

Public Sector-Led Planning Context and Rationale

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Discussion flow

- Government, governance, and the rise of the “Third Pillar”
- The three-folding image of society today
- The State as “first among equals”
- Reserve powers of the State relevant to planning
- Planning as a primary function of the State

Government vs Non-Government

- Government refers to the system of control and regulation of social and economic activities by the state to protect the interests of individuals and society as a whole. It generally refers to bodies and processes that are regarded as separate from citizens, thus, the government-nongovernment dichotomy.
- Current usage splits the non-government sector into two categories: private sector or business *for profit* and civil society which is largely *non-profit or voluntary*.

Governance defined

- Governance is a broader concept than government; it is about power relationships, responsibility and accountability, i.e., about who has influence, who decides, and how decision makers are held responsible.
- An inclusive concept, governance embraces the state, the private sector and civil society as well. All three entities are critical agents for sustaining human development. The state creates a conducive political and legal environment. For its part the private sector generates jobs and income. And civil society facilitates political and social interaction – mobilizing groups to participate in economic, social and political activities. (UNDP)

Throw back to pre-EDSA years

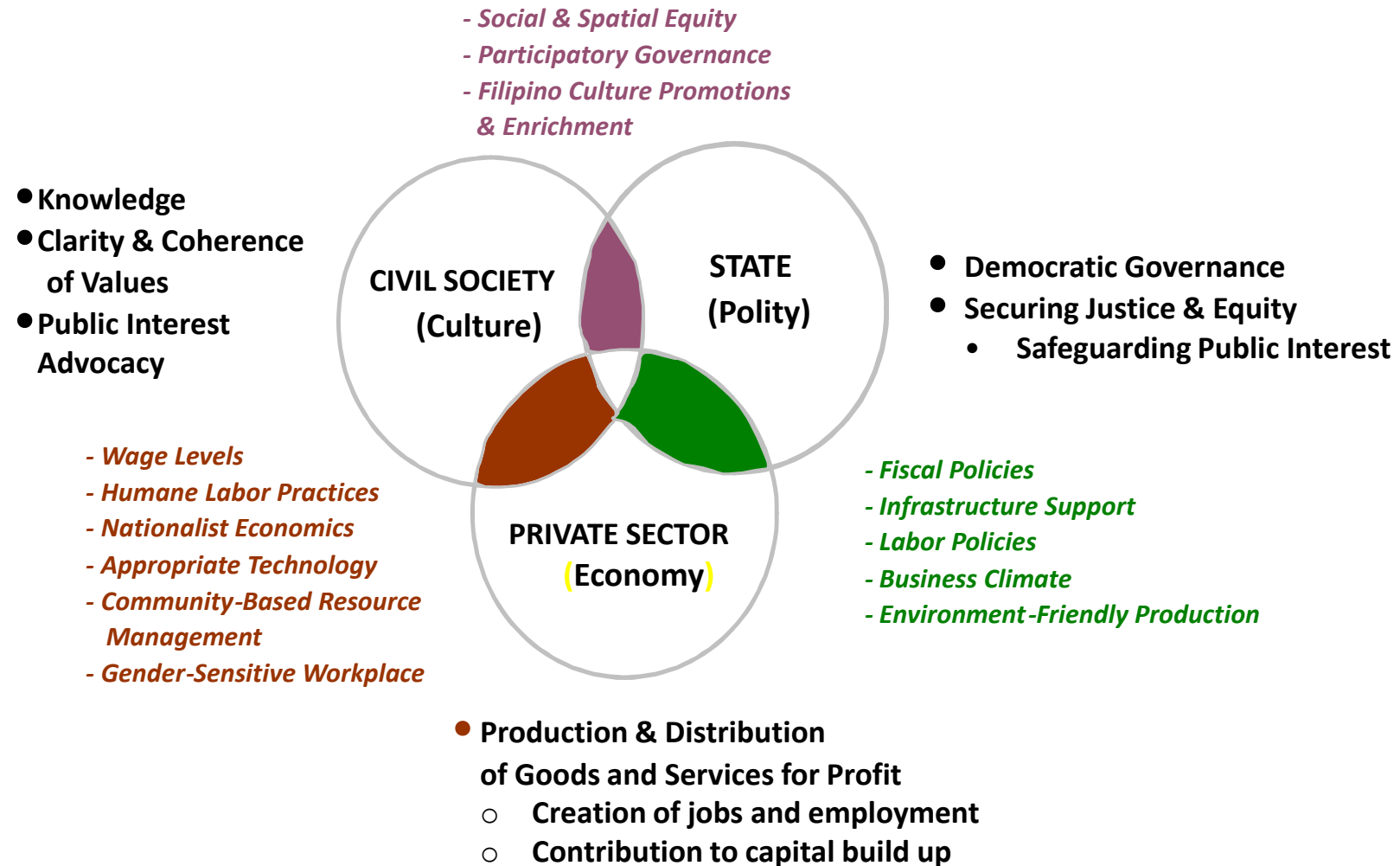
- Prior to martial law private business, led by a small but powerful elite known as the oligarchs, wielded tremendous power and influence, controlling much of the country's resources and the public and private bureaucracies.
- Martial law purportedly dismantled this oligarchy and replaced it with state corporatism, a politico-economic system run by technocrats and experienced bureaucrats.
- Under state corporatism and authoritarian rule the state was the sole power that determined the social, political and economic life and fortunes of the nation and society.
- Some of the old oligarchs were able to regain their privileged relationship with government and, together with the technocrats and bureaucrats established a new oligarchy. The new oligarchs, this time called "cronies", also exploited opportunities for graft and corruption and misuse of influence in government much like their predecessors did.
- Thus, state corporatism turned into crony capitalism.
- Civil society groups were invisible; some went underground.

The rise of the Third Pillar

“In any society, there is the state (manifested by but not equivalent to, the government) and there is business (the private enterprise sector). Both wield tremendous power impacting directly the people’s lives and their environments, shaping their futures with what they do and how they do it. Often both are accused of consolidating their power in an unholy alliance that corners society’s benefits ... at the expense of the general public. ... In 1990 the term “civil society” came in vogue to represent what may be considered the third pillar in society. Known variously as NGOs, PVOs, POs, CBOs, etc., civil society is a collection of individuals and organizations which are independent of the government and who manifest the will and interests of citizens.”

(Dr. Cielito F. Habito, former NEDA Director-General, quoted from his column “No Free Lunch”, *Philippine Daily Inquirer*, 11/20/2012)

THE THREE-FOLDING IMAGE OF SOCIETY



Government – CSO Interface

- Concern for social and spatial equity – rationale for social services provision and regional development planning
- Promotion and enrichment of Filipino culture – top General Welfare goal (Sec. 16, RA 7160)
- Participation and empowerment especially of the marginalized
 - Indigenous people – RA 8371
 - Artisanal fisher folk – RA 8550
 - Urban poor – RA 7279
 - Upland dwellers – RA 7586

Government – Business Interface

- Conducive business climate – granted by government, e.g. one-stop shops
- Job security – denied by business, e.g. labor-only contracting prevalent
- Fiscal incentives to private investments – granted by government, e.g. tax exemptions, credits and rebates
- Environment-friendly production – business complies but mostly grudgingly.

Business – CSO Interface

- Humane labor practices – granted by business only after long hard bargaining
- Gender-sensitive work place – possible under more enlightened business sector
- Acceptable labor-capital substitution (appropriate technology) – necessary under conditions of massive unemployment
- Nationalist economics – an imperative in a regime of globalization and regional economic blocs

The State as
“first among equals”

State powers that cannot be shared

- Although the three entities are seen as co-equal, the state enjoys certain powers that are unique to it which inhere from its most important attribute - sovereignty - and which it cannot share with other sectors, such as:
 - Police power
 - Eminent domain
 - Taxation
 - National defense
 - Administration of justice
 - Foreign affairs

Reserve powers of the State essential to development and land use planning

- *Eminent domain* – planning invariably involves the use of land for public purpose. Because most lands are now privately owned, the taking of private land for public purpose seems inevitable. But no private property may be taken without due process and just compensation.
- *Police power* – planning often requires regulation of the actions and behaviors of individuals and groups in accordance with socially acceptable norms conducive to attaining peace and prosperity in the community.
- *Taxation* – as a means to raise funds to finance essential public services and facilities, to equalize social opportunities, and as a regulatory measure to ensure the proper use of land for the general welfare.

Eminent domain in local government planning

- ❖ A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise its power of eminent domain for public use, or purpose, or welfare for the benefit of the poor and landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws, provided:
 - that a valid and definite offer has been made previously to the owner but such offer was not accepted;
 - that upon filing the expropriation proceedings and upon making a deposit of 15% of the fair market value of the property, the LGU may take immediate possession of the property to be expropriated; and
 - that the amount to be paid shall be based on the fair market value at the time of the taking as determined by the proper court. (Sec. 19, RA 7160)

Public use, purpose or welfare where eminent domain may apply

- Socialized housing
- Construction or extension of roads, streets, sidewalks, viaducts, bridges, ferries, levees, wharves, or piers
- Construction or improvement of public buildings
- Establishment of parks, playgrounds, or plazas
- Establishment of market places
- Establishment of abattoirs
- Land banking for socialized housing
- Construction of artesian wells or water supply systems
- Establishment of cemeteries and crematories
- Establishment of drainage systems, cesspools, and sewerage systems
- Construction of irrigation canals or dams
- Establishment of nurseries, health centers, or hospitals
- Building of research, breeding, or dispersal centers for animals

Land use planning as regulation of transactions in land

□ 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. (Constitution, Art. XIII, Sec. 1)

□ The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State **to promote distributive justice and to intervene when the common good so demands.** (Constitution, Art XII, Sec. 6)

Police power applied in land use planning

- **Zoning - an instrument of the police power implemented at the local level (city and municipal).**
 - the regulation by districts of the height, bulk, and use of buildings, the use of the land, and the density of population. (ASPO)
 - the power of the government to intervene in the lives of private citizens for the protection of public health, safety and welfare.
- **Subdivision Regulation – another principal instrument of police power to control the division of larger parcels of land into individual building lots to ensure that standards of lot size and shape, of access roads and other facilities and utilities, and the requirement of functional open space are properly complied with.**
- **Building Regulation – to see to the structural integrity of all buildings and the safety of building sites and the standards of sanitation are followed**
- **Implementation of environmental laws, e.g.**
 - the Ecological Solid Waste Management Act (RA 9003)
 - the Clean Air Act (RA 8749)
 - the Clean Water Act (RA 9275)

Powers of the Local Sanggunian regarding CLUP & Zoning

- Prescribe reasonable limits and restraints on the use of property
- Adopt a comprehensive land use plan for the municipality/ city
- Reclassify lands within the jurisdiction of the municipality
- Enact integrated zoning ordinances
- Approve subdivision plans for residential, commercial, industrial, and other development purposes

(Ref. RA 7160, Sec. 447, 458 and 468)

Land use planning and the real property tax

- ❑ The basic real property tax – a tax levied on the owner of the land, not for the use of the property but for the privilege of owning it. This explains why squatters, renters, lessees, and the like, do not pay taxes on the lands they occupy and use. For the same reason, the practice of some LGUs of collecting the realty tax from occupants of forest lands on the strength of tax declarations is hard to justify.**
- ❑ Special levies on land – additional taxes imposed on the property owner for specific purposes**

Special Education Fund

- **The Special Education Fund – an additional 1% tax the proceeds of which is exclusively used for the maintenance and operation of public schools (RA 7160, Sec. 235). A trust fund, the SEF is administered by the local school board for the construction and repair of school buildings, facilities and equipment, conduct of educational research, purchase of books and periodicals, and development of sports.**

Idle lands tax

- ❖ **The Idle Lands Tax – an additional imposition of up to 5% of the assessed value of properties considered as idle (RA 7160, Sec. 236-239). Not so much a revenue-raising tool as a regulatory measure to prevent speculative hoarding of land, this tax also “compels” property owners to invest in the improvement of their land for their own and the community’s benefit as well as to increase the tax base of the local government concerned. For purposes of land use planning, the idle lands tax can be used to intensify development in areas identified in the CLUP as areas for urban expansion or redevelopment in accordance with the desired urban form or approved spatial strategy.**

Special benefit levy

- ❖ **The Special Benefit Levy – an assessment on lands in the immediate vicinity of, and are specially benefited by public works projects (RA 7160, Sec. 240-245). The tax allows the LGU to recover up to 60% of the cost of the project from contributions from property owners who stand to benefit greatly from the project in the form of tremendous increase in land values. The special benefit levy is consistent with the social justice principle that anyone who is rendered worse off by a public policy or action is entitled to “worsement compensation” and anyone who is made better off by the same policy or action must return the undeserved benefit to society.**
- **Currently, only the worsement compensation is claimed by property owners affected by eminent domain proceedings. The betterment levy to which government is entitled remains uncollected, depriving society of a substantial source of funds for public infrastructure projects.**
- **If worsement compensation and betterment levy are applied in tandem, it may turn out that no actual payment needs to be made either way. In effect, the affected property owner “donates” part of his land in anticipation of the benefits he stands to reap from the remaining part once the project becomes operational. The Americans call the practice *trading wipeouts for windfalls*. In colloquial Filipino “*kwits na tayo*”.**

Socialized housing tax

- ❖ **Socialized housing tax – consistent with the Constitutional principle that the ownership and enjoyment of property bear a social function ... all local government units are hereby authorized to impose an additional one-half percent (0.5%) tax on the assessed value of all lands in urban areas in excess of fifty thousand pesos (P50,000.00) (Section 43, RA 7279)**

Planning as the principal
function of the state

Being the “first among equals”
the State is principally responsible
for planning

❖ **Provider of social goods and services**

❖ **Facilitator of the market**

❖ **Arbitrator between contending social groups**

❖ **Social engineer**

The State as Provider of Public (Social) Goods and Services

- What is the nature of public good or social good?
- When is the government justified in providing goods and services?
- (Or, when is the private sector reluctant to provide?)

The Nature of Public Good

1. *Collective consumption* - can be consumed by many individuals simultaneously and in equal measure. Example: a Public Park
2. *Indivisibility* – cannot be subdivided; the same level of service is available to everyone irrespective of any individual’s needs or preferences. Example: Police and Fire Protection
3. *No market price* – it is not possible to charge a price for its use. Example: City Hall Complex
4. *Spill-over effects* – cannot be confined to a specific area but affects neighboring areas. Example: Street lighting

Note: The above characteristics pertain to “pure” public goods. Nowadays most public facilities are increasingly becoming “impure” due to the growing role of the private sector in their provision.

Social vs Private Goods

Manner Consumed	Excludability	
	Easy	Difficult
Individually	Private Good (1)	Common-pool Good (2)
Collectively	Toll Good (3)	Collective Good (4)

After Jan-Erik Lane, 2000

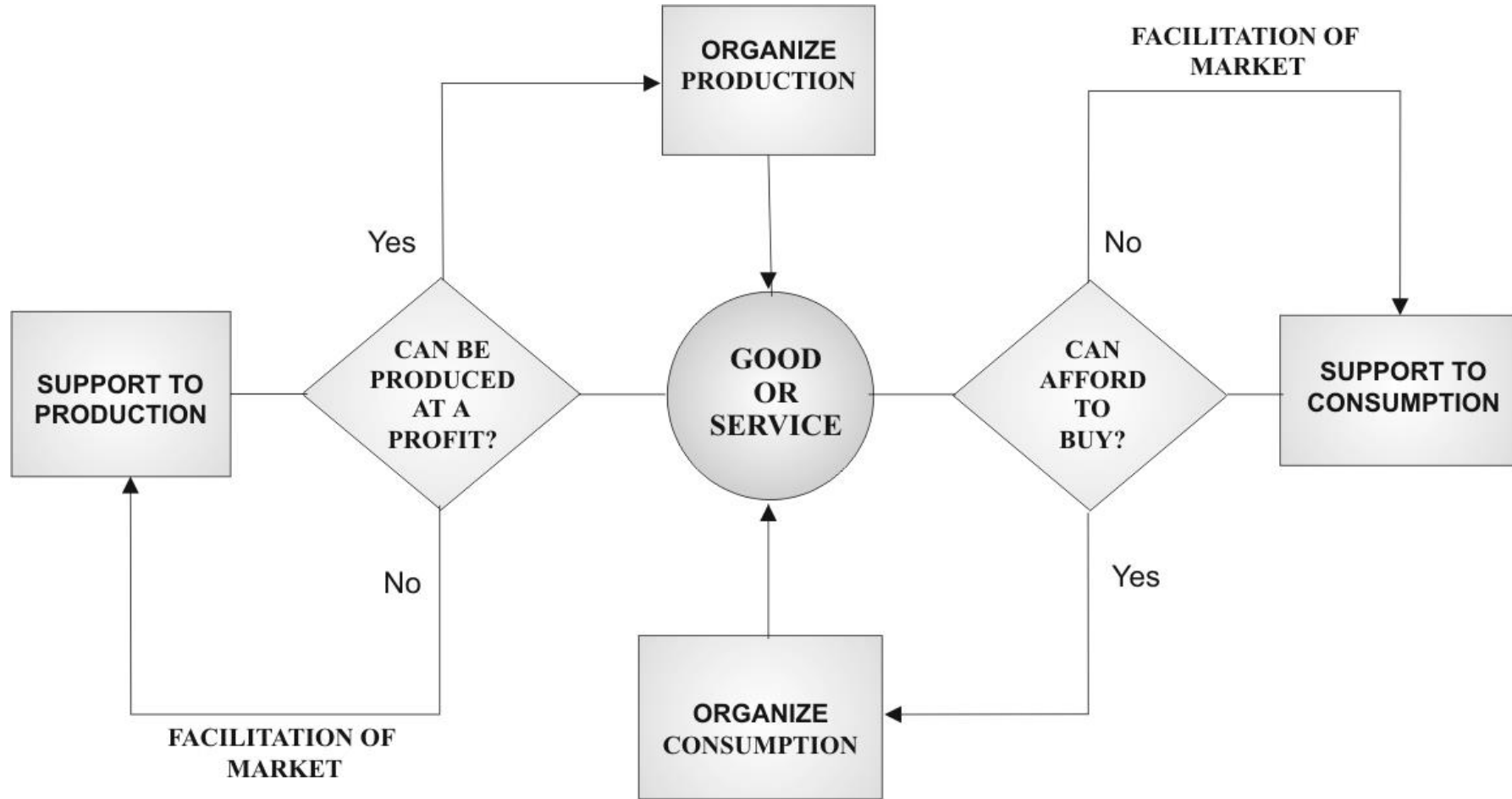
1. Private good – individually consumed and easy to exclude other consumers from using it (by raising prices, e.g. fancy rice varieties)
2. Common-pool good – individually consumed but impossible to exclude others (e.g. street lighting, ambient air)
3. Toll good – collectively consumed but it is possible to exclude others by raising charges and fees (e.g. toll road)
4. Collective good – jointly consumed and it is impossible to exclude others from its use (e.g. national defense, justice administration)

When is the State a more reliable provider of goods and services? (Or, when is the market reluctant to provide?)

- Presence of natural monopolies involving huge capital investments (airports, seaports)
- Non-rival goods, i.e., only the State can provide (national defense, foreign affairs, justice administration)
- Presence of externalities – unintended effects of providing a good or service
 - Positive, when those who are not involved in the activity reap the benefits of the service provided free of charge, e.g. public health, its spillover (healthy community) is perceived as unprofitable for private practitioners, the service tends to be under-provided
 - Negative, when those who are not involved in the activity are made to suffer but the producers are allowed to “get away with it”, e.g. environmental pollution, there is a tendency to over-produce
- Merit goods, e.g. clean safe water, are perceived to be every individual’s entitlement and people help themselves by all means, fair or foul
- The “free rider” problem: when non-paying consumers cannot be excluded

The State as facilitator
of the market

Modes of Facilitating the Market



Examples of facilitation of the production function

- Production support infrastructure (efficient transport & communications, post-harvest facilities to minimize losses)
- Reduction of tariffs on import and export of materials & finished products
- Reduced transaction costs through one-stop shops, programmatic ECC, no graft and corruption
- Absorbing part of the risk of new investors, e.g. guaranteed profit levels, assurance of peace and order, stable foreign exchange rate
- Maintaining livability and attractiveness of the locality for both living and making a living.

Examples of facilitation of consumption

- ❖ Direct transfers to the poorest of the poor to meet basic needs (CCT)
- ❖ Unemployment insurance
- ❖ Promotion of full employment and job security in the private sector
- ❖ Raise in salaries and wages
- ❖ Grant of non-wage benefits
- ❖ Price control or stabilization of basic commodities
- ❖ Public sector-created jobs

The State as arbitrator
between contending groups

Existing Infrastructure for Arbitration Between Contending Social Groups

- ❖ Extensive infrastructure for justice administration
- ❖ Special courts
- ❖ Peace and Order Councils
- ❖ Lupong Tagapamayapa

The State as
social engineer

Social Engineering Role of the State

- ❖ Capacity to produce comprehensive rational solutions to social problems
- ❖ Maintaining social order, harmony and peace
- ❖ Restructuring social relations through distribution of the locus of power
 - Soft approach – values formation
(families, schools, churches, etc.)
 - Hard approach – restructuring society
(land reform, land use planning and zoning, etc.)

CODA

For planning to succeed,
the State
must exercise its reserve powers
as the
“first among equals”.

But how is the State doing
so far?

“The creeping privatization of government”

(Joel Ruiz Butuyan, “Flea Market of Ideas”, *Philippine Daily Inquirer*)

- The sole justification for government’s being is to perform services needed by the people.
- There was a time when the range of public services was extensive. The government was the principal provider of community needs.
- When government encountered problems of inefficiency and insufficiency of funds, it encouraged the private sector to engage in the business of providing public services.
- Big private companies enthusiastically responded and found that tremendous income can be gained from any business that provides public services.
- Privately provided services like schools, hospitals and transport are patronized by the rich while government schools, hospitals and public transport are patronized by the poor.
- Private sector conquest of public services has extended to security and judicial services as shown by the ubiquitous “blue guards” and the growing trend towards arbitration rather than court cases to settle disputes.
- When people get increased incomes they shift to paying for privately provided public services, private schools, private hospitals, private cars. Thus, any income increase attained by people is captured by private companies providing public services.
- This may be one reason many of our people continue to feel poor notwithstanding the unprecedented growth in our economy.
- It is time to pause and rethink this creeping privatization of the government.

(This is a paraphrase from the original for the sake of brevity.)

Reserve powers of the State essential to public-sector planning: *a second look*

- *Eminent domain* – planning invariably involves the use of land for public purpose. But most lands are now privately owned. So transfer of ownership to the government is inevitable. [***Gov't practices self-restraint and applies eminent domain as a matter of last resort in land acquisition.***]
- *Police power* – planning often requires regulation of the actions and behaviors of individuals and groups in accordance with socially accepted norms conducive to attaining peace and prosperity in the community. [***Gov't regulation is said to be a suggestion only, enforcement is negotiable.***]
- *Taxation* – as a means to raise funds to finance essential public services and facilities, to equalize/redistribute social opportunities, and as a regulatory measure to ensure the proper use of land for the general welfare. [***The poor are burdened with direct and indirect taxes and get poor public services; the rich and powerful are able to get away with creative means of tax evasion and are given huge tax deductions and tax breaks, all in the name of investment incentives.***]

All the best!