

# Politics, Perils and Pains of Building Institutions

*Lecture by Chair Karina Constantino-David during the 2007 General Assembly of the Philippine Human Development Network, on 28 March 2007 in UP Diliman, where she was invited to talk about 'Institutions, Politics and Human Development in the Philippines'. She will end her seven-year term as CSC Chairperson on 1 February 2008.*

I am happy that the Human Development Network is focusing on institutions because in this fractious and demoralized country that we have, it is highly visible but short-term concerns that occupy center stage. Hardly any attention is given to the more painstaking, quiet and non-dramatic work of institution-building.

In the process, we forget that the relative strength of any society is very well measured by the relative strength or weakness of the institutions in our society.

It is challenging to measure institutions. There are many facets to it that are difficult to put into indicators. It is, however, the strength or weakness of institutions in a country that will serve to stabilize and cement a society together. If institutions cannot cement society together, the focus of institutions -- which is ultimately human development -- cannot be achieved.

When society was simple, meaning family-based and so on, there was no real need for institutions in a sociological sense. The law, governance, economy were all found inside the family. But as societies become more complex, the only way that societies can deal with the complexities is by developing institutions. And these institutions must be functionally differentiated.

Each institution has to perform particular roles in society. Each role must be significantly different from that of other institutions. When these roles overlap, things become schizoid and institutions become paranoid.

I look at institutions slightly differently from the common perspective that lumps the three branches of government together as one institution under the category of "politics." I think that the law is, and should be, a completely separate institution. It is the law that tells you what is legal and what is illegal. In much the same way that it is the economy that tells you what you can buy and cannot buy. It is religion that tells you what is good or bad. It is politics that tells you which directions should be taken by the society.

Unfortunately, we are in a society where politics has created undifferentiated institutions. We are in a society where instead of having institutions that check and balance each other, we have an ascendant institution that warps and weakens most of the other institutions.

The equation to me is really simple. Societies are organized primarily so that the people who are part of those societies will benefit and develop. Societies are organized through the institutions that exist in that particular society. Institutions to be effective should be functionally differentiated. When institutions have a clear focus and clear boundaries between each other, they provide a reliable system of checks and balances. But when one institution or a portion of an institution invades the turf of others by performing functions that are and should be reserved for other institutions, the result is disequilibrium, imbalance, chaos.

When by virtue of this invasion, more and more institutions tend to have undifferentiated functions, there is always a tendency for one institution to dominate over others. When one institution, in the case of our country, politics, dominates, there are no longer any checks and balances. When there are no checks and balances, it leads to abuse and all the other monsters that go with abuse - human rights violations, corruption and so on. And when any institution is abusive in terms of the boundaries that it should not go beyond, then ultimately, it is the people who will suffer.

I think in our society today, instead of functional differentiation, there is a definite move towards functional concentration.

Functional concentration creates a situation when people no longer know which can be held responsible for things otherwise clearly defined under a functionally differentiated society. Problems like confusion and lack of accountabilities ensue.

When the law or the justice system decides to take over the economy by ruling on matters that they probably have no expertise on; when religion takes over, like the priest in Pampanga, and enters into the political system as an alternative to traditional political actors who have taken on other roles, e.g. jueteng lord or lahar lord; when ordinary individuals hold children hostage to dramatize these children's need for better education and when political actors come in to try to resolve that hostage situation; when the military takes over the law or civilian posts – then you have a situation where you no longer know who is in charge of what.

I think that what happens is a simple action and reaction. When one institution goes beyond its functions, other institutions will either weaken or also try to expand their functions.

Today, it is the political institution in this country, at least a portion of the political institution, that is definitely in control. Whatever may be the justification for exceeding the boundary – be it for political survival, to set an economic direction, because of God's intervention – the effects of any institutions going

beyond the boundaries that keep the checks and balances existing are devastating.

Politics - as an institution - is composed of only three main components. In the ideal sense, the three components are political parties and leaders, the electorate and the bureaucracy. Each should have distinct roles.

Political parties and leaders are there to develop platforms or alternatives to make this country better and to define a concrete direction for our society. They are supposed to have all of that to compete for the support and confidence of the second component.

The second component includes the electorate and the organized components of that electorate such as civil society organizations. They are supposed to be able to make a choice between the contending directions and the options offered by these political parties. They are supposed to lobby and to become the final arbiters of the political direction of the country.

The third component is the bureaucracy. This means that horde of 1.5M people who implement the directions that won the trust and confidence of the people. It is supposed to be a repository of expertise and institutional memory that ensures efficient implementation of whatever direction the people have decided to adopt through their political leaders.

It is a nice ideal but it does not quite happen.

First, we have no political parties to speak of in the sense that whatever are our political parties, these are not distinguishable. The differences between parties often begin and end only in personalities and names. That is not a political platform. There is no alternative that is being given. You have people like Manny Pacquiao who wants to make laws in Congress *'kasi gusto kong magserbisyo'* ("because I want to serve.") And Congress is supposed to make laws and not do public service per se. Therefore, there is no competition of ideas at this point because the competition is only based on *sino ang mas madalas lumabas sa media, sino ang mas gwapo, sino marunong sumayaw*, (who has more frequent media exposure, who is better looking, who dances better).

The electorate, on the other hand, is forced to choose without choices, to choose without knowing why. This is because it is uneducated, it is poor, it is demoralized and it does not understand what the political system is all about. *Ang sabi nila noon, mayroon isang senador, na sa bawat barrio na pinupupuntahan niya na nagpuputong siya ng korona sa bawat pinakamagandang babae ay mananalo siya. Nanalo nga siya noon.* Because the choice is, *kilala ba namin? Maganda ba? Mukha bang mabait?* (They say the senator who attends a barrio fiesta and crowns the barrio muse wins in that

barrio. Because the choice boils down to whether the electorate “knows” the candidate and considers him/her pleasing or good-looking.”)

Our six-year-old granddaughter, who doesn't yet understand what voting means but is surrounded by all the campaign posters and commercials, comes to a political decision in basically the same way that majority of the electorate does. She says *“Iboboto ko yan kasi maganda mag-smile, mukhang bata. Si ano ayoko, kasi mataba, etc”*. (“I will vote for that because he/she has a great smile, looks young. I will not vote for that because he's fat.”)

The electorate are not educated in terms of their roles as citizens and therefore, they hang on to a highly personalistic kind of politics.

Our civil society organizations are important but sometimes forget that they are not government and sometimes they take on the role of government – setting and dictating the right way to do things.

Our bureaucracy, the third component, has been taken for granted for too long. You have 1.5M people with almost absolutely no individual or collective autonomy. The bureaucracy is supposed to implement. However, the people who come in, appointed or chosen by the political leaders who are voted by the electorate, do not give any clear-cut long-term direction. What they do give are demands to change acronyms of projects or to undertake short-sighted and short-term projects that must carry the name of the new political leader.

We are supposed to have a medium- and long-term development plan, which should serve as the blueprint for all the things – policies, plans, programs, activities - that the bureaucracy undertakes. There is no such blueprint. Because our political parties have not bothered to come up with it.

What do we have? We have a bureaucracy that is supposed to implement the plans that will bring us closer to the direction of a better society or carry us to a higher level of development. Certainly, the bureaucracy implements projects. But you have a bureaucracy implementing without direction and so it plods on doing more of the same.

In the few times that a head sets out on a direction for reform, the bureaucracy never catches on immediately. It takes so long for little things to take root in the bureaucracy because the routine is there and people almost always fall back to the routine.

The bureaucracy has sadly been unable to reach its potential. Yet, there are many bright, even brilliant people in the bureaucracy. There are less and less of them, as they get older and older in the bureaucracy for two main reasons. One, some of them leave out of frustration or to seek better pastures. Two, some of them lose the capacity to think.

And that is the most tragic of all - when you, a thinking person, are not allowed to think, when you are just supposed to follow, and when every step you make may not be to the liking of your superior, you learn to repress, or worse simply stop, thinking. The power to think of innovations and of better ways to do things in government is wasted, lost

But I would like to think all is not lost. The capacity to think is still there. It is a matter of freeing that. Most people in the bureaucracy do believe in public service. Most of them do know how to get fulfillment from public service. Most of them are honest. Most of them want to be honest. Most people do not want to close their eyes to corruption and dishonesty. But they very often do.

Having said that, what are the primary reasons why the bureaucracy is the way it is?

The bureaucracy is so timid, so tame, so domesticated, so fearful and so powerless because of the appointment process that is so open to abuse. The bureaucracy is not insulated from politics and, more specifically, from the discretionary exercise of presidential prerogative.

You may think this issue is trivial. It is not. The entire structure of the bureaucracy is such that your highest career people - about 10,000 of them - are all presidential appointees. This number includes positions that are based in the provinces and cities so far removed from Malacanang. This situation creates a wide venue for every single congressman, governor, mayor, councilor, *kumpane ni mayor* and virtually anyone to intervene in the process of appointment that is supposed to be based - as constitutionally mandated - on merit and fitness.

The problem with lodging the appointing power in one single person is how can one official know 10,000 people that he or she needs to appoint?

It was not always that way. There exist a number of laws that stipulate who the appointing authority is. However, most of the time, there is no stipulation as to who will be the appointing authority. And each president that has come in, from martial law onwards, has continued to expand the appointing power by means of his/her residual authority.

We have even gone beyond that. We not only have presidential appointees in the smallest municipality, we have taken political interference to new heights. There used to be a euphemism, the 'desire letter', that was used to endorse the bearer to juicy positions in government. This was used quite sparingly during Aquino's time. Today, those desire letters, now even signed by other people in behalf of the President, have become standard in any appointment - to board of directors, to general managers of water districts, to members of the board of trustees of universities.

What is the impact of this kind of discretion in the appointments? Merit and fitness, on which the professionalization of the bureaucracy is anchored, suffers. Anybody who charts a career in the bureaucracy eventually learns one's career ends when one steps on the toes of some powerful, connected political figure.

You cannot imagine how many congressmen come to the Civil Service Commission and say, "I want to remove or reassign this or that!" or the number of appeals we receive from personnel who have been arbitrarily re-assigned or constructively dismissed. This is manageable because the Civil Service Commission can order the mayor, the secretary, whoever not to arbitrarily move or dismiss someone.

But when the subject is a presidential appointee, the CSC has absolutely no power. At their levels, presidential appointees are ironically no longer protected by security of tenure. Their careers are often vulnerable to political whims.

What is the cause of all this? It is that entire rule that says if it is not stated in law, it is the residual power of the President. So presidents have been able to expand their appointing authorities and control by using this residual provision. Even when a president may not want to use such expanded power and control, some of those who want a piece of this power will find a way to the sitting president. And that is the morass that the residual power created.

The issue of appointments is so important because it is an issue of power. Politicians, especially those at the local government, want to make sure that they "own" the people in key positions – the chief of police, of hospital, of schools' division, of public works. Hence, merit and fitness in key positions at the local level goes out of the window.

It is the same thing in key national positions. The Commission on Appointments (CA) is supposed to check on presidential appointments. But my personal experience indicates the same pernicious use of appointing power. It took me two years to get my confirmation from the CA. All because I refused to talk, much less give in, to two congressmen who wanted certain things.

Three decades ago, horse-trading was a little more subtle. Today, the practice is more brazen. A congressman came to me demanding, "I want a decision in my favor in three days." I asked, "If not?". He said, "Then I will question every single item in the CSC's budget."

There is an abuse of power. When the political or a portion of political institution is ascendant, this abuse results in so many dysfunctions.

My standard story on this is when I was DSWD Undersecretary. I had all these assistant secretaries and directors as old as my mother who would

approve everything I said and would even carry my bag for me. One time, I presented my program for children to the most senior officials and I asked for comments. The first one said, 'Ma'am, that is so perfect'. Another one said, 'Ma'am, we are raring to go'. A third one said something like, 'We have been waiting for this for so many years'. All of them said excellent in different ways. So I said, 'This is it! We are going to implement this tomorrow, *okay na ba?*'. One says, 'Yes ma'am, just say the word'. Then I said, 'Now may I please tell you why I think this is the worst program for children'. So I proceeded to demolish every single thing I had said, telling them that it was okay to criticize. One by one, I asked them, and one by one, like variations on a theme, said, 'Ma'am that was what we were saying earlier'.

Hence, for fear of reprisal from the appointing authority, people in government learn to be quiet, to be timid, to be politic. Magtanya. People in good universities think in a different way because there is no fear of ideas, there is an encouragement for people to say what they think. This is not the case in the bureaucracy, especially, when you know that the people above you are close to the powers.

What does this do to the values and the norms of people in the bureaucracy? The moment you know that it is not good work that is rewarded it becomes sycophancy. The moment you know that your boss may not like it whenever you try to do something a little bit extra, you kill initiative. Whenever you see somebody or hear somebody who has been floated, you start asking yourself whether you want to go that same route. You hear about a whistleblower who was dismissed, and so you keep quiet. You develop some level of cynicism. You develop the capacity not just to turn the other cheek but to look the other way.

The CSC, as contemplated by the Constitution, is a powerful oversight body. Yet, it does not operate to the fullest extent of its oversight powers mainly because even the people in the CSC are scared. My office made a study on the legal right of the President to appoint which concluded that that the CSC can disapprove what the President does, as long as it is according to law. First, appointment can only be done if there is a plantilla item. But we have so many appointments that come out and DBM has to come up with money because there is already an appointment. Second, whenever the President appoints, there are laws that say what qualifications should govern these appointments. In the case of the police, for instance, the President can only appoint from senior superintendent up, upon endorsement by the Chair of the CSC. So I exercise my authority under the law. If you cannot pass the exam, if you are not qualified, I will not endorse. It became problematic because some people who could not meet the qualifications needed to be promoted, so they just appointed. That is illegal.

In a test case, the CSC disapproved and did not renew an appointment made by the President because the appointee did not meet the minimum qualification standards. Malacanang got mad. We raised this in the Career Executive Service Board with a Memorandum to the President quietly saying what was wrong and presenting solutions. As an institution, it is CSC's role to advise the President of matters on qualifications, etc. which her office must have overlooked. Apart from the ex-officio members of the board and two others who had fixed terms, all the rest of the members of the board were suddenly replaced with new ones in acting capacity.

At the local level, the CSC rules on appointments are generally followed. Only 3% of the appointments submitted to CSC are disapproved. However, mayors and governors dismiss people left and right. The CSC receives a high volume of appeals from those who have been illegally or arbitrarily dismissed. Yes, the LGUs are the least professionalized of the 1.5 M bureaucracy because of politics.

Indeed, the discourse on power and politics makes waves. Only a few are interested in institution-building or looking at the bureaucracy as a force, because bureaucracy is not in anyway sexy. We have the Civil Service Code, a portion of which attempts to change the appointment process in the managerial level in government to protect this process from abuse. It has been lying in Congress for the past six years. No political party has been interested to support it because they do not see the building of a strong bureaucracy as a major aspect of development.

But, if you want to look at human development, it is not our politicians who deal with the people; it is not the leaders in the media who make the difference in the lives of people, it is ordinary people on the ground. And if these ordinary people can just find their fulfillment in doing their respective work on the ground without the hassles of all these politicians on their backs, then something good will happen in public service.

The other law that we hope to fight for addresses the issue why the quality of the bureaucracy is lower than what some of us will remember four decades ago—and that is compensation. It took us two years to finish the study, which, among others compared government and private sector pay. Do you know that the directors up to undersecretaries receive 75% lower than the private sector, just medium-size private firms and not yet multi-national companies? Do you know that our government professionals — teachers, nurses, doctors, accountants, engineers — receive 35% lower than the private sector? And yet the clerical staff receive 21% higher than the private sector.

So we tried to rationalize the compensation system. We came out with the bill, together with the Department of Budget and Management. Our legislators understood and vowed to support it, despite the clamor from organized groups of

employees for across-the-board increases. For some reason, there was instead an announcement for P1,500 across-the-board increase later changed to a 10% across-the-board increase. It does not solve the problem though. When you are 75% lower than your classmate in high school, who is not even as good as you, you get demoralized. But more important than that, when you know that you cannot even give your own children the same kind of opportunities as you had because you cannot send them to private schools because of the low pay, you start feeling bad.

We still have a number of other reforms. We are now rolling out what is called a new Performance Management System (PMS). The tool is all output-based, unlike other previous tools where subjectivity distorts the ratings. We also have a frontline assessment system PASADA (Public Service Delivery Audit). We send “undercover agents”, mostly our employees, to test out and rate frontline services in government agencies. We have set up a text hotline (0917-TEXTCSC) so that people can text us their feedback on government frontline services. We also have an honor awards program. The stories of our awardees - the teachers, midwives, mechanics - earning almost nothing but able to do so much are heart-breaking and awe-inspiring.

There is actually so much that I can talk to you about. Let me end with one thing that I wanted to do as part of institution-building. In building institutions, we will have to pay attention to the human resources in government. We started working on a system to determine the state of human resources in government and called it the **HR Index**. It is a preliminary set of agency-level indicators that will tell us the relative HR health of a particular agency.

Since you are already looking at institutions, we can together develop and refine the indicators of sound human resource management in government. Hopefully, this can become part of the beginning of building up institutions. •