



COMMISSION ON HUMAN RIGHTS

On the Occasion of the KAPIHAN on Human Rights: Towards a Meaningful Human Rights Agenda

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delivered by

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**AN OVERVIEW OF THE PHILIPPINE HUMAN RIGHTS SITUATION
- WHAT SHOULD BE A MEANINGFUL HUMAN RIGHTS AGENDA
FOR THE NEXT ADMINISTRATION?**

Good morning.

I thank the Philippine Working Group for an ASEAN Human Rights Mechanism, and all our partners and human rights stakeholders, all our sectoral representatives and friends for the opportunity to once again give you a human rights situationer, as well as my perspectives on the desired human rights agenda for our next set of leaders.

Today, January 12, is an innocuous date – a day that does not invite any special attention or curious inspection. In 1933, or 77 years ago, the last of the colonial powers to take the Philippines recognized the independence of the Filipino people. The United States Congress on this very day issued a declaration of recognition of the free people of the Philippines. It was a declaration that merely affirmed the identity that the Filipino people had long sought to consolidate – an identity distinct and separate from all colonial powers that had ruled over the Philippine Archipelago over the centuries.

Over the years, there have been serious questions on what fully captures all the features of the Filipino identity. There are so many themes put forth to embody the identity of our country – too many to remember. Of the most recent ones, whose success at defining our country's identity all remain debatable at best, and seriously doubtful at worst. To make the country an icon of stability, a Tiger economy, “Matatag na Republika”, an agriculturally self-sufficient country, a haven for investment – all these simply do not capture the identity we

had hoped to determine with the recognition of our independence 77 years ago.

But one theme remains as constant, and as important to the Filipino psyche, now as it was in 1898, in 1933, at the close of the Second World War, at the end of the dictatorial rule in 1986. It is our freedom.

Freedom is encapsulated in many forms. For centuries, it was freedom from foreign intervention. For decades, it had been freedom from despotic rule. Now in the face of what seems to be the best-documented administration in terms of its violations of freedom, freedom now takes the form of our human rights. And yet, all incarnations of freedom are and have always been about our human rights.

And 77 years since US Congress recognized our independence, since the 112 years since the first republic was inaugurated, and 23 years since we had reclaimed a democratic way of life once lost, we

are bare, without an identity as a people – identified only for our desire for freedom, but coupled with our inability to stringently define it.

The Filipino is free. The Filipino guards with nostalgia his human rights. But the Filipino cannot define what makes us free, and what preserves our human rights. Not the least evident in our votes cast.

The *Kapihan* this year is especially significant because as we all know, it is a presidential election year. It is a year that comes at the heels of a revival of our people's consciousness and awareness of our human rights and our freedoms. It is a year wherein our vote must conform to the identity that we wish to have. It must conform to the freedom we possess, to choose what identity we must have as a country and as a people. If the past few years have been an indicator, it is clear that we are hungry for the fullest protection of human rights. And the only way we can have that now is to hinge our vote on this hunger, to demand a promise from our elective officials to conform to

the identity that we seek.

We do not need the usual promise for change. We do not need to hear the same overtures about reducing poverty, making us economically stable, or globally competitive. Change is such a constant theme in presidential elections, in any election.

What we need now is a return to and a reinforcement of what does not change – our desperate desire to be truly and fully free in our human rights. And this is what we must hear in the platforms of our candidates – a platform that directly addresses freedom and human rights.

There are many human rights issues that are of the category of the gravest concern. Yet human rights are not ranked in a spiral - like scholastic curricula. No law, international or domestic, provides for partial protection – all rights must be protected. Compliance is either complete or incomplete. And as circumstances would have it, human rights are as legalistic as they are philosophical, demandable as they

are aspirational. No one county has the attained full protection and promotion of human rights. Some are closer than others. Some have more clearly defined goals for human rights than others. We, however, are neither close, nor clear. And we are definitely incomplete. And these become especially relevant when sifting through platforms for a human rights agenda for the next administration.

Many human rights headlines that have infected public awareness are very complex, and cover so many rights. Thus, the fullest resolution of these issues must include a resolution for every right eroded, violated or compromised.

The Maguindanao Massacre: A Template for Human Rights Ills

Datu Unsay Mayor Andal Ampatuan Jr.'s prosecution alone is sensationalized beyond every other facet of the most heinous crime in our country's recent history. The Maguindanao Massacre is a collage of many human rights ill. Its complexity requires that public attention not be lost on the sole matter of criminal prosecution.

Successful Prosecution as an Index of Human Rights Protection

Be it as it may, the prosecution of Andal Ampatuan, Jr. remains a very important indicator of human rights protection. In a country rife with instances of unguarded public accountability, the prosecution of a prominent scion of a political clan is rare. What is more rare is the conviction of public officials.

The cases may vary. Andal Jr. and Senator Ping Lacson are current cases for murder allegedly perpetrated by public officials. Other instances involve another common theme in public accountability – corruption. And just as we have noted, the rarity of indictments of public officials for any case includes indictments for corruption. There appears to be no imminent resolution under this administration of the botched ZTE Deal, anomalies in the Fertilizer Scam, overspending in the Cebu Expo, just to name a few. More on corruption will be discussed later.

For now, what is overbearingly obvious is that there aren't enough prosecutions. It is rare enough that very powerful individuals in politics are indicted. But the current government is always eager to sensationalize the prosecution of lower-tier public officials. The Supreme Court has stepped up its drive to sanction erring judges and court employees. The BIR and Bureau of Customs has had its share of employees subjected to lifestyle checks and administrative prosecutions.

However, the success rate of prosecutions barely makes a dent on rampant human rights violations. As it stands, there are hundreds of cases of extrajudicial killings that remain unsolved, and without a significant number of convictions meted out.

Whether the issue is corruption, murder, extrajudicial killings or any human rights violation for that matter, at the very core of enforcing human rights must be clinical prosecution that leads to convictions. Without successful prosecution, no effort to protect human rights will ever be complete.

The recent resolutions of the CHR on the Paranaque Shoot-out and Muhamadiya Hamja cases both recommend the prosecution of human rights violators among the ranks of the police and military. Tremendous trust is now reposed in the justice system and the DoJ, that consistently finds the time to speak publicly about the Ampatuan case, but none for all other human rights cases. Tremendous trust in a justice system that must function effectively and efficiently is an unnerving proposition, especially for victims of human rights abuses.

Any agenda for the next set of elective officials, of the next president, must be a solution, even an unconventional solution to the portentous record of the justice system, particularly the track record of the DoJ, and the Ombudsman.

**Human Rights Protection
as a Function of Expeditious Judicial
or Non-Judicial Resolutions**

As we speak of successful prosecutions, we must be mindful

also of the predicament of the Judiciary in its own function within the process of human rights protection. Indeed, every court case reflects a human rights character especially where the right to speedy trial is an invokable human right.

Now we are aware of long strides taken by the Judiciary to unclog its court dockets, with stiff deadlines issued to judges to resolve cases and the implementation of alternative dispute resolution methods. We are, however, nowhere closer to finally alleviating the court dockets of their burdensome load.

With the blurring of lines between the co-equal branches of government, what we perhaps need is a political solution to the slow process of justice, if only to accelerate the resolution of cases, especially human rights cases. The Executive must be able to better manage the prevention of crime first. Next, it must better manage the inclusion or exclusion of complaints into court dockets. The legislature can better define the process of mediation under court auspices. The suggestions hereafter are almost infinite, and are only

limited by our imagination and creativity. Or more precisely, the imagination and creativity of our hopeful candidates.

Clearing the dockets paves the way for expeditious resolutions of very important cases such as that of Andal Ampatuan Jr. and other human rights cases. Indeed, justice served belatedly is no longer justice. For all those who had lost loved ones in the Maguindanao Massacre, the gravest injustice we may gift them with is the agony of a prolonged resolution.

State Security Forces Protocol and the Rights of the Accused

The Ampatuan case highlights several issues related to police protocol and raises questions about the conduct of our policemen and other State security forces in relation to persons accused of crimes.

It had been underscored that the Ampatuans receive VIP treatment, although vehemently denied by PNP officials. This stands in stark contrast to numerous instances of police brutality in handling

suspects. The issue goes even further than mere arrests, but even how encounters are conducted in general. On one hand, police can be very careful in detaining suspects, as we had seen in the arrest of Andal Ampatuan, Jr. with the intercession of executive officials. On the other hand, just as in the earlier mentioned case of Muhamadiya Hamja, the Paranaque Shoot out and even in a pending case involving PDEA, we are witnesses to how brutal the police and other State security forces can be.

A major issue revealed is the enforcement of standard operating procedures. As written, procedures reflect the value placed on protecting human rights found in various pieces of law and legislation. Yet, we have now come to a point where ordinary citizens doubt that these procedures will be followed – and more importantly, if human rights will be respected. Logically it follows that the enforcement of these procedures governing the conduct of policemen and members of the military becomes extremely important.

The lack of restraint in using deadly force against crime suspects

stands in complete incongruity with the purpose of serving and protecting human rights. Where nothing can stop policemen from using misapplied, deadly force against criminals, who then among law abiding citizens can expect that their own rights will be respected? Our worst fears came true in the Paranaque Shoot-out, where at least 3 innocent civilians were clearly murdered by policemen, including a 7-year old girl. The civilians who happened to be at the wrong place at the wrong time were presumed to be criminals. As the CHR said in its Resolution released yesterday:

“The PNP turned the urban subdivision avenue into a war zone and treated everyone within it as an enemy combatant. This explains the complete breakdown in the protection of the human rights of the civilian residents.”

If the disrespect for protocol, operating procedures and human rights continues in police operations, the very first line of human rights defense transforms into the first line of human rights violation. To be respected in one's rights, should a person be a VIP first? A known politician?

The question is rhetorical. Everyone must be respected in their

rights – suspects, innocents, combatants and non-combatants. And if there is one aspirant to the highest position in the Executive who is serious about peace and order, serious about human rights, their agenda must craft a solution to human rights violations perpetrated by State security forces and make our police and military the first to come to the defense of human rights.

Such solutions must at least take its first steps as suggested by the Executive Department following the Maguindanao Massacre. A change in operational hierarchy must be implemented, particularly where the local chief executive retains operational control over law enforcers. As in the case of the Ampatuans, the local police have shown themselves to be beholden to the local elective officials, and the massacre was only the spectacular finale to perhaps years of eroded law enforcement.

**Solving the Insurgencies
as a Means of Protecting Peace,
Order and Human Rights**

The botched argument of rebellion in Maguindanao, and I say

botched with all due respect to the Supreme Court's future resolution on petitions challenging the declaration of Martial Law, raises several questions on the perspectives that the Executive Department have on insurgencies.

The first of these is what constitutes an insurgent. Our terrible human rights record, especially on EJKs, enforced disappearances and torture center mostly on anti-insurgency campaigns. The characterization of members of people's organizations as insurgents makes human rights practitioners and defenders everywhere cringe at the foreboding and dismaying outcome of a policy of eliminating suspected opponents of the government.

The second question is on what measures the government must implement to quell an insurgency. The militarization of Maguindanao shows what a defensive military presence can do to secure peace, although there are rampant reports of villages being targeted by alleged militias loyal to the Ampatuans. Elsewhere in the country, defensive positioning is not always the case. There are too many

reports of a military that terrorizes peasants, farmers, leftist and human rights workers. It is true that the neutralization of insurgent movements requires some active offensive campaign, but this does not include terror. It does not include abductions, interrogations attended by torture as in the Melissa Roxas, Manalo Brothers or Hamja cases.

The military is subservient to civilian authority and the highest civilian official, the President, wields the power to shape anti-insurgency policy. It matters very little that the AFP claims to be winning the war against the CPP-NPA, while the NPA claims the opposite. What matters is that human rights continue to be placed in jeopardy whether we are winning or losing the anti-insurgency drive. And it is the next President who must rectify this policy of anti-insurgency that compromises human rights.

Protecting the Free Media and other Human Rights Defenders

As an afterthought, the military and police stepped up to secure

everyone converging in Maguindanao following the massacre, including the media. It must be remembered that the convoy of the Mangudadatus included dozens of media practitioners and were denied military escort.

The country is now the world's most dangerous place for journalists. This ominous distinction does not forebode well for the future of human rights and freedom, if indeed these are the qualities which the Filipino seeks to be identified with. The death of dozens of journalists in the massacre only compounds the dismal record of media killings in the country.

It cannot be underscored enough that a free media is an essential requisite for the brand of freedom and democracy that we wish to enjoy. A free media is the eyes and ears of the entire country. It is through media that we gain significant awareness of issues which have tremendous impact on human rights.

The Maguindanao Massacre reflects an unnerving trend

throughout the country, where mediemen continue to be the target of killings and intimidation, and thus, an unnerving trend of eroded human rights protection. Their deaths are coupled with the kidnapping and killing of teachers as well, now gradually becoming an incredibly unpopular profession in poorly policed corners of the country. And as mentioned earlier, members of people's organizations and other human rights defenders, even priests, are murdered.

These sectors have a very direct impact on the human rights landscape, and it is in the interests of the next presidential aspirant to address their safety and protection, lest our freedom collapses inwardly because of the lack of warm bodies working for our human rights and freedom.

Corruption and Human Rights

At this point, it is almost incomprehensible how broad a scale of corruption had permeated Maguindanao to allow such impunity to conduct a massacre of such devilish character. What complicity the

National Government might have had in consolidating local power and impunity in the Ampatuans, we are not fully certain and something that we need to know. What we do know is that they had long been aware, but indifferent, as revealed by PNP officials during the height of the massacre aftermath. Clearly, the national government had been aware.

The killings in Maguindanao are the most easily traceable to human rights concerns. It is the most notorious result of impunity – death. But the depth of corruption required spans many more issues other than the massacre. There is poverty, a diversion of allocated funds to the province, a lack of services, infrastructure. There is compromised election results not only in Maguindanao, but on the National level as well. Compromised elections extends to at least two (2) elections, 2004 and the mid-term that followed. Any meaningful exercise of suffrage now appears to be tainted, thus rendered meaningless. Moreover, the corruption extended to the police and military. How DND armaments and ammunition fell into the hands of the Ampatuans wrenches even those of the strongest intestinal

fortitude. Peace and security, both equally demandable human rights, had been abandoned long ago in Maguindanao.

Corruption in Maguindanao is only the tip of the proverbial iceberg, only the tip of a deathly spear. Corruption not only on the local level, but on the national level remains rampant, and no amount of rhetoric from the national government addressing corruption appears to have made a dent on our notorious reputation for corrupt practices. What then must the next president recognize? Issues that will not be resolved such as the ZTE Deal, the Fertilizer Scam and host of others, must be resolved during the next administration, if only to galvanize any claim that he or she is indeed bent on protecting human rights impaired by corruption.

Other Human Rights Issues

Well past the single matter of the Maguindanao Massacre, and the vast swaths of human rights issues that it encompasses, there are many others, too many to discuss in one presentation. The following

are the few I have selected which must form part of the new administration's human rights agenda.

The Solution to Vigilante-style and Other Killings

The blighted state of the judicial system's inefficiency is highlighted by the ever-increasing running totals of extrajudicial killings, a majority of which remains unresolved. In fact, resolving the rash of covertly conducted murders has become the exception, and failing to solve them, the rule. By a play of words and semantics, extrajudicial killings now include vigilante-style killings, which have stalked different parts of the country, including the Cebu region, Davao City, Tagum City, Gingoog City, Metro Manila and the island of Samar.

While vigilante-style killings have gained a slightly distinguishable meaning from extrajudicial killings in general, indicating a characteristic of street justice, clearly our differentiations become meaningless when faced with the bare truth that there is no

justice in murder.

The killing of Fr. Lucero in Samar was carried out ambush-style. It was apparently a case of EJK handed out against a vocal opponent of the locally deployed military units, for his alleged support for insurgents. Whether killings are a product of street justice or the silencing of perceived enemies of the state, it has become apparent that if we do not turn the tide now, the depths of our country's string of depraved and inhuman killings may be well-beyond what we had imagined previously. Now, even priests have joined the list of targets for murder.

Indigenous People's Rights in the Context of Militarization and Mining

The recent abductions in Agusan del Sur, perpetrated by elements of the Ondo Perez Gang, involved the tribal disputes between rival indigenous groups. The involvement of the military and

police only increased tensions as State security forces only encouraged divisiveness among IPs by taking sides, instead of securing peace for everyone.

The Agusan Abduction Case underscores the dangerous predicament of indigenous peoples when the police and military become involved. The marginalization of IPs is on grotesque display when their rights are violated by State security forces. The recent CHR inquiries in Bgy. Didipio, Nueva Vizcaya and in Surigao reveal the dangers to life, limb and property that IPs have commonly faced in times of militarization. In Nueva Vizcaya, it was the police and private mining interest that threatened the lives and homes of residents of Didipio living on land subject of an alleged mining claim. In Surigao, it was a military operation that ousted IP residents from their homes, and their evacuation and subsequent return home required an intervention from the CHR.

IPs everywhere constantly face threats and the protection of their rights remains a constant struggle for civil society groups. The

Mangyans of Mindoro were the lastest of IPs threatened in their rights, with the now-abated Mindoro Nickel Project, and only with the belated intervention of the DENR.

Violence related to Agrarian Reform

As agrarian reform limps along its extended life span, the slow re-distribution of land to peasant farmers continues to invite not just opposition from landed interests, but also violence. In 2009, the DAR itself had apparently invited violence upon itself when its chief legal officer, Atty. Eleazar Casipong, was gunned down in February last year. Casipong was an integral part of efforts to implement agrarian reform in Negros.

From 2009 DAR figures, 98 percent of undistributed sugar lands covered by CARP are found in Negros. The vehement opposition to re-distribution of land correlates to the intensity of violence that attends land distribution. And Negros is not the only place where violence attaches to the local implementation of agrarian

reform. The high-profile case of the Sumilao Farmers of Bukidnon had added another fatality to the list of agrarian reform casualties. Rene Peñas was murdered following a lobbying campaign to extend the CARP, now known as CARPer. He had been a stalwart of farmers' rights and agrarian reform and now, he had been reduced to another statistic in an insidious but bloody battle for farmer emancipation. Any new administration that will carry on the extension of the CARP must address not only the actual distribution of land, but the attending incidence of violence.

The Right to a Balanced Ecology

Serious questions as to land use, the vitality of our rivers and waterways, the sprawl of our cities and the amount of garbage we produce were all called to our attention in the wake of Typhoon “Ondoy”. A properly managed environment is on the brink of becoming moot as the damage we have inflicted to our land air and water becomes irreversible. But, apart from being a direct right that we can demand, a balanced ecology has direct repercussions on other

rights. Among them is the right to housing and sustainable development.

Housing and Sustainable Development

Land titling, provisions for housing the burgeoning population of the urban centers of the country, and insightful planning of habitable living space are some of the issues that hit hard when reworking any plan for poverty alleviation. No amount of subsidies, dole outs or worse, promises, will ever change the face of poverty if the poorest sectors continue to live in the most squalid of conditions. Human rights demand that everyone live in dignity, and the starting point is to envision our country that is truly concerned about the living conditions of our people. Evictions must be solved with more thoughtful solutions, rather than impromptu relocations as we had witnessed in the aftermath of “Ondoy”. We need a president who is bent on finally providing housing and all the appurtenances and conveniences required of a habitable neighborhood.

Migrant Workers

In this day and age of economic challenges, the protection of our migrant workers, who continue to buoy the foreign reserves of the country, must be of utmost urgency. But as with any plan for their protection, it must include the generation of employment opportunities back home. The continued policy of indirectly encouraging foreign employment places a tremendous social stress on the fabric of families that are torn apart because of the need to engage in foreign employment.

The Peace Process with the MILF

The full potential of Mindanao has always been a fleeting dream for every administration since time immemorial. Now that the negotiations are underway again, a solution to the Islamic insurgency are again within our reach. However, we need a leadership that is strong enough to map out a lasting peace which finally accommodates the true will of the people of the Muslim heartland of Mindanao. Not

only the right to security, but the right to development is at stake in Mindanao, and next administration must be the one to finally succeed lest we succumb to the inertia of decades of failure in Mindanao.

EPILOGUE

These are some of the key points which must find their way into the next administration's human rights agenda. The significance of including these issues redounds directly to the votes that the people will cast in the coming elections. Votes must be propelled by issues, and the platforms that address the issues.

More importantly, we find ourselves at a time where there is a growing desire to finally have elections that reflect the will of the people. Automation bring so much promise for unconfounded election results. But the results will only reflect how we see ourselves as a people. The results will only reflect the identity by which the Filipino people wish to be recognized.

We make such nostalgic statements of our peaceful revolutions, our freedoms and our rights. We had seen the outpouring of grief when one of our most important icons of democracy, Former President Aquino, had been laid to rest. Yet for all our nostalgia, 2010 now comes as a looming test not for election front-runners and dark horses, but a test for our people. It is a test of our intelligence, our memory, our indignation, our celebrated values. It is a test if we really do have these. Our votes and the leaders we elect, and their adherence to human rights, will be our judge.

It is a test of the Filipino's so-called prized freedom. It is a test of our so-called prized human rights. Our identity is at stake, and our future leaders will mirror our identity. And if it is truly our identity as Filipinos to be recognized for our love for freedom and human rights, then may this year's elections finally be the evidence of our truest identity.

Maraming salamat po.