has brought us to a gridlock in policy and decision making. If this is unhealthy, we should be open to consider a switch to a system that will bring coherence to the goals of our institutions rather than result to extreme tripartism of our institutions.
7. Concerns of majoritarianism are raised in a tripartite system where a 14-member Supreme Court can override decisions by publicly elected officials. Such a set up compels a review of the tripartite system in what appears to be a model of the American Constitution that reflects little of the Filipino imprint on our institutions and policies.
8. The harmony of our institutions may better achieve efficiency and avoid adversarial approaches. The partisanship is highlighted by extreme tripartism rather than the search for the nuances beyond legalism to find reasoned responses and solutions. Non-lawyers' perspectives and inputs will be valuable here.
9. Domination of the institutions and the system by dynasties, whether political or economic, complicates democracy as domination by a few diminishes the power of shared decision making for better access to services and resources.
10. Accountability of those in public offices, including but not limited to the legislature, is a mantra that should be observed beyond elections and the choice of leaders. Accountability is the bridge that should open the black box of public office to the public.



11. Designing institutions with milestones and defining benchmarks of performance in governance are necessary features of an operational guide to enforce accountability in institutions.
12. The need for reasonable choices in leaders and the education of the electorate constantly resonated throughout the discussions.

In summary, discussants aspire for a core spirit that defines the character of Philippine institutions and governance. The spirit of institutional change and responsive governance is the promotion of growth that is inclusive of the majority and the poor. This framework converges with the essence of social justice. Moreover, institutional change and governance finds the spirit, or the “*chi*” of reform anchored on integrity, moral character, and decency in service.

Having laid out such a backdrop, importance is given to finding the harmony of institutions, unity in direction and goals as a nation, harmonizing goals with strategies, and defining policies that are in accord with the spirit of social justice for inclusive development of those who lie on the margins.

Long-term strategies call for leaders of institutions who have the competency and integrity, and who inspire the functioning of institutions to achieve a robust and stable growth. The stability of growth rests upon functioning institutions whose drivers are leaders of competency and integrity.

### **Moving Forward and Facing the Challenges**

The way forward calls for some strategic solutions.

Firstly, there is a call to explore the strengthening of institutions by harmonizing their goals rather than by letting them clash, and by looking beyond legalism and technicism to seek reasoned solutions. A mixed group of individuals—competent, patriotic, and with diverse (technical and professional) backgrounds—may come together as a study group to re-examine the architecture of institutional governance and come up with some preliminary proposals that will start a consensual discussion. The country should seriously consider a rethinking on the architecture and form of governance.

Secondly, a massive and continuous education on the selection of leaders, whether at national or local levels; using ongoing scorecards, benchmarks, and criteria for selection of leaders already developed by various groups may be processed, put together, and subjected to further consensus so that these may be shared and cascaded to various sectors, including the grassroots. An electorate education has long been resonated, but in fact a massive and systematic campaign has not been done. In this connection the recommendation earlier raised should include a review of the criteria for the selection of elected as well as appointed leaders and officials in public office. Citizen education is crucial to turn our society around.

Thirdly, competency building among leaders, whether elected or not, is obviously called for. This should be a collective task of the country's professional, academic, and training institutions. The private sector should support such a project as individuals in this sector have excellent skills in management, professionalism, and goal setting by virtue of their wisdom and track record.

Fourthly, policies—especially those in agriculture, manufacturing, and industry—should be prioritized both in the legislature and in the executive branches. These policy areas are strategically important, and if policies are to be inclusive, these have to look at the direction of investment in asset reforms which have been underperforming for a long time.

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