

Chapter 17

Achieving Judicial Goals

the Rotary Way^{*}

This is my first major policy address before a private organization after assuming the stewardship of the Judicial Department of our government forty-two days ago on December 21, 2005.

Since then, there have been occasions when I delivered some remarks, as when I gave a statement to the media right after my oath-taking, and when I delivered extemporaneous talks during a number of testimonials. Tonight, however, marks the first time for me to speak formally and at some length about my overall program as the 21st Chief Justice of our country. Why did I choose the Rotary Club of Manila as the venue of my initial policy speech? It was because Rotary had initiated me into the government.

Let me explain. I vividly remember that on June 17, 1992, then President-elect Fidel V. Ramos, a member of Manila Rotary, offered me a Cabinet post as secretary of justice in his new government. While profuse with appreciation for his kind offer, I explained that I was not worthy of his generosity, because I had not campaigned for him during his presidential bid. I added that the members of his Cabinet should be those who belonged to his political circle.

He warmly replied that my noninvolvement in his presidential campaign was immaterial. What mattered was that he believed I was capable of helping him and our country. He said emphatically and most assuredly that he had observed me closely during my Rotary presidency in 1990-1991. He repeatedly recalled our private conversations during several Rotary meetings about the role of law in bringing about

good government.

Although he heeded my desire not to be recruited into the political arm of government, he eventually offered me an associate justiceship in our highest court, an offer I could not resist.^[1] My rather difficult journey to enter the Supreme Court is quite another story. My point is that, perhaps, I could not have become Chief Justice in 2005, were it not for my appointment as associate justice in 1995; and I would not have reached the Court at all, were it not for my association with then Gen. Fidel V. Ramos in the Rotary Club of Manila. Indeed, our Rotary activities gave him a wide window to assess my capability to render public service.

May I add very quickly that President Ramos has not asked me any favor for himself, his family, or his political goals -- not even for his administration. He absolutely respected my independence and integrity as a member of our highest court.

A Morally Courageous Judiciary

My fellow Rotarians, let me begin my address tonight by declaring my pledge to lead a judiciary characterized by four ***Ins***: **integrity**, **independence**, **industry** and **intelligence**. I envision a judiciary that is morally courageous to stand its ground against the onslaughts of **influence**, **interference**, **insolence**, and **indifference**; a judiciary that does not allow the plague of “ships” -- **kinship**, **relationship**, **friendship** and **fellowship** -- to interfere in its work and actions.

Lawyers for Truth and Justice

On the other hand, the legal profession -- the vineyard from which our judges

are picked -- must be peopled with noble men and women who -- in addition to being able to provide “quality, ethical, accessible and cost-effective legal service,” as required by Chief Justice Hilario G. Davide Jr. -- are also responsible, dependable and morally upright.

My vision, therefore, is of a corps of legal professionals who owe utmost fidelity to the ends of truth and justice above everything else, including their clients’ causes and interests. The legal profession’s renaissance should see the emergence of a new crop of ethical lawyers -- willing and able to stand for their convictions against all odds; to carry on in spite of seemingly insurmountable opposition; and to be beacons for the weak, the oppressed and the disadvantaged.

Safeguarding Liberty and Nurturing Prosperity

I realize, however, that the twin desiderata of a *reformed judiciary* and a *revitalized legal profession* must be directed towards much loftier objectives. In the grander scheme of things, these objectives are to **safeguard the people’s liberty** and to **nurture their prosperity**, while upholding the rule of law and the independence of the judiciary. Upon these standards, I anchor my incumbency and stake my chief justiceship.

Exercising Judicial Review to Level the Playing Field

In exercising the power of judicial review -- or the authority to pass upon the constitutional validity of the acts of the other departments of government in proper cases -- my personal judgment will be, as it always has been, guided by two

standards of judicial policy, as follows:

1. In cases involving civil liberties, the scales should weigh heavily in favor of the people, especially the poor, the oppressed, the marginalized, the dispossessed, and the weak.

2. In conflicts affecting prosperity and development, deference must be accorded to the political branches of government; namely, the Presidency and Congress.

Allow me to explain briefly these twin standards.

Protecting the Liberty of the Poor and the Powerless

Springing from our people's struggle for respect of human dignity, our 1987 Constitution mandates the protection of civil liberties, especially of the poor and marginalized.^[2] The Bill of Rights spells out, in great detail and with crystal clarity, this fundamental principle: when pitted against the enormous powers of the State and of governmental institutions, individual liberties must be fully safeguarded. Every court has the duty to provide the weak and the defenseless the vigilant protection they deserve.^[3] As the late President Ramon Magsaysay once said, those with less in life should have more in law.

Our Constitution is so protective of human rights that it even armed the Supreme Court with quasi-legislative powers to “[p]romulgate rules concerning the protection and enforcement of constitutional rights x x x.”^[4]

A Becoming Deference to

Political Determinations

On the other hand, I believe that courts must be deferential to the political departments of government with respect to economic and social issues as well as policy determinations. In my book *Leveling the Playing Field* (2004),^[5] I underscored the balancing role of the judiciary in our government:

“The Supreme Court safeguards not only food but also freedom; not only jobs but also justice; not only indulgences but also integrity; not only development but also democracy; not only prosperity but also peace.”

As a rule, the Supreme Court respects the actions of the other two departments of government. In case of doubt, it always upholds the constitutionality of legislative and executive acts and gives the benefit of the doubt to Congress and the President.^[6] This stance is evident particularly in cases dealing with economic policies, which are within the authority and competence of the Executive and the Legislative Departments. In their task of nurturing prosperity, therefore, courts must give reasonable leeway to the political departments of the government and must respect the *wisdom* of their actions.

Addressing ACID and Short-Term Goals

To be sure, the grandness of the vision must be matched by measures that ensure the delivery of impartial, fair and speedy justice; and, more significantly, those that make the judiciary more transparent and more accessible to the people. I have repeatedly announced before media, and I am saying it again now: I will continue the judicial reform program started by my predecessor, Chief Justice Hilario G. Davide Jr.

On top of the ongoing programs and projects under the Supreme Court's Action Program for Judicial Reform, my short-term agenda for the year 2006 focuses on the problems I have code-named ACID: limited **access** to justice by the poor, **corruption**, **incompetence**, and **delay** in the delivery of justice.

*Too Much to Do,
Too Little Time*

Some people have raised a very relevant question: Chief Justice Panganiban has a grand vision for the judiciary. He insists on one that is characterized by four ***Ins***: **integrity**, **independence**, **industry** and **intelligence**. With equal perseverance, he challenges the legal profession to uphold truth and justice above everything else -- above the lawyers themselves and even above their clients' interests. Moreover, he fixes his gaze on the lofty objectives of **safeguarding liberty** and **nurturing prosperity**. While seeking to battle the plague of "ships," he also vows to solve the ACID problems of judicial reforms. How can he do all these in his barely one year of incumbency? Is he not trying to do too much in too little time?

My answer is simple. It is inspired by Rotary, which is my great model of how to serve well for a period of only one year. We all know that all Rotary presidents serve for only twelve months, but that they are all remembered for their great deeds.

I became president of our Club during our 1990-1991 term, seven years after I had joined it as a member in 1983. During my seven-year membership, I became active in all the four avenues of our Rotary service and immersed myself in all its activities. That is the reason why, when inducted president, I had a ready theme -- "Love God, Serve Man" -- and a ready program of action, complete with detailed activities and a month-by-month and week-by-week timetable.

By the same token, I joined the Supreme Court in 1995, a full decade prior to my elevation as Chief Justice. During those ten years, I steeled myself by speedily resolving all the controversies assigned to me; worked long hours every day and prayed fervently to accomplish my work; wrote one book a year to report on my magistracy for that period; and, equally important, headed several committees involved mainly in judicial reforms.¹⁷ In all humility, may I say that my Rotary presidency prepared me well for my leadership of the judicial branch of our government.

But let me be even more specific in **what I have done** and **what I intend to do** during this year until December 7 when, by constitutional fiat, I must retire from the judiciary.

First, at noon of the day following my oath-taking, I called a press conference during which I spelled out my “Liberty and Prosperity” philosophy; and my intention to institute the four *Ins* of, and my pledge to fight the ACID corroding, the judiciary. On the same day, I consented to an unprecedented, no-holds-barred interview with Korina Sanchez. During that one-hour interview, which was televised several times over ANC, I gave some details of what our people could expect from the Panganiban Court.

Second, I created as a measure of transparency, an advisory committee on the Judiciary Development Fund or JDF. You will recall that the controversy over the JDF nearly caused the impeachment of former Chief Justice Davide in 2003. This new committee has been tasked to advise the Chief Justice on how to collect, take custody of, disburse and account for those funds. Included in this committee are the heads of all the judges’ associations and the major organizations of judiciary employees, who now help me in administering the funds.

Furthermore, I authorized the disbursement of all available JDF funds and savings for the year 2005, as financial assistance and fringe benefits to all the 28,000 (or so) judiciary employees nationwide. The disbursement was made in three tranches during the first three weeks of January.

Third, on January 12, 2006, I convened an all-day Strategic Planning Workshop involving over 100 of the top magistrates and officials of the judiciary. I explained to them the goals I had outlined for 2006 and solicited their inputs for an implementing program, the details of which I do not have the time to explain now. But I am pleased to inform you that, consistent with best management practices, the workshop crafted a detailed strategic plan for the whole year of 2006 -- complete with specific activities, targets, milestones, persons and offices responsible, and definite timelines.

So far, what I have told you are theories and plans. Have there been any concrete results during the past 42 days of my incumbency (from December 21, 2006 to today, February 2, 2006)? Yes. Let me name a few significant items.

One, on January 18, 2006, the Japanese government, through Ambassador Ryuichiro Yamazaki, formally turned over to the Supreme Court a grant of ₱300 million for the construction and equipment of the Philippine Judicial Academy (PhilJA) Development Center in Tagaytay City. The PhilJA Center is very significant, because it addresses judicial **incompetence**, a major component of ACID.

I envision the PhilJA Center not only as an institution to upgrade the intellectual and ethical standards of our judges, but also as an ASEAN center of judicial excellence. True, the germinal seeds for the Center have been planted by my predecessors (Chief Justices Davide and Andres R. Narvasa), but I am fortunate that the needed cash to make this educational vision grow into a reality was actually received during my short watch.

Two, on January 30, 2006, the Supreme Court activated its second and third “Justice on Wheels” mobile courts. They followed the pilot mobile courtroom inaugurated on December 19, 2004. This project entails the fielding of mobile courts -- in the form of buses staffed and equipped with necessary personnel and facilities - - to far-flung areas where there are no courtrooms. Again, because it facilitates our poor people’s **access** to the courts, this project fits into my ACID program.

Three, before the end of this month, we shall inaugurate the pilot e-payment system for remitting docket and other court fees direct to the banking system. Heretofore, these have been received manually by clerks of courts, some of whom have been tempted either to “borrow” from the fees or to delay their remittance to the Supreme Court indefinitely. These pernicious practices have resulted in corruption and delay in the payment of employees’ benefits, for which the fees (entirely or partially) are collected and allocated. E-payment solves not only corruption, but also delay in the payment of employees’ benefits.

Four, we shall be inaugurating in March the *full* computerization of the Sandiganbayan. With the complete automation of court processes, it will be possible for anyone -- judges, lawyers, litigants, the media -- to determine, upon pressing a few computer keys, the exact status of any case in court. With such avant garde transparency, **delay** in the delivery of justice -- another major component of ACID -- will be minimized.

Once perfected, this system will be the model for the complete computerization of the **entire** judiciary. Incidentally, the project is fully funded by the United States Agency for International Development (USAID), at minimal or no expense to our government. For sure, this project did not happen overnight. It had been meticulously planned much earlier by the Supreme Court Computerization

Committee, which I headed for many years.

Many more things can be said about my plans, programs and projects during my incumbency of 11 months and 16 days. To some people, the time may be very short. But to all Rotarians, one year is enough to dream the impossible dream and to make it come true, to thrive on drive, to inflame the fire in the belly and to implement -- in the Rotary way -- the projects envisioned long before I took my oath as the leader of the Philippine judiciary.

In sum, when I was privileged to be president for one year of the Rotary Club of Manila -- the first Rotary Club in Asia -- I vowed to render “service above self.” This time, I pledge a thousand times more fervently to devote all my time, energy and strength to lead a judiciary that is characterized by integrity, independence, industry and intelligence; that safeguards the liberty and nurtures the prosperity of our people; and that eliminates the ACID that corrodes justice. It is my sincere hope that, with God’s grace and the support of my colleagues and co-workers, my RENAISSANCE COURT of one year will be a model judiciary in our region of the world.

Maraming, maraming salamat po sa inyong lahat!

*
- Speech I delivered during the regular meeting of the Rotary Club of Manila on February 2, 2006, at the Rizal Ballroom B of the Shangri-la Hotel in Makati City.

[1] In my fourth book BATTLES IN THE SUPREME COURT (1998), I recounted how my acquaintance with President Ramos starting in 1983 -- the year we both entered the Rotary Club of Manila as new members -- had laid the groundwork and prepared me for service in the Judicial Department of our government. Excerpts from what I wrote back then are reproduced hereunder:

“x x x. [O]n June 17, 1992, when his electoral victory was already assured, [President Ramos] invited me to a one-hour morning one-on-one meeting in his private office in Rm. 202, 845 Pasay Road, Makati. We exchanged views on many topics – from my philosophy of law to the people’s expectation of their new President. Finally, he revealed the main reason for our one-on-one: “I would like to invite you to join my Cabinet.” Taken aback and pleasantly surprised, I initially refused, saying, “Thank you, Mr. President. But I do not think I deserve to be in your

Cabinet because I did not campaign for you. Besides, as you know, I was active during the last election period as national vice-chairman of the Parish Pastoral Council for Responsible Voting (PPCRV), a nonpartisan electoral watchdog. If I join your Cabinet, people may say that PPCRV was not nonpartisan after all, but was, behind the scene, for Fidel V. Ramos.” But the President was insistent. He told me, “Precisely, I want a nonpartisan Cabinet in which all sectors are represented – even those who were not in my political camp. Besides, this is one way of thanking PPCRV and all citizens who helped make this election free, honest and credible.” As we parted, I asked the President to give me time to think the matter over and consult my family and close friends.

“Several days later, on the afternoon of June 26, he called me up and said, “When I invited you to join my Cabinet earlier, I had in mind the position of justice secretary for you. In view of your reservations about political office, I thought I would get you to the Supreme Court instead.” I excitedly replied, “*Salamat po, Mr. President. Hindi po political and posisyon na yan, at kung mamarapatin ninyo, tatanggapin ko po. Iyan po ang panaginip ng bawat abogado.* But, Mr. President, you cannot just appoint me on your own. I need to be in the list of recommendees of the Judicial and Bar Council.” With a twinkle in his eyes, he concluded, “Let me handle that.”

“It took another three years before the JBC included me in its list. But that is another story. When finally the Council sent my name to President Ramos, he called me up to inform me that he was redeeming his unsolicited promise to name me to the Court.

“Though I owe my appointment to President Ramos, let me quickly add, very openly and candidly, that since then he never spoke to me about any case or matter pending in the Court. Though I voted against some administration cases and even authored one Decision contrary to the publicly perceived wishes of Malacañang, he never even so much as hinted to me his displeasure, much less urged me to vote one way or the other. Such is the gentleman that he is.”

[2]

The pro-poor bias of the Constitution is evident in these provisions, among others:

Article II (Declaration of Principles and State Policies):

“Sec. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.”

Article XII (National Economy and Patrimony):

“Sec. 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

x x x

x x x

x x x

“Sec. 5. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.”

x x x

x x x

x x x

Article XIII (Social Justice and Human Rights):

“Sec. 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

“To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

“Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. x x x.

“Sec. 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners.

“Sec. 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.

“No resettlement of urban and rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated. x x x.

“Sec. 12. The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems. x x x.

“Sec. 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.”

[3] Article 24 of the Civil Code provides that “[i]n all contractual, property or other relations, when one of the parties is at a disadvantage x x x, the courts must be vigilant for his protection.”

[4] CONSTITUTION, Art. VIII, Sec. 5, par. (5).

[5] Page 59.

[6] *Defensor-Santiago v. Guingona Jr.*, 359 Phil. 276, November 18, 1998; *Arroyo v. De Venecia*, 343 Phil. 42, August 14, 1997; *Tañada v. Angara*, 338 Phil. 546, May 2, 1997; and *Co v. Electoral Tribunal of the House of Representatives*, 199 SCRA 692, July 30, 1991.

[7] Until December 2005, I was chairperson of the Committees on Computerization, Public Information, Knowledge Sharing, Judicial Excellence, Legislative-Executive Relations and the Valedictory Executive Committee; conference chairperson of the first International Judicial Conference and Showcase on Judicial Reforms; and member of the Executive Committee for the Judicial Reform Program.