

OPINION & FEATURES

Another opaque effort

CONGRESS resumes its session this week with the two chambers having divergent priorities. The Senate is focusing on economic measures to help improve the country's response to the global slump. The House of Representatives, meanwhile, is making a final push for constitutional amendments, with members ready to do away with Senate participation in the process if necessary.

House proponents of Charter change have failed to make clear to the public the reasons for their advocacy. Which provisions need changing, and why are the changes so urgent that they have to be rushed before the 2010 elections? The only thing that is clear at this point is that pro-administration

congressmen want to shift to a parliamentary system of government. Why that would mean the salvation of the government remains unclear, especially since the same faces would serve as members of parliament and even President Arroyo might become a member, with the potential to

become prime minister. The prime movers of Cha-cha, including the President's two sons, have also failed to dispel fears that in a shift to a new system of government, the 2010 elections would have to be postponed, term limits lifted and incumbent officials allowed to stay in power in a transition period whose duration is anybody's guess at this point.

Speaker Prospero Nograles originally had a more focused objective, identifying two economic provisions whose amendment could bring in more foreign direct investments. His proposed mode of amending those two provisions, through a simple process akin to legislation whose constitutionality would have to be settled by the Supreme Court, was also controversial.

But it seems benign compared to the other House proposal, which is to completely rewrite the Constitution, even without Senate participation, in time to postpone the 2010 elections.

Nograles, reportedly faced with the threat of losing the speaker's post, now supports this proposal to convene Congress into a constituent assembly that will rewrite the Charter. As with the last sloppy signature campaign to amend the Constitution, this latest Cha-cha effort is characterized by deliberate opacity, which only heightens public resistance to it. With Nograles' June 6 deadline for a House decision approaching, his chamber still has not made a clear, strong case for Charter change. (Philstar.com)

GUEST EDITORIAL



Photo courtesy of Philstar.com

They came for tea but stayed for dinner!



RHIZOMES

Prosy Dela Cruz J.D.

FILIPINOS are goodhearted people. Their hearts are open, and would instantly help folks, even strangers they just met who need help. They would consider putting themselves at a detriment, just to share their resources. They call it *pakikisama*, a broad generic cultural trait which renowned Filipino psychologist Virgilio Enriquez classified into three elements: *pakikitungo* (a form of civility), *pakikiisa* (being one with or shared identity), *pakikipagkapwa* (accepting and dealing with others as equals) or at times called *kagandahang loob*. We sometimes hear that Filipinos give value to these multiple layers of interactions to favor interpersonal harmony or community peace. And unwittingly, like any openhearted folks, Filipinos have been conned and victimized. They came for tea, but stayed for dinner.

And soon, if these behaviors are not deconstructed for what they are: inexcusable, inappropriate behaviors, it turns Filipinos sour, hating their *kababayans*, or worse rejecting their own identities as Filipinos and falsely believing that being good to one another is not sustainable.

Rather than considering fraud as victimizing behaviors of luring, seducing others through false representations, or gaining power through lies and cheating, as uniquely problematic in our community, I want to share that misrepresentation is alive and well in America and this is how I saw it practiced.

First is a deliberate misrepresentation, omitting a significant material fact or feature, part of the context to the whole truth and nothing but the truth. Allow me to illustrate. Suppose one car company claims "We manufacture the car Brand X, which delivers the highest fuel efficiency on the road." And without any more explanation, or without any comparisons to Honda, or to Toyota or to Ford Fusion Hybrid, cars that deliver at least 40 mpg, and without further comparative studies, you would think that Brand X is the highest fuel-efficient car on the road, even including the freeway, even exceeding 48 mpg.

Actually it is Toyota's Prius that has 48 mpg on the freeway, per studies cited by the US government. It is not Brand X, yet Brand X chose to omit its significant competitor's fuel efficiency of 48 mpg, and by doing so, misrepresented Brand X. What the manufacturer failed to disclose is that its Brand X car delivers only 28 mpg on the highway, a significant material fact.

This is a clear case of misrepresentation, if the scenario was true, as comparison studies are available through due diligence, by researching consumer reports, or automotive associations that have made the studies, and even the US government's website. For Brand X manufacturer, the sources of credible information are available yet, they made it their business to OMIT a material fact, that would allow one to consider their claim as accurate and truthful.

When they omit this material fact, they are misrepresenting and it is considered fraud.

Recall one former US President claimed, "I did not have sexual relations with that woman." One might consider it true, but for the omission of a significant material fact, that oral copulation happened. Omitting it made his statement a lie, falsely misrepresented claim, since sexual relations also include what he omitted. Yet, this former president persisted for months to repeat these misrepresentations.

Ever heard of serial cheaters who make these remarks: "S/he provoked me. S/he emasculated me. S/he made me feel worthless that I amounted to failure. S/he came on to me and I was tempted and could not resist. My spouse would not relate to me?" These statements transpose the victims as the predators, and those who cheated escape responsibility to make amends or even repair the breach if not recover the trust. A cheater's attempt is to normalize his behavior as excusable within the culture, yet it is inexcusable under God's commandments, or the code of ethics, morals or



Roy's classic dinner trio: grilled salmon, blackened island ahi and misoyaki butterfish with a side entrée of broccolini and carrots, served in downtown Los Angeles.

common sense.

Second is highlighting what is an insignificant feature, misrepresenting the full context.

Suppose you have a firm that sells dietary supplements. Their main purpose is to sell products, untested by USFDA nor by other state regulatory health agencies. This firm sends you the products by mail, unsolicited, and they got your debit card number by hacking some gas station or retailers' database. Unknown to the victim, the firm has your debit card information, and charged your account.

While they identify themselves as a health club or a gym membership firm, it is an insignificant part of their operation, as in fact, the firm is a distributor of vitamins. But, by highlighting an insignificant feature of their operation, they wish to escape scrutiny from the US Postal Inspector General or the Federal Trade Commission, whose health fraud investigations are focused on firms who identify themselves as dietary supplement distributors.

Third is unfair dealings with one another. While there is common knowledge of what is considered ethical or appropriate, it is usually measured in the regulatory world as: "Does this action pass my mother's test?"

Quite plainly, the actions must do no harm as it is common belief that mothers do no harm to their children. So, if the regulated conduct harms someone, something a mother would not do to her children, then, it fails the regulator's initial criteria of "does it pass my mother's test?" In all the above examples I have provided describing three features of misrepresentations, none of these behaviors pass the criteria laid by regulatory folks.

Suppose you own a new business needing growth and more customers. Instead of focusing on improving your operations and making quality products, you choose to bad-mouth your competitor, a first rate restaurant. You share a lie with others: "do not go to that restaurant, they do not use good raw ingredients." But, the truth is that the restaurant owner gets up early in the morning and goes downtown to get the freshest fish, keeps them iced, cooks them on order, and offers them as daily specials, ensuring consistent quality of "fresh from the source to the table."

And your "fabricated lies" cost the restaurant loyal customers from coming, and before the lies, the restaurant was earning \$50,000 monthly income, now the restaurant is barely making \$500 each day. Do you think you will be held liable for this restaurant's lost profits? Perhaps, particularly if you were found as the causal link to their business losses, and you actually not just lied but

interfered with a business operation, and even went as far as calling the competitors' vendors.

Let us reverse this scenario, suppose you are the employer, a vindictive supervisor/manager who caused some false information to be filed in the employee's records, who is otherwise is an exemplary performing employee. And, without good evidence to prove your allegations, you as the employer allowed this falsehood to persist. Then, one day, these personnel files are suddenly in the wrong hands and are published. The publication by oral means is slander (spoken falsehood) and libel (written falsehood) and both these types of falsehoods are actionable under American laws.

Okay, I am not representing myself here as a lawyer, only that I am a student of fairness and ethics, and from time to time, I have observed some of us may need a reminder of what is fair, what is appropriate and what constitute fair dealings.

And what I wish to remind us all is when our true cultural traits of *pakikisama*, *pakikitungo* or *pakikipagkapwa* are practiced in the Philippines, it creates a very loving culture. When my daughter,



Nelie's lunch of parmesan, breadstick, arugula, tomatoes, and purple endive served in JacquesMart Andre Museum in Paris, France. AJPress Photos by Prosy Dela Cruz

Corina and I vacationed in the Philippines, she was 11. She enjoyed meeting her relatives so much that she asked me that we stay for two more weeks. But, work beckoned with urgency and I could not extend my vacation leave. I agreed to let her stay, and with this decision, lots of prayers and daily phone calls. When she came back, I asked her what stood out in her visit. She spoke articulately of two: "That Filipinos smoke everywhere. That Filipinos make it their life's goal to love everyone."

Imagine how her young mind got imprinted with the best of our cultural traits of *pakikisama*, it is about loving everyone in the Philippines, and here in America, I boldly say: "It is about being fair and ethical in our practices with one another and that it can be done!"

The next time you want to stay for dinner, be clear you are not staying just for tea, and allow the other person to make the offer and trust that you both will be taken cared of.

Thank you for allowing me to share my piece with you, email me with your comments at prosyad@hotmail.com

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