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LIKE IT IS



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Flooded with water issues

I want to continue on the water case because it's much more than an issue of whether the concessionaires should be given revenue increases, and how much, or not at all.

It raises two very serious issues: the very survival of the public-private partnership (PPP) program and the sanctity of contracts. I don't think anyone will disagree that privatization has led to an almost unbelievable improvement. The Metropolitan Waterworks and Sewerage System performed so badly it almost wasn't providing any water, and none you'd feel safe to drink. "Metropolitan Manila had one of the oldest and least efficient water systems among major Asian cities," an International Finance Corporation paper noted.

What was not mentioned last week was the vast reduction in system losses after the privatization. From 63 percent in 1997, Manila Water cut its nonrevenue water to 12 percent by end-2012. Maynilad, after a slow start, has seen its nonrevenue water cut to 43 percent from 66 percent over the past six years (an incredible feat in a short span of time).

Today, around 14 million consumers are connected to Manila Water and Maynilad and enjoy round-the-clock access to clean, reliable and safe water. This isn't the case in far too many places outside Metro Manila.

Maynilad and Manila Water have given us potable water. And here's a point for the carpers: Stop buying bottled water, you don't need it. Just drink from the tap. I do, and I'm still alive. The savings there alone will pay for any increase the concessionaires are requesting.

Here's the first point: Governments are supposed to use our taxes to provide the basic necessities of a society—roads and bridges, healthcare services, electricity and water, and so on. But the reality is that they can't. They have neither the financial wherewithal nor the operational capability, so they turn to the private sector that has both.

The private sector, though, is in business, and what drives a business, what keeps it going and growing, is profit. Making a profit is the underlying motive behind all businesses and explains the success of the capitalist system. This then creates a conflict: The government is obliged to provide public services at the least cost, and the private sector is looking to make the most profit. Now you can appeal to the patriotism of Filipino companies to keep the profit small, but you're asking a lot. Companies have options: Do they go into fast food and make a 12-14-percent rate of return, or the guaranteed rate of return of 9.3 percent under a water concession agreement?

As discussed last week, this rate known as the appropriate discount rate is determined every five years. The rate of 9.3 percent was set in 2008 and is up for revision this year. It is based on industry cost of money and Philippine financial market conditions. If the difference between what you'd get in a straight commercial enterprise and a PPP project is substantial, you'll decline to bid for government contracts, and the infrastructure we so desperately need today won't get built. The PPP program will grind to a halt through lack of interest.

Are the protesters aware that the fees charged by Manila Water and Maynilad are lower compared to those in other Philippine cities and in line with costs in the region? Consider also that they've poured over P100 billion into improvements which surely they should be able to get back. Have the protesters forgotten the pre-1997 days when one had to fill buckets at night or wait in line for a water tanker—and pay a hefty price (five to seven times the MWSS rate) for water of questionable quality?

So to call for much lower returns than promised in these contracts will bring into question the desirability of joining the government in public projects. And that leads to the second issue: sanctity of contracts.

Once entered into, contracts must be fully adhered to. It used to be, in a far gone gentlemanly past, that a person's word was enough. Now, you need a contract, and that contract is your commitment. If it can be unilaterally or arbitrarily changed by one party, then the trust in that party disappears. Neither you, nor anyone else when they hear of it, will ever trust you again. They'll go where word can be trusted.

If the rate of return is now too high—now that costs of money have fallen in a way not envisioned in 1996 when the contracts were signed—then that's the price we pay for a poorly drafted contract. It should have specified a return of X percent over the interest rate adjusted annually, or some similar arrangement. But it didn't. You must live with what you've agreed to, and make sure you're more careful next time in the drafting of a contract.

These are not only contracts, these are sovereign contracts of a nation; they must, absolutely must, be inviolate. Now you can, as I said last week, ask the other party to agree to a change. But they don't have to, and you need to be very careful to ensure it's a demonstrably willing agreement to change if you want future partners. I'm not much of a believer of much in law, but this one I fully support. A contract is your word.

Now if government can be convinced that this leads to tariffs that are too high for the public to bear, then it can partially subsidize it (it's cheaper than providing the service fully itself). But I'd caution against it. Subsidies are taxpayers' money. Is this the best way to use it?

The PPP program is about to give us the infrastructure the previous administration never did. But it won't if we attack the few projects that are successful.

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The Supreme Court should be ashamed of itself, or at least eight of the justices should be. There will be 11 dead mothers today.