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People power the day after

Edsa I had two crucial moments. The first showed the people in the streets asserting themselves as a sovereign political force. The second belonged to the lawyers who worked behind the scenes to draft a new political order. The people authored the series of protest actions that successfully drove away the dictator Ferdinand Marcos. But it was the lawyers who formulated the framework that justified Cory Aquino's assumption of the presidency on February 25, 1986.

Cory took her oath not on the basis of the snap election that pitted her against Marcos. On the contrary, it was Marcos whom a captive legislature officially proclaimed winner in that election. Cory drew her authority rather from the mandate she believed the Filipino people directly gave to her at Edsa. Not everyone can make such a claim, and expect to be believed. Cory did and was believed. Was it the Cory magic at work? Or was it the effect of the people's quest for freedom, which she symbolized with great virtuosity? No one really knows. Founding moments are the least understood in politics.

As expected, as soon as the dust settled, loyalists of the deposed regime found their voices and questioned the constitutionality of what had just happened. But like the military who attempted to rule with Cory, the remnants of the old order found themselves pathetically reduced to a noisy minority. Cory's legitimacy remained secure, needing no document to validate the authority she wielded.

Of course, Edsa was extra-constitutional, because as the political philosopher Hannah Arendt once put it, the nature of every beginning "is to carry in itself an element of complete arbitrariness." One of the first acts of

Cory as president was to junk the 1973 Constitution, calling it a document of the dictatorship. In its place, she issued a provisional “Freedom Constitution” in which she laid down the premises of her authority. Like most founding documents, Proclamation No. 3, dated March 25, 1986, was short and direct. The preamble states:

“Whereas, the new government was installed through a direct exercise of the Filipino people assisted by units of the New Armed Forces of the Philippines; whereas, the heroic action of the people was done in defiance of the 1973 Constitution, as amended; whereas, the direct mandate of the people as manifested by their extraordinary action demands the complete reorganization of the government, restoration of democracy, protection of basic rights, rebuilding of confidence in the entire governmental system, eradication of graft and corruption, restoration of peace and order, maintenance of the supremacy of civilian authority over the military, and the transition to a government under a New Constitution in the shortest time possible;

“Whereas, during the period of transition to a New Constitution it must be guaranteed that the government will respect basic human rights and fundamental freedoms;

“Wherefore, I, Corazon C. Aquino, President of the Philippines, by virtue of the powers vested in me by the sovereign mandate of the people, do hereby promulgate the following Provisional Constitution:...”

Perhaps the only other founding moment in our history that is analogous to EDSA I was the formation of the new government under General Emilio Aguinaldo following the declaration of independence from Spain in 1898. These are rare events in politics. They are worth pondering because they recall for us what it means for a people to constitute themselves as the sovereign in a political community. That it is they who wield the ultimate power of government. That, during extraordinary moments, they can constitute themselves anew under a political order they deem suitable to their collective purposes.

The inauguration of the postwar independent republic on July 4, 1946 was not a founding moment. That government was established under the existing 1935 Constitution, which was written while we were a colony of the United States. Neither was Edsa II in 2001 a new beginning. What appeared at first glance as a revolutionary moment turned out to be nothing more than a calculated succession maneuver made possible by what the Supreme Court later justified as the “constructive resignation” of the incumbent president.

As we watch with great interest and sympathy the popular uprisings now challenging the autocracies of the Arab world, we cannot but wonder what political orders they will give birth to. Will they give rise to governments run by civilians under a democratic constitution? Will they usher in a fresh generation of leaders who understand the imperatives of modern governance in a complex world? Will they preserve the elitist form of rule, or will they seek to institutionalize popular participation at all levels of government? The outcome is not assured. The biggest challenge as ever is how to synthesize the freedom that drives the political moment of uprising into an enduring juridical framework for normal politics.

What happened after Edsa I is that we went back to the patronage-driven government of the pre-martial law era. This was the political template that the politicians around Cory knew best. It was also the pattern of rule that our people were comfortable with. But, to make matters worse, the threat of military coups kept the Cory presidency focused on political survival and consolidation, preventing her from experimenting with novel forms of grassroots participation. This is how the extraordinary legacy of Edsa was wasted.

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