

Appendix B

Brilliant, Versatile and Venerable*

Brilliant, versatile and venerable. These three words sum up my overall impression of Father Joaquin G. Bernas, SJ. He is a Jesuit priest, lawyer, educator, author, journalist, constitution maker, spiritual guru, business adviser and civic leader *par excellence*. One who regularly reads his incisive newspaper columns would think that opinion writing is his main vocation. One who hears his inspiring homilies would easily conclude that priesthood must occupy all his attention. Indeed, he excels in everything he does. The same degree of excellence characterizes his every pursuit.

Today, however, I would like to pay tribute to him as a respected gentleman of the law. I am now on my tenth year as a member of the Supreme Court and, during all that time outside the hallowed halls of our highest tribunal, no one else but he has played a more significant role in shaping constitutional law jurisprudence. His monumental treatises on the 1973 and the 1987 Constitution are the virtual political law bibles in our country. No decision touching on the Constitution is ever complete or correct without citing Fr. Bernas.

No wonder he is the favorite *amicus curiae* of the Court. Very rare (less than once a year on the average) are the occasions when the Tribunal calls on *amici*; but on almost all those occasions during my incumbency, he has been invited to enlighten us in tackling the most perplexing litigations.^[1] Indeed, during my almost a decade of being a justice, no one

else has been invited for as many times.

I have not always agreed with him,^[2] but I have always welcomed his views on all important constitutional issues facing the Court. It is easy to agree with him, because he backs up his views with disciplined wisdom, untrammelled authority and methodized logic. By the same token, it is very difficult -- even dangerous -- to disagree with him, lest in the process one is exposed as an unfettered ignoramus; or, worse, as an eclectic fool.

I firmly believe that Fr. Bernas is extremely qualified to be a member of the Supreme Court. I recall that several years ago, then Chief Justice Andres R. Narvasa -- who also chaired the Judicial and Bar Council -- informally asked the justices for nominations to the vacancy in the Court then. Among the many legal eagles suggested, only one was the unanimous choice: Joaquin G. Bernas. But when informed of the justices' choice, he respectfully declined.

I have never known for certain why he opted out. However, I can say with personal conviction that his refusal was a testament to his integrity. He did not want to be restricted from expressing his views publicly. He preferred the role of a sage -- a guide for decision-makers in government, in business and in the personal sphere -- unbound by the distance and ethical limitations of a magistrate. And he chose to influence people on a simpler and more personal level.

I am certain that his appointment to the Supreme Court would have been a shining

moment in our judicial history. But like the very humble Jesus who is happiest when tending His sheep, he chose to continue dedicating his life to the Lord as a personal shepherd to His flock.

* I wrote this tribute to Fr. Joaquin G. Bernas, SJ, at the request of the *Ateneo Law Journal*, which published it in its September 2004 edition.

[1] He was an *amicus curiae* in *People v. Malabago*, 333 Phil. 20, December 2, 1996; *Manila Prince Hotel v. GSIS*, 335 Phil. 82, February 3, 1997; *Francisco v. House of Representatives*, 415 SCRA 44, November 10, 2003; *Tecson v. Commission on Elections*, 424 SCRA 277, March 3, 2004. His Memorandum in *Manila Prince Hotel v. GSIS* was also quoted in *Army and Navy Club of Manila v. Court of Appeals*, 337 Phil. 482, April 8, 1997.

[2] For instance, in my book *Leadership by Example: The Davide Standard* (1999), I specifically related my disagreement with Fr. Bernas. As *amicus curiae* in *People v. Malabago* (*ibid.*), he opined that courts had the duty of determining the heinousness of a crime and the compelling reason for the imposition of the death penalty in each particular case. On the other hand, I believed that the Constitution had lodged in Congress, not in the Supreme Court, the responsibility of determining the “compelling reasons” and the “heinous crimes” upon which would depend the imposition of the capital penalty. Thus, the Court merely applied the law.