THE 2002 RAMON MAGSAYSAY AWARD FOR GOVERNMENT SERVICE

BIOGRAPHY OF HILARIO G. DAVIDE JR.

The morning started like any other in the life of Hilario G. Davide Jr. On that November day in 1998, he read the Bible, as was his daily habit. The holy book flipped open on Maccabees 10:2: "Now Maccabeus and his company, the Lord guiding them, recovered the temple and the city. But the altars which the heathen had built in the open street, and also the chapels, they pulled down." Later that day, Davide sat beside President Joseph Estrada at a ceremony honoring the nineteenth-century Filipino revolutionary Andres Bonifacio. The post of chief justice of the Supreme Court had fallen vacant the night before, when the incumbent turned seventy years old. As senior associate justice, Davide was first in line for the job, but some of the president's political allies were backing other candidates. So it was a big surprise when Estrada suddenly informed Davide that he was appointing him chief justice. He administered the oath of office then and there, making Davide—the son of rural teachers from the central Philippines—the country's twentieth chief justice.

It is a measure of the man that he saw the hand of God in his appointment. "The following day," he recalls, "when Mrs. Davide and I attended mass [in thanksgiving], the responsorial psalm was 'Justice and peace shall flourish. It is time.'" Maccabees 10:2 flashed through his mind. "Probably God had a mission for me: I have to restore the Temple of Justice. This was the biblical foundation for all my efforts at restructuring the judiciary." During his watch, the pace of disciplining errant judges and court personnel was accelerated; one justice of the Court of Appeals was even dismissed. But the renewed respect for the Supreme Court in the Philippines during his tenure can also be ascribed to Davide's probity, fairness, and activism. In 2000, he presided over President Estrada's impeachment trial with an impartiality that impressed presidential friends and foes alike. And when the Estrada government collapsed in January 2001, the timely intervention of Davide's Supreme Court helped in the peaceful transfer of power to Vice President Gloria Macapagal Arroyo, the constitutional successor.

Born on December 20, 1935, Davide spent his early years in the village of Colawin in the municipality of Argao in Cebu Province, an island in the central Philippines about four hundred kilometers from Manila. It was a bucolic time for the young boy. He grew up surrounded by trees, hills, and a meandering river, inspiring a love of nature that would later inform his proactive rulings on the environment as a Supreme Court justice. Colawin was inaccessible to any motorized transport. Davide walked barefoot up and down mountain trails and crossed the river in eleven places to get to the *población*, the town proper of Argao, where he stayed five days a week to attend school. "Every Friday afternoon we had to be absent from our classes because we had to walk for about three to four hours [to return to Colawin]," he remembers. "We walked very fast because our feet had already developed very thick calluses, so much better than a pair of shoes."

Education was revered in the household. Both Davide's parents were teachers. His father, Hilario Davide Sr., rose through the ranks to become a principal and retired as a superintendent of schools. "There were fourteen children in my father's family," says Davide. "Only my father reached beyond the elementary grades, finishing high school and

eventually college. The only other member of the family who studied up to second grade was a brother. All the rest were illiterates." Hilario Sr. made sure all his seven children received an education, even if he had to mortgage pieces of property many times over. He also supported the studies of other relatives, who stayed with his children in the house he rented in town.

Davide traces his father's obsession with education to a painful boyhood incident. Nobody wanted to be his partner at the elementary school graduation dance. "It was because he was a *bukid-non*, meaning someone from the mountains," says Davide. When he got home, the new graduate tearfully told his father, "I'd like to study in the city high school." His father asked why. "I'd like to prove to them that a mere barrio boy can succeed," Hilario Sr. answered. Davide himself had a similar experience. At his own elementary school graduation, the girl who ranked third (Davide finished in fifth place) spurned his congratulations because his hands were rough like a farm boy's. Like his father before him, the young Davide vowed to pursue higher studies. "I decided to take up law," he says. "I considered [the insult] an act of injustice."

Hilario Sr. encouraged his children to read. "He had plenty of books," says Davide of his father. "He even had [national hero] Jose Rizal's *The Philippines A Century Hence*." One well-leafed tome was a Webster's International Dictionary that he won in a spelling contest in high school. The King James Bible was another treasured possession. "One time, the district supervisor scolded him because the first portion of his class was devoted to reading from the Bible," recalls Davide. "That was not supposed to happen because of the separation of church and state. But my father insisted [on continuing the practice] because the best literature, according to him, would be the word from God."

Religion also held a central place in Davide's home. As a young boy, he once shaved his head to leave a bare patch in the crown, in imitation of the priestly practice at that time. "All of us had to be home by six o'clock [in the evening] to say the Angelus," he recalls. "Early mornings we also had to pray." The family did not work on the farm on Sundays in observance of the Sabbath. They did not hear mass. The nearest chapel was in another barrio, which was in any case visited by priests only on feast days. Today, Colawin has its own small church and a barangay hospital built with contributions from the Davide family and their neighbors. It was perhaps in honor of Davide, the barrio's illustrious son, that Archbishop Manuel Salvador of Cebu personally installed the Blessed Sacrament in the church and that Cardinal Ricardo Vidal came to celebrate mass and bless the hospital.

There was little in Davide's early years to suggest his rise to eminence. While not destitute, the family had to stretch their finances. The matriarch, Josefa, stopped teaching after the children were born. She did the housework, while Hilario Sr. and the older boys plowed the fields before and after school. There was plenty of food from the two-hectare farm, but cash for books, education, clothing, and other amenities depended on Hilario Sr.'s meager teacher's income. All five boys slept in the *sala* (living room) of the family's bamboo-and-cogon-grass hut; their two sisters shared a smaller room with their parents. Still, Davide had a halcyon childhood. Colawin was a close-knit community—most of the little barrio's inhabitants were the boy's relatives on his father's side. His paternal grandfather, Pablo Ortega Davide, lived a kilometer away and would sometimes take his favorite grandson Hilario home to spend the night.

Josefa was a disciplinarian. "It was my mother who sometimes would threaten to use a guava twig on you," says Davide. "Not to injure, but just to threaten you." Hilario Sr., too, believed in discipline, but he relied on reasoning rather than the threat of corporal punishment. "Being an educator, he knew how to handle us in a very nice way, without putting us to shame or embarrassing us in front of other people," says Davide. At one

point in his career, Hilario Sr. was assigned as principal of a school in distant Oslob town, leaving Josefa with the kids for most of the week. He would come home every Saturday, then take to the mountain trails the next day to get to the national road, where he caught the bus to Oslob. When the Japanese invaded the Philippines in 1941, Hilario Sr. had to walk the sixty-five kilometers all the way from Oslob back to Colawin because public transportation was suspended.

Davide was seven when the Japanese came. The invasion was personally traumatic for the young boy. The soldiers arrested his eldest brother, Jose, who was sixteen at that time. "He was just going down the coconut tree after gathering *tuba* [coconut wine]," Davide recalls. Fear gripped the family. The Japanese eventually killed almost everyone they arrested. "My papa and mama knelt and prayed for my brother's safety all the time we were in hiding a kilometer away from our house in Colawin," says Davide. "We stayed in this place until late in the afternoon, when we learned that my brother had arrived unharmed by the Japanese. It was a miracle. It was really the first moving, spiritual experience I had with my mama and papa."

The family moved from place to place whenever they heard the Japanese were on the prowl. By then they had reason to fear. Jose had become active in the guerrilla movement against the Japanese. Hilario Sr., too, established links with the resistance. "He would ensure the delivery of supplies to the guerrilla forces in Malalay, about ten kilometers from Colawin, where they had their command post," says Davide. The materials included firearms landed by a U.S. submarine. Young Hilario Jr. did his bit as well. He was in charge of feeding the chicken that barrio folk would donate for the cause. The family farm was also a source of grain for the resistance—and for the refugees from the city who fled to Colawin and nearby barrios.

Davide was nine when the war ended. "I started my schooling in 1945, upon the reopening of schools after the Americans had already driven away the Japanese from Cebu," he recalls. His father taught him how to read during the war, so the boy breezed through first grade in three months in the makeshift primary school in Colawin. Davide was sent to a school in the neighboring barrio of Gutlang to continue his studies and then back to Colawin for his fourth and fifth grades, after an elementary school was opened in the barrio. He attended Central Elementary School in Argao town proper for sixth grade. He completed his first two years of high school at the *población* as well, walking barefoot and fording the river every weekend to go home to Colawin, eighteen kilometers away.

The family moved to Cebu when Davide was fifteen because most of his siblings were already attending college there. Although on the same island as Colawin and Argao, the city for the teenager seemed to exist in another world. Then as now, it was a bustling metropolis at the forefront of the business and cultural life of the central Philippines. "It was a difficult transition for a rural boy to be in the city," says Davide. He was placed in section five of the third-year classes (the brightest students were in section one) at the Abellana Vocational High School. "I was not at the top of the class," he says. But he was promoted to section one in his final year. Davide was deeply interested in history, particularly the ancient civilizations of Asia. He continued his love affair with books, devouring Rizal's two novels, *Noli Me Tangere* and *El Filibusterismo*, and *Forces That Make a Nation Great*, a collection of essays by Jose P. Laurel, who served as the country's president under the Japanese.

There was little time for sports and other nonacademic interests. "We had a very, very tight schedule not only in school but also in the house," says Davide. In the *población* at Argao, he woke up at 4:30 in the morning every day to fetch water from an artesian well about half a kilometer from the house. The daily routine continued in Cebu City, where

more water was needed for drinking, cooking, and laundry since the entire family had moved to the city. Davide would carry two kerosene cans full of water hanging from a bamboo pole balanced over his right shoulder or one large can on a *kariton* (cart) on each of the five trips he had to make every day. Up till now, his right shoulder is a half-inch wider than his left one.

One of Davide's fondest high school memories was winning the distinction of having an editorial he wrote chosen for publication in the school newspaper's last issue for the year. "The title was 'Sail On, Sail On,' like Columbus, a challenge [to the graduating class] to continue [with their endeavors]," he remembers. Davide himself sailed on—to Manila, the nation's capital hundreds of kilometers away. His solid grades in high school were rewarded with acceptance to the state-funded University of the Philippines (U.P.). It was a wrench to leave Cebu, but the opportunity was not to be missed. "My papa had the obsession of sending us to the University of the Philippines instead of to a local university," says Davide. "He said it was the people's university. There will be many students from the entire Philippines and therefore you will be exposed to greatness." Many of the nation's leaders graduated from U.P.

True to his vow four years earlier, Davide took up legal studies. He completed his pre-law course to earn an Associate of Arts degree in 1955, a Bachelor of Science in Jurisprudence in 1958, and a Bachelor of Laws in 1959. His first day at the university was a bit traumatic. Arriving early, Davide was the only occupant in his dormitory, a barrack-like Quonset hut that could house twenty-four students, four to each of the six rooms. "I cried the whole night," he says. But three other freshmen were soon billeted with him. "One was from Zamboanga [in the southern island of Mindanao], another from Basilan [also in Mindanao], and the third one was actually from the north but had resided in Tondo [in Manila] for a time." As his father predicted, the university was indeed a microcosm of the Philippines.

The nineteen-year-old thrived in academe. He made it to the dean's list and was awarded a college scholarship, which meant his tuition was partially waived. He later obtained a full university scholarship. But money remained tight for the Davides (most of the children were still in college, and the fourth son, Oscar, was studying to be a doctor), and Hilario Jr. could not afford to buy the law books he needed. So he spent his free time at the library and took a four-hours-a-day job as a dormitory assistant. "I was a working student from my second year up to the end of my college days," he says proudly. "Initially, I was a checker who made sure everyone was in their room and no one had pornographic materials. Later I did clerical work because I knew how to type."

The young man found the College of Law an engaging and challenging place. Law was taught and learned in the grand manner, following the ideas of U.S. Justice George Malcolm, the college's first dean. "The grand manner means that when you have become a lawyer, you have to do something with your profession to be of service [to others]," explains Davide. "That is why many graduates of the University of the Philippines are in government service. Even those in private practice or in business have a commitment to public service. It could be because the University of the Philippines is supposed to be the University of the People. As I mentioned in my speech when I was conferred an honorary degree in 2000 [by the university], 'We are scholars of the people and we have to pay them back [through] our contributions to society.'"

Despite his busy schedule, Davide signed up with an organization called The Plebeians in honor of the revolutionary Andres Bonifacio. He had been invited to try out for the Alpha Phi Beta, one of the largest Greek-letter fraternities, but dropped out after two weeks. "As part of the hazing, one of the masters [senior fratmen] brought me to a restaurant

and made me sit near him. He kept eating while I had nothing. Then after finishing a leg of chicken, he dropped the bone, stepped on it and told me to pick it up and eat it. That was the end. I said I would lose my human dignity if I did that." The Plebeians was different. "It was an organization of the *masa* or the proletariat, not the bourgeoisie," says Davide. "Instead of [physical] hazing, we had another form of hazing, more of an intellectual hazing. At that time, we required good grades as among the requisites for admission."

Although U.P. had something of a reputation as a hotbed of atheists and agnostics, Davide remained devout. "I became more religious, out of my own choice, not because of dictation by anybody. I was active in the Catholic community life there." He was inspired by the charismatic American Jesuit Father John Delaney, who was the university's Catholic chaplain. On the secular side, Davide was always conscious of the privileges and obligations of being a scholarship student supported by the people. "You always had that so-called U.P. pride in you, being developed," he says. "Every week I had to write a letter to my parents. On top of the envelope on the left side, it was always U.P., meaning 'up.' There was much challenge imposed on the graduates of the University of the Philippines, so this really guided my path toward the future."

Davide passed the bar on his first try in 1959. Six U.P. graduates were among the top ten examinees, but he was not one of them. "My father tried to compute [my rank] on the basis of the published report," he laughs. "He told me I was number thirty-five. I really didn't mind." While waiting for the exam results, Davide worked as a legal researcher for the Cebu law firm Remotigue and Associates, whose lead partner, Francisco Remotigue, was a friend of his father. A few months later, Remotigue stood for election as provincial vice-governor. He won and recruited Davide as his private secretary.

It was Davide's baptism of fire in the art of politics. The vice-governor sent him to the different Cebu municipalities as his representative in crowning beauty queens during fiestas and other events. Davide also wrote speeches. He stayed on as Remotigue's private secretary in 1963, when Remotigue became Cebu governor. "I realized how difficult it was for Governor Remotigue," says Davide. "Every morning he reported to the office and he went around the premises of the capitol to conduct an inspection. Then he would attend to the leaders, the mayors and barangay captains, which can be very stressful. It's very, very difficult to deal with people when you are a politician."

The U.P. ideal of public service compelled Davide to assume a more direct political role in 1967, when he and a group of other young professionals organized the Good Government League in Argao. "We were fired up with enthusiasm and idealism to change the system because it was really politics of patronage at that time," says Davide. The group put up a slate in the Argao municipal elections, with Davide running for councilor. People flocked to their meetings and the idealistic candidates believed they would win. "We thought all along [voters] really believed in a new kind of leadership. But all of us lost." A day before the elections, people were given fifty pesos each, a princely sum for someone who earned six pesos a day working on the farm.

Davide gave up partisan politics and concentrated on the law—and his growing family. He had married Virginia Perez in 1963, and they had had two of their five children by the time he ran for political office. Davide had remained a lawyer for Remotigue and Associates, even while serving the government as Remotigue's secretary. When he left the law firm in 1966 (Remotigue was named a cabinet secretary in Manila that year), Davide hung up his own shingle outside his father's home and practiced law in the grand manner. "Sixty percent of my cases were *pro bono* [charity] cases," he says. He defended poor defendants accused of murder, rape, homicide, theft, and other crimes.

"If you're rich, you can have a private prosecutor, a lawyer of your own," Davide explains. The poor had to settle for court-appointed *de officio* counsel. As an associate with the Remotigue firm, he would observe the proceedings of the Cebu Court of First Instance and noted that many *de officio* lawyers were not fully committed to their penniless clients. "So I requested the clerks of court to make me *de officio* counsel in criminal cases. That was the beginning of my love for criminal cases and my free service to those who cannot afford good lawyers."

He also taught law at Southwestern University at the invitation of the new dean, Pablo Garcia, who wanted to improve the quality of legal education by hiring idealistic young lawyers. "It was rather frustrating," Davide admits. "Being a product of the College of Law of the University of the Philippines, I wanted to impart to our students the kind of teaching I got. But the library was incomplete and we could not assign cases [for study]." And the students, while holders of baccalaureate degrees, were not really prepared for law subjects, so Davide devised brief assignments. It still took his students a long time to do them. Although classes were supposed to end at 8:30 p.m., he often went home much later. Davide developed a stomach ulcer. "You're so tired and your supper was already cold and so you just went to bed," he says ruefully. Still, he had the satisfaction of seeing the quality of learning at Southwestern improve significantly. "We were able to infuse in our students the desire to learn more."

In 1970, Davide returned to politics, but this time in the nonpartisan arena. Elections were held for delegates to the Constitutional Convention, which was to examine and update the country's 1935 charter. The Good Government League of Argao believed it could help stamp out vote buying and patronage by amending the Constitution. The group fielded Davide in the fourth congressional district of Cebu, which included vote-rich Argao. "I had a different way of campaigning," Davide recalls. "I went around the various schools and asked permission from the teachers to give me five minutes with the pupils." He gave the kids a letter for their parents and asked them to tell their elders that Davide was working for the future of their children. "I was very convincing because I really loved children." Whenever they saw his campaign jeepney, the children would shout "Davide, Davide." He won one of the two seats allocated to the fourth district.

It was a turbulent time for the Philippines. Nearing the end of his second four-year term, President Ferdinand Marcos was not eligible to run again under the 1935 Constitution. But he could remain in power if the Constitutional Convention (popularly known as Concon) were to lift term limits. There were widespread allegations that Marcos was putting pressure on some delegates and bribing others toward this end. The tension in Manila shot up alarmingly as the political opposition stepped up its anti-Marcos rhetoric and militant students marched in the streets. All the while the communists were growing stronger as the ranks of the poor swelled from government inertia, corruption, and Marcos's obsession with the presidency.

Only thirty-five, Davide sailed into this maelstrom in 1971. "At the inauguration of the Concon at the Manila Hotel, we already had [protesting] students who massed around us," he recalls. "It served as an inspiration in my case. That was the reason why I was very active in the various proposals regarding our youth and their role in nation-building." Many of the militants came from the University of the Philippines. While he sympathized with the students' aspirations, Davide was clear in his mind about what could and could not be achieved. "Radicalism was a good element; it meant there were extremes in society and you had to come up with a compromise formula," he says. "Even the radicals would accept the reality of a Solomonic solution because they could not expect to attain everything by radicalism."

In the Concon, the young lawyer was elected chairman of the committee "with the longest name," the Committee on Duties and Obligations of Citizens and Ethics of Public Officials. The committee produced Article 5 on the duties and obligations of citizens and Article 13 on the accountability of public officials under the new Constitution. While introducing changes, the committee sought to balance the competing claims of society's various sectors. "The reforms were constructive, not radical," he says. "We wanted to emphasize duties as a complement to rights. That is the essence of freedom." Article 5 stressed the obligations of citizens, among them, loyalty to the flag, love of country, respect for the Constitution and laws, cooperation with duly constituted authorities in the attainment of a just and orderly society, payment of taxes, and involvement in gainful work. Article 13 created the Tanodbayan, the office of the ombudsman tasked with investigating and prosecuting public officers and employees accused of corruption, and the Sandiganbayan, a special court with jurisdiction over these cases.

Davide was the main author of the provision against turncoatism. The Concon accepted his proposal to prohibit an elected public official from changing political parties for the duration of the term for which he or she was elected. "You have a social contract and political contract with the people who elected you under the party," he says. One contentious proposal was to change the presidential system to a parliamentary one, with the National Assembly electing the president to a six-year term. It was seen as an attempt by Marcos to cling to power. Despite pressure from radical students, Davide voted for the change. "I thought it would be the most responsive and responsible form of government," he explains.

Another controversial proposal was the abolition of the death penalty, which was not passed. Davide was its first proponent. "I will always be against the death penalty," says the devout Catholic. But he has sworn to uphold the law whether or not he personally agrees with it. As the chief justice of the Supreme Court in 1999, Davide opposed a motion to stay the execution of Leo Echegaray, who was convicted of child rape in 1994. "The ground relied upon for the stay of execution was the pendency of a bill [repealing the death penalty] in Congress. I agreed, eventually, provided that it should not be indefinite suspension." Echegaray was later executed. "Regardless of your belief, you have to impose the law," says Davide. "My only consolation is that, if I were to affirm the death penalty, I would be so convinced that a crime was in fact committed, that it was heinous, and that the imposition of the death penalty was in order. But I hope that the death penalty will be repealed."

At the Concon, allegations of Marcos-inspired pressure and payoffs targeting delegates continued. In 1972, delegate Eduardo Quintero took to the convention floor and revealed that he and some other Concon members were receiving money from the Marcos camp. Davide says no Marcos operative ever asked him to vote one way or the other. Marcos declared martial law on September 21, 1972. The president asserted that he needed emergency powers to deal with the communists, whom he blamed for the car ambush of his defense secretary, Juan Ponce Enrile. (In 1986, when he finally broke from Marcos, Enrile said the ambush was staged to give Marcos the excuse he needed to impose martial rule.) "It caught us by surprise," Davide says. "We did not really believe in the grounds for the declaration of martial law." There were calls for the Concon to dissolve itself as a sign of protest, but he opposed the move. "I thought that probably the delegates themselves could find a way out of martial law," he says.

The Concon resumed deliberations, but it became clear that it was no longer a free body. "Many of the delegates had become partisan," Davide admits, although he says he was himself never personally intimidated. Still, he insists, the convention managed to craft

“a very beautiful Constitution”—except for transitory provisions that in effect recognized the legitimacy of martial law. Davide thought a legal way out of martial law had been found. The convention provided for the incumbent president—Marcos—to convene an Interim National Assembly composed of the country’s vice president, the president of the Constitutional Convention, Concon delegates who voted for the draft constitution, and members of the padlocked Senate and House of Representatives who agreed to serve. This interim legislature was to prepare for elections for a regular assembly and a new president.

The crafty Marcos did not convene the Interim National Assembly, but held a referendum-plebiscite in 1976 to amend the Constitution. He wanted the interim legislature replaced by an elected Interim Batasang Pambansa (IBP, or Interim National Legislature) and the power to promulgate emergency legislation when the IBP was not in session or whenever he deemed it necessary. The proposal was known as Amendment 6. After three years of wielding absolute power, Marcos had no problem getting his cowed people to approve the constitutional changes by a voice vote in barrio assemblies. Elections for the IBP were held in 1978. By then, the president had defanged the political opposition, many of whose members he had co-opted, imprisoned, or sent to exile, and created a formidable political organization known as the Kilusang Bagong Lipunan (KBL, or New Society Movement).

All this time, Davide was in Cebu attending to his private practice. He defended vocal critics of the Marcos regime, including students prosecuted for sedition or rebellion. “Martial law was effective in the first year because of the promise of change in society,” says Davide. Asians respond well to a patriarchal form of government, believing that if you have a strong leader, you can have good governance. “That may be true if the dictatorship is benevolent and really considers the needs of the people,” he says. “But after the first year [of martial law in the Philippines] when abuses were already committed, graft and corruption flourished, and oppositionists continued to be in detention, there was no possible way of accomplishing the desired goal [of building a new society]. The abuses committed by the dictatorial government negated all that the dictator had supposedly dreamed of and wanted to obtain for the people.”

After the constitutional amendment passed, Davide entered politics again. “We thought, *sobra na* [it was too much]. We young people in Cebu put up an opposition party for the May 1978 elections.” This was Pusyon Bisaya [Visayan Fusion], which took in many members of the Good Government League of Argao. The fledgling regional party aimed to contest all thirteen seats allotted to Central Visayas. (The IBP candidates were to run as a bloc, with voters electing a party instead of individuals.) It was a difficult undertaking. “Many of those who were chosen to run eventually withdrew,” Davide recalls. At one point, Pusyon Bisaya stalwarts were summoned to the presidential palace in Manila. They were told that Marcos’s KBL party would be putting up its own slate. One or two candidates from Pusyon Bisaya could be included in the KBL’s Central Visayas lineup. Those not chosen would be rewarded with government posts after the elections. Imelda Marcos, the president’s wife who hailed from Leyte in the Visayas, then brought the group to her study and lectured them on the benefits the KBL would bring to the region. Almost everyone was persuaded. The feeling was that Pusyon Bisaya could not hope to go head to head with the KBL.

At the palatial Manila Hotel, where Marcos had billeted the group, Davide sought to change minds. “If we agree with the proposal,” he warned his Pusyon Bisaya comrades, “that will be the end of our political career. People will say that those who withdrew had been paid off. But if we run and lose, at least Pusyon Bisaya will become an accredited political party, a status accorded the organization that won the second highest number of

votes." No consensus was reached in Manila, so Davide tried again when the group returned to Cebu. He added one more element to his argument. "You cannot even repair your house in two months or in one year," he told his party mates, "because the moment you do that, people will say the money came from the Palace as consideration for your withdrawing from the race."

Pusyon Bisaya decided to fight. The party made a frontal assault on the Marcos dictatorship, demanding the immediate repeal of martial law and the full restoration of democracy. The message struck a chord among the electorate. "It was a phenomenon," Davide recalls. "When we went around Central Visayas, we were deeply touched by the people from remote municipalities like Siquijor, for instance. Old people would approach you and hug you and kiss you, crying, 'You are our savior, you are our savior.'" Pusyon Bisaya won overwhelmingly, despite an attempt in Negros Occidental province to manufacture returns that gave the vote to the KBL.

Did Marcos allow Pusyon Bisaya to win in order for the IBP to have a token opposition? "I don't think so," says Davide. The KBL had campaigned hard and spent a lot of money. Still, it was useful for the president to be seen as tolerating his critics. He can point to them as evidence that the Philippines had a working democracy. "Although Marcos may have used [the opposition] in that sense, we continued our fight against the dictatorship," says Davide. But he had no illusions about what his anti-Marcos regional party could accomplish. The IBP had 207 members, of which just twenty-one were in opposition. Tiny as it was, the minority also had to contend with internal bickering. Three contenders, including Davide, ran for the post of minority floor leader. Davide was elected after two rounds of balloting.

For the opposition, the first order of business was to put its program into action. Davide filed a resolution to repeal martial law. It was referred to a committee and, not surprisingly, died there. "Nothing happened," says Davide. "We didn't have the numbers, but we jolted the leadership. They saw we could not be controlled by them." And the minority could be heard. "Some segments of the media did really try to report the activities of the opposition." One focus of the opposition was the annual budget. "The ministers of the different ministries had real difficulty defending their budget because we really inquired into the philosophy [behind the proposed spending], the extravagance, the scandal in the appropriation, the immorality of a particular act. They had to sweat it out."

On other Marcos-backed bills, Davide's strategy was to make amendments providing safeguards against possible abuse. "There were many proposals I made acceptable," he says. Davide built support for opposition ideas from Marcos legislators whom he knew were sympathetic to the goal of a return to democracy. "I knew that deep inside, they did not like the regime of dictatorial rule," he says. "They could not talk because they belonged to the ruling party and were bound by the nature of a parliamentary form of government." Davide is especially proud of the opposition's work on the electoral reform law. "The [private-sector watchdog] National Movement for Free Elections (Namfrel) at that time was even very happy that most of its proposals for reforms for the first local elections in 1980 were incorporated into the law because I sponsored them on the floor," he recalls.

There were some things that the Marcos-dominated IBP, let alone the small band of oppositionists, could not change. The infamous Amendment 6, which gave Marcos the power to legislate whenever he wanted to, was one of them. Another was the president's prerogative to order the detention of anyone suspected of subversion or rebellion. After the 1980 local polls, Marcos lifted martial law the next year and decreed the holding of presidential elections. But he retained his extralegal powers. "You had only a paper lifting of martial law," says Davide. "What he could not get from his people at the Interim Batasang Pambansa, he did by himself," through Amendment 6. The opposition boycotted the

presidential race. Running against two unknown opponents, Marcos declared victory with what he claimed was 88 percent of the vote.

But even the crafty Marcos could not outmaneuver his mortality. He disappeared from view in the middle of 1983. The official explanation was that the president was taking a sabbatical to complete a book, but the rumors were that Marcos was suffering from the kidney disease *lupus erythematosus*. It was at this time that Marcos's arch foe Benigno Aquino Jr. returned from exile in the United States. The charismatic former senator was imprisoned when Marcos declared martial law in 1972, but allowed to leave for Boston in 1980. Aquino was assassinated on August 21, 1983, while military guards were escorting him from his plane at the Manila International Airport. Davide knew the political chess game had shifted. "I did not know who were instrumental in his death, but those who killed him did not realize the full impact [of their act]," he says. True enough, there was a surge in anti-Marcos sentiment and sympathy for Aquino's widow, Corazon.

A healthy-looking Marcos resurfaced after the Aquino assassination. His government went about its business as usual. Elections for the regular Batasang Pambansa were held in May 1984 with the end of the IBP's term that year. By this time, Davide was no longer minority floor leader. Internal rifts had effectively torn Pusyon Bisaya apart. He helped organize a new group, Panaghi-Usa (Unity) for the legislative polls, which would be held at the provincial level, not the regional level as in 1978. But bickering also hounded the new group. Davide ran as an independent instead and lost. With Corazon Aquino campaigning for them, however, the national opposition party United Nationalists Democratic Organizations (Unido) and its allies won 56 of the legislature's 183 seats, despite blatant fraud by the Marcos camp.

Davide returned to his private practice in Cebu, while helping to strengthen the opposition ranks there. He cofounded the Social Democratic Party of the Philippines, which was patterned after Germany's Social Democratic Party, and forged links with Unido and other opposition parties. "It was the beginning of the open opposition to the Marcos regime and a more public, aggressive movement for the restoration of democracy," he says. Under pressure from his patrons in the United States and international creditors to prove his mandate, Marcos scheduled snap presidential polls for 1986. The united opposition rallied around Corazon Aquino, who was persuaded to run against Marcos with Salvador Laurel as her vice president. Davide became legal counsel for a major Unido faction in Cebu and organized the group Cebu Aquino-Laurel Lawyers.

Massive fraud marred the voting and the counting, despite valiant efforts by the Namfrel and other nongovernmental organizations (NGOs) to guard the sanctity of the ballot. The Marcos-controlled legislature proclaimed the incumbent president the winner, but Aquino rejected the results and led a nonviolent civil disobedience campaign. Things came to a head when Marcos discovered a coup plot by defense minister Juan Ponce Enrile and armed forces vice-chief of staff Fidel Ramos. Holed up in a military camp in Manila, the soldiers appealed for the people's support. The response was electric. Answering a call by the Catholic Church, some one million people thronged Epifanio de los Santos Avenue (EDSA), the highway that passes by the main gates of the armed forces headquarters. In Cebu, Davide and other oppositionists called on the people to show solidarity with the demonstrators in Manila. "Immediately there was a repeat of what happened [in Manila] here [in Cebu]," he recalls. "It was in fact an extension of EDSA."

Marcos fled to the United States and Aquino became president. One of her first acts was to form a Constitutional Commission (Concom) so the 1973 Constitution that Marcos had mangled with his amendments could be replaced. Aquino named Davide to one of the fifty Concom seats. "I didn't know that I would eventually be appointed," he recalls. "It

was a big surprise." His wife told him of his selection after watching the new president's address on television. Given a second chance to craft his country's charter, Davide set to work with a will. On the commission's first day, he submitted eight resolutions. "I had the Preamble, the National Territory, the Declaration of Principles and Policies, the Bill of Rights," he laughs. "It was almost complete." He sensed a historic opportunity to make real changes in the aftermath of the bloodless People Power Revolution. "The timing was perfect, the climate was perfect, the environment was also conducive to the formulation of a very good constitution."

Davide served as chair of the Committee on Legislative Power. He remained convinced that the parliamentary system would be the most responsive to the people's needs. "The proposal [for parliamentary government] was immediately killed," he recalls. "I think there were only three of us who were for it." Memories of the excesses of Marcos's version of a parliament were still too raw. The legislature reverted back to a bicameral structure, comprising a Senate, whose members were elected by the nation as a whole, and a House of Representatives, voted by district. Davide also backed a proposal banning political dynasties. "I was for absolute prohibition and a very specific provision as to the parameters of a dynasty," he says. In the end, the commissioners banned political dynasties but left the definition of terms and implementation mechanics to Congress, which has yet to act on the constitutional directive twenty years later.

Davide won another partial victory on the question of capital punishment. "I again proposed the abolition of the death penalty," he says. "The compromise was to suspend the implementation of the death penalty law. Congress, however, may reimpose it for heinous crimes whenever there are compelling reasons to do so." The legislature reintroduced capital punishment in 1993 for serious offenses such as rape, kidnapping, and drug trafficking. Another important initiative focused on the executive's prerogative to impose martial law. "We provided for the availment of the power of the president to declare martial law but under very strict controls and safeguards. My own proposal was to authorize the courts to review the factual basis for the declaration and for Congress to be given the authority to set it aside." Citizens were also granted the right to question the validity of a proclamation before the courts, which ordinarily do not have jurisdiction over political acts.

Davide wanted a specific reference to Sabah as part of Philippine territory by legal and historic title, but after serious debates, he settled for a more general wording that left the Philippine government the option of pursuing the claim. He actively participated in the formulation, rephrasing, and refining of the sections on the environment and the Bill of Rights. "I was always a farmer," says Davide of his green credentials. "We were the first [in Argao] to engage in reforestation." He was also a strong supporter of the formation of a Commission on Human Rights, a first in the Philippines. On the last day of the convention, the commissioners were given the chance to reflect on what they had accomplished. "I said that this was a constitution I was willing to die for," Davide recalls. "To me, it is the best constitution because it is pro-life, pro-God, pro-poor, and pro-Filipino."

A year after completing his work on the Constitution, Davide was appointed chair of the Commission on Elections (Comelec) for a seven-year term. (To forestall conflicts of interest, constitutional commissioners were banned from accepting any government post within a year following the Constitution's promulgation.) The man who lost in his first run for public office because of vote buying and other anomalies was now in a position to reform the electoral process. "In the past, elections were held on the basis of *ad hoc* resolutions, so you could change the rules any time. I immediately proposed that we should have the Comelec Rules of Procedure in black and white." Completed in four months,

the detailed protocol regulated all aspects of Comelec decision making, from disqualification of candidates to settlement of pre-proclamation protests, to the handling of election-related cases filed before regional trial courts.

Davide's seven-year term was cut short when President Aquino asked him in 1989 to head a commission that would investigate the many coup attempts against her government. It was a sensitive assignment since the body would be investigating military personnel. Her first two choices had begged off over fears for their security. Davide had to resign from the Comelec in 1990 when Congress elevated the investigative body to a fact-finding commission so it would be clothed with legal powers, including the power to issue subpoenas. He and his four colleagues in the commission, popularly known as the Davide Commission, completed the job in eight months instead of the projected one year. "Invariably the motivations for the staging of the various coup d'états were all self-serving—for the promotion of political self-interest and even for economic reasons because many of the military people enjoyed special benefits from the previous regime which they could no longer obtain," Davide sums up the commission's conclusion.

Many of the commission's recommendations to address the grievances of the coup plotters were adopted. Except for some of its annexes, the voluminous report was published. "We thought that exposing the non-legitimate, non-substantial causes might be a deterrent," Davide explains. No more coups took place. "Not even an attempt of a coup. I think it was the exposure precisely of the selfish reasons." To his disappointment, however, the coup leaders were not prosecuted. They availed of the government's offer of political amnesty and some have even been elected to high office. "You know, that is the reality of Philippine politics," says Davide philosophically. "And that is why we really need to educate our people in the area of politics for them to realize that not just anybody can be elected."

Aquino wanted to reappoint Davide to the Comelec in 1990. But questions were raised in Congress about the constitutionality of the move since Comelec commissioners are appointed to single, non-extendable seven-year terms. Ever the constitutionalist, Davide said he did not want his name resubmitted for congressional scrutiny. "Mrs. President, Senator Maceda questioned the constitutionality of any reappointment and I told him that I'm not going to accept an ad interim appointment until the issue is settled," he told her. "If I sit, it would embarrass you, it will embarrass the Comelec, it will embarrass me." The president asked him: So, what will you do now? "I'll go back to Cebu and plant *camote* [sweet potato]," Davide replied. The president laughed. Later, she told one of her aides that Davide was a rare person, one who did not covet a government position as many others did.

Davide was later appointed to the Supreme Court. One ruling stands out in the list of decisions he wrote on behalf of the court as associate justice from 1991 to 1998. Lawyer Antonio Oposa sued the Department of Environment and Natural Resources in 1990 on behalf of his children and forty other children. He argued that the department had failed to protect the environment for his children and generations yet unborn by issuing timber license agreements covering 3.9 million hectares of virgin forest when, in fact, there were only some eight hundred thousand hectares of such forests left in the Philippines. In 1991, the regional trial court dismissed the case on the grounds that the children had no legal personality to sue. The case was elevated to the Supreme Court and caught Davide's attention.

"I have always believed that we don't own this Earth," Davide says. "It is really for future generations. We in the present generation are merely trustees of the environment, which would justify a class suit by minors assisted by their natural parents to bring an action to prohibit the grant of timber licenses or cancel existing licenses that would despoil

the environment." He argued that the Constitution, which he had helped to draft, clearly states that it is the duty of the state to protect and enhance the right of the people to a balanced and healthful habitat. While agreeing with Davide's position that the environment must be protected for future generations, some on the bench said a law was needed to implement the policy. In the end, the court arrived at a consensus and ruled that the Oposa case could proceed. In the process, "intergenerational responsibility" was enshrined in Philippine jurisprudence. The government later imposed a selective logging ban.

Davide's appointment as chief justice on November 30, 1998, marked the pinnacle of his career. His surprise oath-taking was rich in symbolism. Andres Bonifacio, the revolutionary whose heroism was being celebrated that day, is known as the Great Plebeian because of his working-class roots. "Remember I told you we organized The Plebeians at U.P.?" says Davide. "So here I am with [the statue of] the Plebeian at my back and my own commitment to a sense of justice especially for the poor. To me it was really historic." The cinematic moment may not have been lost on President Estrada, a movie actor whose political fortunes were founded on his film roles as champion of the oppressed. Swearing in the widely respected farmer's son while celebrating the life of the Great Plebeian certainly did not hurt his populist credentials.

In a land where the virtue of *utang na loob* (gratitude) is held in high regard, Davide was duly grateful to the president. But that did not stop him from presiding with an even hand over Estrada's impeachment trial for corruption in 2000. Davide won high praise for his impartial handling of the proceedings in the Senate. But it was a political, not a judicial, process and it was the senators, not the chief justice, who determined guilt or innocence. Popular outrage exploded when senators identified with Estrada voted eleven to ten not to open an envelope the members of the lower house, acting as prosecutors, said contained proof that the president had billions of ill-gotten pesos in bank deposits. As the prosecutors resigned in disgust, students and members of the business and NGO communities once again took to the streets in a replay of the 1986 People Power uprising. Estrada left the presidential palace in disgrace on January 20, 2001, after Vice President Gloria Macapagal Arroyo took her oath of office as the new president.

Estrada and his supporters have criticized Davide's decision to swear in Arroyo. "By that time, the military and the police had already withdrawn their support," explains the chief justice. "Many in the cabinet had also resigned. So you had a vacuum of power and the likelihood of a takeover by a government not following the constitutional provision on succession." To avert the formation of a military junta or a revolutionary government, the Supreme Court decided to act on Arroyo's request that the court administer the oath of office to the vice president. Estrada later challenged the validity of Arroyo's assumption to office. Davide and Associate Justice Artemio Panganiban, who was present at the oath-taking, inhibited themselves from the deliberations. Voting thirteen to zero, their colleagues upheld the legitimacy of Arroyo's presidency.

History will not forget Davide's role in resolving the constitutional crisis. These days, the chief justice is working on another lasting legacy. "I would like to be remembered as having led the most comprehensive effort to institutionalize [the justice system's] credibility," he says. "I want a judiciary that is truly independent, effective, and efficient, and at all times worthy of the trust and confidence of the people. We [in the judiciary] have to give everything of ourselves and maintain our integrity." Davide has launched an Action Program for Judicial Reform that covers, among other things, institution development, human resource development, integrity infrastructure development, support systems, and other initiatives for the judiciary's twenty-five thousand employees and officers. The Philippine Judicial Academy is being strengthened to provide continuing education for

judges, while a crackdown on errant magistrates has resulted in the disciplining of 352 judges from 1999 to April 2002. A Program Management Office to carry out the reforms was created, as well as a Public Information Office to promote transparency.

At the family farm in Colawin decades ago, the Davide family planted mahogany trees as part of a reforestation program. When the church in Argao celebrated its bicentennial a few years back, the family donated eleven of the now giant trees to make 110 mahogany pews, each one fourteen feet long. In a speech he delivered in 2002, Davide likened the process of strengthening the credibility of the justice system to the nurturing of such hardwoods. "The gardener must provide the seed with its requisite nutrients, he must protect the growing tree from harmful insects and [help it] contend with the harshness of the elements. Soon the gardener will have his tree, and in return for his labors, the tree will provide shade and fruit." The chief justice of the Philippines aims to do all he can to make sure the mahogany of reform he and his colleagues are growing today would serve as enduring pews in the cathedral of justice tomorrow.

Cesar R. Bacani Jr.

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