

On My Mind

11/13/09

There were lots of disappointments in the election outcome, not the least, for me, the defeat of Tina Sablan for Senator. True, she was an "upstart," and many were uncomfortable with her non-traditional ways, her insistence on following rules, her persistence in fighting for what she believed in. To some, this was even viewed as showing disrespect for her elders - an historic problem here in the islands, where progress is sometimes hindered by the difficulty members of a younger generation - those who've had more formal schooling, who tend to be more assertive - face in challenging the traditional position of elders in power.

As of this writing, it is not known whether the proposed amendments will be considered passed or failed, since it depends on whether the Election Commission will reconsider how it counted "votes cast" - a decision it may make at its meeting today, though one newspaper reported that that was not on the agenda. If they all are considered passed, that too will be a disappointment - particularly the giving of an extra year in office to all elected officials. If they are all decreed as having failed, there is still disappointment, in that the Open Government Act amendment will be among those that failed.

But there is also hope. After all, eleven members of the House of Representatives - one more than half, by my count - will be new faces. That's a promising beginning. And in the Senate, one-third will be new, by my count. Again, a promising beginning.

Bravely enough, Representative Sablan, though defeated in her bid for Senate, is already challenging "the establishment" once again, this time the Election Commission ruling on its calculation of "votes cast," that was used to determine whether the amendments had passed or failed. In this regard, her position is being publicly supported by Micronesian Legal Services Corporation attorney Jane Mack. She wrote, in a letter to the editor in the 11/12 issue of the Marianas Variety that in a similar case, the U.S. Supreme Court ruled that "a vote is different than a ballot; that the vote cast in any election means the actual votes expressed on the issue at hand," and would not include the overvotes, undervotes, etc., that were counted by the Election Commission in determining that the amendments had failed to pass.

Sablan's insistence that "votes are counted properly and in accordance with the law and constitution" regardless of the outcome of specific initiatives, reveals the strength of her commitment to the principles of good government. Right on, Tina!

On December 17, a Guam judge is scheduled to hear testimony as to whether another maverick, ["an unorthodox or independent-minded person," according to the *Oxford American Dictionary*, 2nd edition] CNMI Associate Judge

Ken Govendo, violated NMI's judicial code of ethics. The charge was brought by Associate Judge Ramona V. Manglona.

With all due respect for Associate Judge Manglona, I was shocked to see that she would find fault with the way her peer and colleague, Associate Judge Ken Govendo, ran his courtroom. She has accused him of violating the judicial code of ethics, and using racially insensitive language in court. I believe the specific phrase she found offensive was "hasta muchacho."

It might interest her to know that far from being derogatory, "muchacho" is defined in the *Oxford American Dictionary*, 2nd edition, as "a young man." Govendo might have erred in that the person he addressed as "muchacho" is no longer a young man. But derogatory? Hardly.

Moreover, anyone who has ever sat in on Judge Govendo's family court proceedings would know that the Judge often talks directly to those appearing before him, often lectures them, often is quite outspoken in doing so.

Attending Judge Govendo's Family Court is a refreshing experience. It is also enriching, encouraging, eye-opening. Judge Govendo takes to heart the problems of the battered women, the wives left with no income, the failures of fathers to provide support to their children who all appear before him. He has established solutions, alternative methods of payment, helpful strategies for delinquent fathers - all in the interests of seeing that children, and their mothers, receive their due - are able to cope with daily survival. The Judge tends to do so with a certain flair - a sense of humor, a sense of the dramatic, a sense of familiarity, based on his many years in the CNMI and his knowledge of the community, of the people.

This is not being racially insensitive.

One can't help wondering how often, for how long, Judge Manglona has sat in on Govendo's family court proceedings in reaching her patently erroneous conclusion that he is biased against those who appear in his court room. On the contrary, Judge Govendo is caring, concerned, committed about the welfare of those who appear before him, and creative in finding effective and workable solutions. But biased? By no stretch of the imagination!

It is to be fervently hoped that the Guam judge assigned to hear the charges against Judge Govendo takes into account the unique circumstances surrounding the conduct of family court in the CNMI, and bears in mind, as well, this statement from the American Bar Association on judicial conduct "In recent years many jurisdictions have created what are often called "problem solving" courts, in which judges are authorized by court rules to act in nontraditional ways. For example, judges presiding in drug courts and monitoring the progress of participants in those courts' programs may be authorized and even encouraged to communicate directly with social workers, probation officers, and others outside the context of their usual judicial role as independent decision makers on issues of fact and law."

Judge Govendo may act in non-traditional ways, but the record will show

that his family court has been far more successful in resolving issues of support, of paternal responsibility, of marital discord, than the routine procedures followed outside the family court setting.

Will Guam's judge be aware of, sensitive to, empathetic with, what Judge Govendo does, and tries to do in his court? Will he recognize that the CNMI is different from Guam? Is he flexible, open to the non-traditional? Let us hope so!

Short takes:

Patronage, ethnicity, the power of incumbency notwithstanding, the argument being made by the Fitial-Inos team - that it is un-wise to "change horses in mid-stream" - might still be credible, if there were any confidence that the horse was going in the right direction to begin with. But if the horse isn't going in the right direction, it's better to change horses, even if the stream is rocky.

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Those who voted for Tina Sablan might want to take turns sitting in on House sessions for the rest of the year to show their support and to make sure that the "old boy" faction continues to offer her their respect despite her loss. Apparently, with an audience, House members are more respectful in their speech, demeanor, behavior, than would otherwise be the case.

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Another letter to the editor worth reading is Tom Arkle's, which appeared in today's *Saipan Tribune*. He does a great job of putting use of the word "sovereign" - as applied in the CNMI - in perspective in straightforward, clear, simple, language. The same letter also explains why the issuance of "interim" rules by the U.S. Department of Homeland Security does not violate the administrative procedures act, or any other protocol. Most informative, helpful!

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I am happy to report that rather than declining, as had been predicted, my health seems to be improving, thanks - at least in part - to the many prayers offered by friends and family. I am still tethered to my oxygen canister, but have begun making forays back into the world - driving my car and going grocery shopping, going out for an occasional lunch, etc. What a turn-around! It's both emotionally and intellectually challenging - thinking one's life is about to end, only to discover that maybe it isn't going to end quite as soon as one had thought after all.....

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