



UPHOLD THE CONSTITUTION, PROTECT THE RULE OF LAW

The IBP, through its Board of Governors, reiterates its unanimous stand that the breakneck impeachment of the Chief Justice by the House of Representatives thwarts the Constitution and the Rule of Law.

With all due respect, the House, in exercising its sole constitutional prerogative of impeachment, failed to faithfully comply with the required processes prescribed by the Constitution and its own rules on impeachment. As a result, the impeachment complaint has become a congressional *faux pas* in form and substance.

First: Based on public admissions, the complainants signed the 57-page complaint without reading and appreciating its contents and supporting documents, thereby violating the Constitution itself. Under the Constitution, an impeachment may only be initiated by a verified complaint, which means that its signatories must form their own belief as to its truthfulness based on actual *reading and appreciation* of its contents and supporting documents. But the complaint, as shown by admissions, was presented during a brief caucus as a *done deal*. No individual copies were distributed; no discussions held. Only a brief power point summary was dished out. The signatories then lined up and took their turns in signing the lone copy, without reading and evaluating the contents and documents. After gathering 188 signatures in blitz, the complaint was whizzed to the Senate without any discussion.

Second: In instantly signing and elevating the complaint for Senate trial without reading its contents and subjecting it to any discussion, the complainants violated due process and their own duty to make a determination of its sufficiency in form and substance and the existence of probable cause. While 188 legislators constitute more than 1/3 of the House, such number merely dispenses with the required referral of the impeachment complaint to the Justice Committee but NOT their solemn duty to make their own determination of the sufficiency of the complaint and probable cause as to warrant Senate trial. Such preliminary determination by the complainants strikes at the heart of due process; it cannot be satisfied without actual reading and appreciation, if not discussion, of the complaint and supporting documents.

Third: The impeachment complaint also failed to comply with the prescribed processes in verifying its due execution. The blitzkrieg filing of the complaint shackled the House Sec-Gen from faithfully complying with the processes of verification, which would require the 188 signatories of the complaint to individually appear, raise their right hand and declare under oath its due execution and their own belief on the correctness of the allegations based on reading and appreciation of the documents, and, thereafter, affix their signatures (for the second time) as proof of verification. The verification process of 188 declarants cannot be dispensed with or cramped in blitz. The complaint itself does not bear the certificate of acknowledgement by the House Sec-Gen as proof of his faithful compliance with the verification process.

But far more telling and serious are the defects in the substance of the impeachment complaint.

First: The grounds invoked in the impeachment complaint subvert the constitutional guarantees of separation of powers and judicial independence, the first principles of the Rule of Law. The Chief Justice is impeached for grounds involving collegial resolutions of the entire Court in cases elevated for review. The complaint even includes a number of SC rulings still pending reconsideration, which clearly reeks of undue interference in the disposition of pending cases. Even the other grounds on the SALN and JDF collections also tread on collegial practices involving assertions of judicial autonomy, which neither the COA nor the Ombudsman has disallowed.

By indicting the Chief Justice for alleged *political bias* over collegial decisions and without any allegation of financial or illegal consideration involved, then the House – a full-bloodied political assembly – has just elevated its status, without rewriting the Constitution, into a higher judicial body, a *super Supreme Court*, overturning judicial decisions for alleged “political bias” and enforcing sanction via impeachment. Thus, on trial is not only Chief Justice Renato Corona but the

constitutionally-protected *power of judicial review*, the very weapon designed to check potential excesses or hegemony by Congress and the President in the exercise of their legislative and governing powers.

While the President may have valid issues against the Chief Justice and the Supreme Court, the resort to blitzkrieg impeachment for imputed “political bias” erodes, rather than strengthens, the Rule of Law. If the Chief Justice can be *validly* impeached for collegial decisions (including pending cases) for “political bias” and hauled to the Senate to undergo the rigors of political trial, *all by a mere stroke of 1/3 signatures of the House gathered in blitz*, then the Supreme Court will never be the same again, its judicial independence defanged, and its magistrates – including their decisions -- now at the mercy of the political bidding, if not power plays, of the ruling House majority and the President. The chilling effect and damage to judicial independence would be like typhoon *Sendong* – devastating, long-term, and incalculable.

Second: The impeachment complaint also trifles with and violates the constitutional guarantee of equal protection of the law and due process, the first principles in our Bill of Rights. The complaint clearly and repeatedly delves on collegial decisions and collegial practices of the Supreme Court. Yet, only one of its members, who happens to be the Chief Justice, is being singled out, even if he neither penned the assailed decisions nor changed his position (flip-flop) on the merits of the cases. If the impeachment seeks to enforce public accountability over decisions of the Court now assailed as unconstitutional, why charge and indict only the Chief Justice and exclude the others?

Jurisprudence proclaims that *selective prosecution* smacks of persecution, which cannot be sustained without thrashing the constitutional guarantees of equal application of the law and substantive due process. If the Chief Justice of the land can be singled out for liability over collegial decisions and brazenly denied the constitutional guarantees to equal protection of the law and due process, what more for ordinary members of the judiciary and citizens of the land? Has not the barefaced disregard of well-entrenched constitutional guarantees transmogrified the impeachment process from being an avatar of public accountability into a political goblin for partisan ends?

Thus, for the guidance of the bar and the public, the IBP, through its Board of Governors, stands firm on its position that the impeachment complaint runs afoul with the Constitution in form and substance. But in defining its course of action, the IBP has also resolved to refrain from intervening as counsel or litigant in the Senate impeachment trial or in the certiorari proceedings before the Supreme Court (even if it did so in the impeachment case of then Chief Justice Hilario Davide). In refusing to intervene as litigant or counsel in the pending proceedings, the IBP is giving premium to the need to maintain its institutional independence and integrity and avoid being drawn into divisive political alignments.


But the IBP cannot also afford to stay in the comfort zones of non-involvement while the independence of the judiciary is being torpedoed by a misguided and defective congressional action that threatens to shake the foundations of our democracy. As sentinel of law and democracy, the IBP is duty bound to engage the people and other stakeholders of the justice system to rally and defend the judicial independence of the Supreme Court, the bedrock of the Rule of Law.

To fulfil this duty, the Board has resolved to establish -- a) an *IBP Impeachment Communications Group* manned by volunteer lawyers to inform the public on the breakneck impeachment and its adverse impact on the constitutional guarantees of separation of powers, judicial independence and the Rule of Law; and b) an *IBP Impeachment Watch* to closely monitor the developments on the impeachment case before the Supreme Court and the Senate.

Finally, we call on our people and the stakeholders of the justice system to pay the price of vigilance. On trial now is not only the judicial independence of the Supreme Court. It is our own commitment to the supremacy of the Constitution, the Rule of Law and political democracy.


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