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The Philippine Experience in Human Rights Promotion and Protection: Some Problems and Challenges

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It is theorized that rights or freedoms inhere in man; they are born with him. Into this earth, man goes and, by its abundance and resources, lives. By the urgings of his biological nature, he exercises dominion over whatever is useful to him on earth and asserts his rights thereover as well as over his creation and fruits of his labor. By his creativity and ingenuity, he fashions raw materials into technologies and controls nature, to some degree. These activities are physical expressions of his latent attributes we call freedom which includes the right to life and property.

SCIENCE OF HUMAN RIGHTS

In the days of simple life, man was individualistic and he proclaimed and exercised his rights over others. Licentious exercise of liberties characterized the period and human rights became a rare and a prized commodity only the strong could keep. Going by Rousseau's formulation, people then banded themselves together under a social contract and established an organization like the State to safeguard their rights from usurpers and violators. And out of this development were born the second generation of rights we call economic, social and cultural rights which belong to groups and sectors of people. By this time, human rights evolved as a science.

In Britain, the Great Magna Carta of 1215 and Rights Charter of 1688 were enacted; in the United States, the Declaration of Independence; and in France, the French Declaration of Human Rights in 1789 and the 1848 Constitution of the French Revolution. After World War II, the victorious Allied Nations formed the United Nations and signed the 1948 Universal Declaration of Human Rights. Similar covenants were later adopted.

In different parliaments of the world, laws were passed granting reservations and privileges to their citizens and prescribing corollary obligations. States became concerned with equilibrating between individual rights and social or collective rights and between the rights of the governed and the government.

INDIGENOUS DOCUMENTS

In pre-colonial Philippines, principles of human rights are enshrined in the *luwaran* of Maguindanao, in the *salsila* (oral history) and in the literature of the Bangsa Moro. The Visayan tribes of Central Philippines used the Code of Maragtas to govern their human relations in olden times.

SPANISH CIVIL CODE

During the Spanish colonial period (1571-1898), Spain introduced to the country its civil code and special laws which formed a large part of our 1950 New Civil Code. In these Spanish laws are principles of human rights that regulate human and contractual relations. But political rights were denied to the Filipinos as a whole.

MALOLOS CONSTITUTION

A Filipino Revolutionary Government declared independence for the country on June 12, 1898. It organized a Constitutional Convention, which promulgated on January 22, 1899 a fundamental law for the country called the Malolos Constitution.

The Malolos Constitution contained 27 articles, two of which provided for economic and social rights to education, honor and reputation, another two articles set the limitations of the foreigners' right to work in the Philippine Islands, and the rest guaranteed civil rights. It defined the basic principle in popular democracy, that is, "Sovereignty resides exclusively in the people." It also recognized the freedom and equality of all religions, as well as the separation of church and state. (See Ana Elzy E. Ofreneo, "*Human Rights Education and Training for the Military and Police: A*

Management Research Report." Vol. II (A Masteral Thesis for the Degree of Master of Development Management at the Asian Institute of Management, 1995)

AMERICAN CONSTITUTIONAL LAW

The American occupied the country in 1898 pursuant to a deed of cessation from Spain and quelled the rebellion of the Filipinos. They perpetuated the Spanish laws on civil relations with little changes. They also introduced into our legal system American concepts on human rights as enunciated in its Jeffersonian Constitution. Specifically, the US Congress passed the Cooper Act known as the Philippine Bill of 1902 which provided for the extension of the American Bill of Rights to the Filipino people. (Ibid.)

BULWARK OF FREEDOM

By the Tydings-Mcduffy Law of the American Congress, a Commonwealth government was inaugurated for the country in 1935, which lasted until 1946 when the Philippine Independent Republic was declared. The country has had four constitutions, the 1935, 1973, 1986 and 1987 Constitution. All documents provided a Bill of Rights which are influenced, to a large extent, by American Constitutional Law.

With the American democratic traditions and libertarian principles in our legal system, the West came to regard the Philippines as a bulwark of democracy and freedom in Southeast Asia during the 1950's through the 1960's when the cloud of Communism hovered all over Asia. Indeed, in most parts, it was the threat of a takeover from home-grown Communist insurgents in the early '70's that led the government to declare martial law in the country on September 21, 1972 and suspend the exercise of basic human rights until its lifting in 1981.

FEBRUARY REVOLUTION

The restoration of normalcy did not bring forth full democratization in the political process. The monolithic Marcos' party, the *Kilusan ng Bagong Lipunan*, ruled. Parliamentary opposition to government was token. Despite profession by government for democracy and freedom, the human rights situation in the country was a sordid

picture in the social landscape. The military had grown so entrenched and powerful beyond the check of the courts. Human rights violations committed by their personnel were passed off as incidents in the prosecution of the war against Maoist guerillas and Moro secessionists. Human rights advocacy was but a faint shout in the din of martial terror.

In the wake of a national civil disobedience campaign following the Presidential Snap Election of November 1985 which was rigged to favor the Marcos presidency, a military-instigated civilian uprising overthrew the dictatorship in February 1986 and installed in its stead a Revolutionary Government which was replaced by a democratic one after the ratification of the Constitution in 1987.

COMMISSION ON HUMAN RIGHTS

Even during the 1986 Revolutionary Government, human rights as defined in the Bill of Rights of the 1973 Constitution were not suspended. Indeed, one of the priority concerns of this Revolutionary Government was the restoration of the primacy of human rights in our national culture. It immediately created the Presidential Committee on Human Rights to address the problem. A Constitutional Commission convened by the Revolutionary Government enshrined in the Constitution the establishment of an independent Commission on Human Rights with five members including its Chairman, majority of whom must be members of the Bar and to be appointed by the President for a term of seven years. (Article XIII, Section 17, 1987 Constitution)

TWIN MISSION

Generally, the Constitution mandates the Commission to carry out these twin objectives: The promotion and protection of the human rights of every Filipino citizen wherever he or she may be including foreigners in the country.

SCOPE OF POWER

To achieve its mandated mission, the Constitution has provided the Commission powers and functions, namely: Investigate on its own or on complaint by any party, all forms of human rights violations involving civil and political rights; provide appropriate legal measures for the protection of human rights of all persons within the Philippines as well as Filipinos residing abroad; provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection; exercise visitorial powers over jails, prisons, or detention facilities; establish a research, education and information program to enhance respect for the primacy of human rights; recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families; monitor the Philippine government's compliance with its International treaty obligations on human rights; grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority; request the assistance of any department, bureau or agency in the performance of its functions; adopt its operational guidelines and rules of procedures, and cite for contempt for violations thereof in accordance with the Rules of Court; and appoint its officers and employees in accordance with law. (Article XIII, Section 18, 1987 Constitution)

In enshrining the Commission on Human Rights in the Constitution, one of its framers found relevance to express the sense that the Commission should give priority concerns on six (or seven) areas where problems were experienced during martial law. These are: 1) Protection of rights of political detainees; 2) treatment of prisoners and the prevention of torture; 3) fair and public trials; 4) cases of disappearances; 5) salvaging and hamletting; 6) crimes committed against the religious (Records of the 1986 Constitutional Commission, Vol. III, p. 731); and 7) arrests and custodial rights of arrested person. (Ibid., p. 732) (Primer on the Human Rights Issue in the Philippines, Vol. III, No. 4, April 1991, p. 3)

HUMAN RIGHTS VIOLATIONS

We beat the path of activism and made our imprint on our country's human rights landscape. From 1988 to 1998, the Commission received 15,556 complaints of human rights violations, ranging from murder, homicide or execution, to illegal or arbitrary arrest or detention, to torture or physical injuries, among other things.

In the "horror role" of human rights violators for this ten-year period, the police occupies the topmost spot, the military comes next, the paramilitary follows, the New People's Army and local officials and employees lag behind in the 4th and 5th places, respectively.

Majority of the victims of human rights violations belongs to the marginal groups or disadvantaged sectors of society. The civilian populace constitutes the most number of victims, followed by rural, urban and industrial workers, then the children and minors, women and studentry, then the military and the police, then the local officials and employees, then the detainees and prisoners, and then the urban poor and others.

It must be emphasized that the figures are based on incidences of human rights violations reported to or investigated by the Commission on Human Rights. The media provides a more tantalizing account of human rights violations which are more massive than reported to the Commission. For example, during counter-insurgency operations by the military and demolition of shanties of the urban poor in some slum areas in the metropolis in violation of human rights standards and basic norms of civilized society, the visual media would treat the public to warm bodies running from tens to hundreds of thousands adversely affected.

I admit there is much to be desired in our rendition of reports and statistical formulation of human rights violations where we only refer to signing complainants and named respondents in human rights violation cases in our assessment of the human rights situation obtaining in the country. Such an approach should be discarded as it distorts facts and treats a human rights case only from the standpoint of complaining witnesses who suffer more often than not from some constraints like fear of reprisals from their

more powerful abusers. Even oral declarations of people who do not wish to testify in a formal investigation should be considered in our human rights report.

Nevertheless, of the 14, 993 cases investigated by the Commission only 6,356 were referred to the Department of Justice for prosecution or the Court for trial. About 1,152 of these cases were already decided ending in either conviction or acquittal or dismissal.

In the public information, training and education activities of the Commission for the period of 1988-1998, the Commission reached out to many sectors which comprised of about 603,903 individuals, of which the more sizeable number consists of the military and the police at 123, 131.

The Commission has extended financial assistance of 53.5 million pesos to victims of human rights violations from 1988 to 1998. Through the years, the amount of grant followed an increscent trend due to the grant of special assistance to *desparecidos*, political detainees, victims of unjust incarceration and arbitrary detention, and families evicted from their settlements owing to military operations and development aggression.

The Commission also supported and lobbied for the passage of a number of bills on human rights, one of which became a law, the Indigenous People's Rights Act of 1997. This law is a watershed in human rights legislation because it recognizes comprehensively the aspirations of the indigenous community to live by the ways of their own ancestors.

In the exercise of its visitorial powers, our forensic office does assessment of the health conditions of inmates and, on our petition, jail authorities allowed some who have serious illnesses for treatment outside the penitentiary clinic. A prisoner who languished in jail beyond his sentence was released by the Supreme Court on our intervention (In the matter of the petition for *habeas corpus* of Mauro Magtibay y Pentino, Chairman Sedfrey A. Ordoñez, Commissioner Narciso C. Monteiro, Mercedes V. Contreras, Nasser A.

Marohomsalic, Vicente P. Sibulo, Director Emmanuel C. Neri and the Commission on Human Rights vs. Director Vicente Vinarao, G.R. No. 121424, March 28, 1996 and People vs. Mauro Magtibay, G.R. No. 102992, March 28, 1996). Other inmates who were similarly situated were also released on the strength of this decisional law. Another intervention of the Commission resulted in the release of two prisoners who were tried by the military commissions during martial law and condemned to die by musketry but commuted by the Constitution to life sentence. For the failure of the government to file anew a case in civil courts against the prisoners for a considerable length of time after the high court debunked their convictions by the military courts on jurisdictional issue in an earlier case, the Supreme Court ordered their release. (In the matter of the petition for *habeas corpus* of Leonardo Paguinto and Jesus Cabangunay and the Commission on Human Rights vs. Director of Prisons, G.R. No. 115576, August 4, 1994)

COLLABORATIVE ADVOCACY

Generally, the lineal streak in the statistical chart of human rights violations of the Commission on Human Rights is a downward curve through the ten-year period. While the Commission draws some inspiration from this development, they feel more upbeat, however, in some strategies to farther the cause of human rights.

Media Publicity

The Philippine Commission on Human Rights arrogates unto itself the role of a molder of public consciousness and opinion, taking a proactive stance on human rights' issues and concerns especially those promotive of the interest of the vulnerable and marginalized sectors of society, namely: the women, the children, the youth, the indigenous people, the Muslim Bangsa Moro, the elderly, persons with disabilities, the internally displaced persons, the migrant workers, the public and private labor. It is our belief that any human rights activities, which are not upraised to public knowledge, are a useless form of advocacy. Pursuant to this strategy, some of our field officers take slots in radio programs. We encouraged them to call for the media for some newsworthy announcements and activities. During red-lettered day for human rights, we use the occasion to publicize our activities. In the celebration of the international human rights

day, we always see to it that the President grace the affair and, thereby, get optimum publicity for human rights. Even in our investigation work we conduct a high-profile hearing of controversial cases and invite media coverage. To create a friendlier relation with the media, we entered into a memorandum of understanding and cooperation with the Association of Broadcasters in the country.

Grassroots Participation

The Commission recognized the reality that any program of government for the people which does not involve them especially those who live in the countryside and who suffer one way or another some deprivations from the benefits of technology and institutionalized society, is infirmed and will not go a long way. So the Commission reached out to the grassroots and has gone to the smallest geopolitical unit of our community since 1996 to train its leaders and activists in the art of human rights advocacy and investigation. In every barangay, we hope to establish a “barangay human rights action center” (BHRAC) with at least one barangay human rights action officer (BHRAO) to receive complaints or conciliate between conflicting parties and refer the same to the nearest and appropriate field office of the Commission on Human Rights. From 1997 to 1998, the Commission has established a total of 5,880 BHRACs throughout the country in coordination with the Department of Interior and Local Governments, Local Government Units, Non-Government Organizations and People’s Organizations. The established BHRACs through its BHRAOs have already conducted a total of 723 trainings, orientations, lectures, meetings, symposia and the like covering human rights issues and concerns affecting the barangays. These BHRAOs have conducted about 357 human rights activities including referral of cases and extension of public assistance to human rights victims.

Networking with NGOs and POs

The non-government organizations (NGOs) and people’s organizations (POs) are good sources of information on human rights abuses. With their investigative work on human rights violations, they contribute in no small measure to the establishment of a human rights culture in the country. The Scriptorium International has coordinated with

the Commission on Human Rights on the conduct of training program for people in their area of operation. The civic operation has established a human rights action desk office in their chapters throughout the country. Other professional organizations offered the clientele of the Commission on Human Rights free legal aid services like the Integrated Bar of the Philippines (IBP), the Movement of Attorneys for Brotherhood, Nationalism and Integrity (MABINI), the Free Legal Assistance Group (FLAG), the Protestant Lawyers League of the Philippines, and the Lawyers Against Monopoly and Poverty (LAMP).

Militant non-government organizations like the Karapatan, Ecumenical Movement for Justice and Peace, the Al Fatihah Foundation, the Moro Human Rights Information Center, the Muslim Association of Students in the Philippines, the Philippine Alliance of Human Rights Advocates, Tri-Peoples Organization Against Disasters and others have time and again sought the Commission for some human rights violations especially by the military.

In coordination with the Commission, the Judicial and Bar Academy of the Philippines has planned to include in its course offerings the teachings of human rights to judges, prosecutors and lawyers.

Partnership with GOs

In order to afford better coordination in addressing and monitoring human rights issues and concerns affecting training and education, investigation, prosecution and speedy disposition of human rights cases, conditions of prisoners and detainees, the Commission on Human Rights, the Department of Interior and Local Governments, the Department of Justice and the Department of National Defense created the “Inter-Agency Chamber of Human Rights” on February 7, 1995.

In coordination with the Commission, the Department of Justice (DOJ) is continually and periodically undertaking seminars on human rights issues and concerns to its prosecutors and attached agencies. The DOJ has also committed to provide and assign

its prosecutors to the Commission for the preliminary investigation of cases and its prosecution in court.

This partnership among these agencies extends to the assessment of the applications for release, parole, amnesty or pardon of alleged political prisoners who were convicted by courts of ordinary crimes.

Under our watch, the Commission assisted the Department of Education, Culture and Sports in developing modules on human rights for teaching in the elementary and secondary public schools. Some tertiary schools are already offering courses and baccalaureate degrees on human rights.

The Office of Muslim Affairs and the National Commission on Indigenous People have collaborated with the Commission on a number of undertakings designed to promote the aspirations of the cultural communities.

It is these line agencies of the Executive Department which shoulder mostly the financial requirements of these joint-undertakings.

PROBLEMS AND CHALLENGES

Lest we be misunderstood, the business of human rights promotion and protection is not only the concern of the Commission on Human Rights, but also all the other agencies of the government. It is in this spirit that the Commission networks with them.

Organizational Weaknesses

But there are other more compelling reasons. Organizational inadequacy of the Commission is one. It has only a ragtag army of more than 600 personnel and more than 200 of whom are doing administrative or support services functions in the national office and the rest are spread throughout its 13 regions, four sub-offices and some provincial desk offices. Every region has its 30-man personnel and they are expected to cater to the

75 million population of the country scattered in about 77 provinces, 83 cities, 1,525 municipalities, and 41,940 barangays.

Compared to the workforce of other government agencies, it is a miniscule agency. It has a budget of 175 million pesos. Other agencies of government concerned also with the establishment of a culture of peace and human rights have a much bigger annual budget such as the Office of the Ombudsman, the Commission on Election and the Civil Service Commission, among others.

The Commission has neither a prosecutorial power nor a quasi-judicial function. It is only a fact-finding body and it recommends course of actions (e.g. prosecution and dismissal or suspension from service of human rights violators) to appropriate agencies of government. (*Cariño vs. CHR*, G.R. No. 96681, December 02, 1991; *Export Processing Zone Authority vs. CHR*, G.R. No. 101476, April 14, 1992; *Fil-Estate Management vs. CHR*, G.R. No. 101134, August 18, 1992; and *Simon vs. CHR*, G.R. No. 100150, January 05, 1994) Although decisional law has defined the doctrine that findings of administrative agencies carry persuasive weight, this judicial prescription is not a hard and fast rule and it does not operate to diminish the jurisdictional competence or the judicial or quasi-judicial power of other concerned agencies to appreciate or reject said administrative findings or fact-finding reports and recommendations of the Commission.

In early 1995, as a result of the *Contemplacion* case where a Filipina was executed in Singapore for the death of her ward and our investigation of the *Sarah Tabar* case where another Filipina care-giver in Dubai, United Arab Emirates, came home dead and inside whose abdomen was found a dead, full-term fetus inside a black plastic bag usually used for collecting garbage—these two incidents generated a public outcry against these two foreign countries—the need was bruited about for a human rights desk officer in every country where we have a sizeable community of workers. However, for lack of funds, the government has to rely on the Department of Foreign Affairs to designate one of their own to perform the job.

Indeed, these constraints of minimal logistical support and lesser organizational strength have cast a shadow upon the credibility, if not the independence of the Commission, to effectively promote and protect human rights in the country.

Extremist Policies

And there are the extremist policies of government which stand in the way of human rights work. In the first place, these policies tend to subvert some aspects of civil society like the ordinance of civil liberty.

One is the total war policy inaugurated by the government against the Communist insurgents after the latter shunned the peace talks in protest over the ratification of the Visiting Forces Agreement with the United States by the Philippine Senate on May 26, 1999. Under such a policy, respect for the dignity of man is relegated to a secondary concern. Their obsession for victory is what preoccupies warring parties and, as war drags on, their humanity gradually recedes to the drain and the monster in them rises up to lead them to devilry. Indeed, after the talks bogged down, a flag officer was seized by elements of the New People's Army and after his release on April 16, 1998, the Army launched their operations against the insurgents responsible for the seizure of the Army General resulting in the rise of incidents of human rights violations against non-combatant civilians in the theatre of conflict to which situation was blamed on the military.

Indeed, in our experience, human rights violations always ensue during counter-insurgency operations by the military. And the blame for all such incidents, almost, is laid on them. Killing of civilians, looting of houses, thievery of livestock, destruction of crops and farms, destruction and burning of houses and other personalities of the civilian population are often the forms of human rights violations charged to and committed by the military.

But some violations may involve disregard by the military of rules of engagements and norms of conduct required of them during and after pursuit operations

or shooting war with insurgents. Some of these rules are administrative issuances of the hierarchy of the Military and Police, legislative policies, and normative principles in International Humanitarian Law, namely:

1. Prior to the conduct of the security operations, military commanders shall, subject to public safety and security, closely coordinate with local government officials and/or concerned civil government agencies to prepare for urgent delivery of services where civilians are temporarily evacuated for safety. In this regard, necessary assistance shall be extended in the evacuation, relief and rehabilitation of evacuees as well as in the administration of evacuation centers. (Joint Department of National Defense-Department of Interior and Local Governments Circular No. 2-1991)
2. Official orders to move large groups of civilians must be issued where serious combat action is expected to occur between the troops and hostile forces. (Military Directive from the Chief of Staff to the Commanders of Major Services and Area Commands, 15 July 1988)
3. Government forces shall facilitate and ensure the delivery by government workers of goods and basic services. (Section 5, Rules and Regulations on Children in Situations of Armed Conflict to Republic Act 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act). They shall coordinate with the Peace and Order Council concerned and the social workers in ensuring, under normal conditions, the immediate and unhampered flow to and from areas of armed conflict, of health personnel and patients, medical supplies and equipment, foodstuff and other basic necessities, and relief goods. (Section 7, *ibid.*)
4. The government shall provide free transportation facilities to the evacuees during evacuation and evacuees shall be returned to their houses at government expense as soon as the reason for evacuation ceases. (Resolution No. 91-001 or Guidelines on Evacuation adopted on March 26, 1991 by the Presidential Human Rights Committee of which the Department of National Defense is a member)
5. Government forces shall exert maximum effort to avoid as far as is humanly possible without endangering the safety of the troops, innocent civilians getting killed in crossfire,

particularly the aged and the women and the children. Commanders must engrain upon the minds of the troops and their patrol leaders the need to take extra precautions to ensure that in the course of military or law-enforcement operations, the danger of innocent civilians being killed in the heat of battle is minimized. In situations where the escape of insurgent forces cannot be avoided because of the danger of inflicting casualties on innocent civilians, concern for the lives of innocent bystanders shall be paramount, provided the safety of the troops are not jeopardized in the process. (Letter-directive of the AFP Chief of Staff, dated September 06, 1989)

6. Arresting officers shall forthwith turnover suspects under their custody to the nearest police station. (Rule 113, Revised Rule on Criminal Procedure)

7. The Army shall carry out all possible measures that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. (Article 17, Part IV, Protocol II)

Most human rights violations by the police and other law enforcement agents relate to making an arrest without a warrant in contravention to the rules in warrantless arrest which require, among other things, that a peace officer or a private person may, without a warrant, arrest a person when in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; or, when an offense has just been committed and that he has personal knowledge of the facts indicating that the person to be arrested has committed it. (Section 5, Rule 113, Revised Rules on Criminal Procedure) The crime of arbitrary detention is also often the charge filed against them for failing to turnover wanted suspects to judicial authorities within the required reglementary period (Article 124, Revised Penal Code). Violations of the custodial rights and ill-treatment of arrested suspects are also a prevalent complaint against the police.

In dealing with the insurgency problem, government has gone to the grassroots and created a militia called barangay *tanods* or barangay watchmen to counterfoil the organizing and propaganda activities of the civilian fronts of the insurgents. The military also utilized them in operations against the rebels. But this auxiliary unit of the

Philippine Army is unpopular and not a few of its members have been denounced for its involvement in human rights violations. Not a few of them also act as “minutemen” and goons of some local politicians. In spite of our objection and the opposition of human rights groups against its existence, the government still pegs its counter-insurgency program to the intrepidity of the barangay *tanods* most of whom depend on the meager monthly allowance they receive from the coffers of the military for their family to get through.

In January 1996, our government toyed with the idea of legislating wiretapping of telephones and inquiry and sequestration of bank deposits of suspected terrorists and criminals to fight local insurgencies and criminality. It was another extreme measure to dilute the constitutional rights of privacy, personal safety and security provisions of our Bill of Rights. The Commission crossed sword with the government against the proposed terror law at the first opportunity and roused up public antipathy against it. Without ample judicial safeguards and standards pursuant to which law enforcement agents may be guided in their wiretapping, surveillance and intelligence activities against suspected criminals and terrorists, the proposal, if enacted into law, would be a throwback to the Martial Law era. There will always be overzealous men in uniform who, in the performance of their office, would overstep the bounds of law and fair play. With such an extraordinary or Martial Law powers lodged in the law enforcement agencies, we will be sowing the climate of fear in our social environment. It is our position that, largely, the level of criminality and terrorism in our society depends on the enforcement of law and order by the police and enforcement agencies, and that extremism is a refuge or an instrument of the desperate and the government should not idealize the system but discard it from its catalogue of strategies to promote peace and development. It is an anathema to a caring society founded on freedom and respect for the dignity of man. In the ultimate analysis, peace and quiet obtain in a society whose people live in contentment and freedom.

The government abandoned the idea, but only after it stuck a stain on the libertarian tradition of our legal system. In December of 1995 and the following month

of January 1996, the police rounded up a score or more number of Middle Eastern nationals and Pakistanis without a search warrant and a warrant of arrest. They accused them as terrorists and presented to the media to justify the passage of the proposed terror law. But some of these Arabs and Pakistanis are legitimate students in some schools in the country and are professionals including a doctor of medicine and an engineer. Others who were in the country to do business are nationals of Saudi Arabia. Many of them have been in the country for a good number of years and they consider the Philippines as their adopted country having been married to Filipino women with whom they sired children. Among those arrested are Muslim missionaries and preachers of the Islamic faith mostly from Jordan.

In these police round ups of suspected terrorists an Iraqi national, Adel Anon Bani who is a meatshop owner and an electronics engineering graduate of a local university, was arrested and presented to the media as the twin brother of Ramzi Ahmen Yousef, a suspected mastermind in the bombing of the Trade Center in New York, simply because the former is a look-alike of the latter. But the two has no blood relation at all, for the suspect in the Trade Center case is a Pakistani.

The government was running berserk to project its concern and paint the problem of terrorism for the country as a serious one within the purview of the “present danger rule” that had to be responded to with an extraordinary police measure such as the adoption of an anti-terror law. Things were hyped-up in the media. On January 14, 1996, our Bureau of Immigration barred from the country an internationally renowned Muslim scholar and author of some 20 books on Islam from Canada, Prof. Abu Ameenah Bilal Philips who came to the country for a speaking engagement at the Sharif Kabungsuan College at Cotabato City. The academician served as Professor in a University in Riyadh, Saudi Arabia and, at the time when he was denied entry, was the Director of Foreign Language Department of the Islamic Press of Sharjah, United Arab Emirates and the Islamic Information Center of the said Emirates. He frequented Mindanao because he is married to a Muslim lady in the area with whom he has one son. He also helped in the formulation of the Islamic curriculum of the Sharif Kabungsuan

College. Prof. Philips was our resource speaker in the First International Islamic Symposium for Peace and Solidarity sponsored by the Department of Foreign Affairs, the Islamic Call of the Philippines and the Philippine Muslim Bar Association, held in the country on August 7-9, 1989. President Corazon C. Aquino received him and other foreign delegates to the Conference at Malacañang during a luncheon she hosted for them. But at the international airport of the country, he was subjected to indignities and denied by Immigration authorities to call up local Muslim personalities he knows to vouch for him including a Muslim lady Senator. All night, he was kept at the transit area of the airport without any food served to him and under the watchful eyes of two guards. To quench his thirst and hunger, he drank water from the fountain facility in the airport. He was made to board the early morning flight of the United Arab Emirates Airlines for Hongkong the following day.

Earlier, two Malaysian nationals were also barred from entering the country and returned to their country of origin at the earliest opportunity simply because they indicated in their disembarkation form Mindanao as their destination. At the international airport, they were not allowed to speak by phone to their Embassy in Manila.

The proposed law was mainly designed to deal with the insurgency of the Bangsa Moro and check their proselytizing activities in non-Muslim areas of the country including that of foreign Muslim preachers. This is borne by a testimony of a Cabinet Member of the government who wrote about it in the organ of the ruling Party in its issue of November 1995, a month before the massive round ups of foreign Muslim nationals were made. Thus:

THE EXTREMISM we face today is not of the secular type we experience in the '70's. Islamic revivalism—sparked by the Shiite success in Iran—envision the return to the glory days of the Islamic Empire, under theocratic rule. Competition for Sunni extremists indicate that even Muslim-dominated kingdoms or governments are not spared by this problem as in the

case of Pakistan, Afghanistan, Algeria, Egypt, Saudi Arabia, the Sudan, Tajikistan and even Malaysia.

The Philippines is an attractive target for Islamic evangelization and territorial annexation. Historical antecedents, the race for conversion, and the continuing need for battle fronts are their justification for global jihad, amidst peace efforts being pursued in the Middle East, the Balkans, Central Asia, and right here in our own country.

This explains, by and large, the dichotomous situation in Muslim Mindanao, and why Islamic extremism is dynamically replacing the secessionists of old.

Some traveled abroad for schooling and to gain combat experience, while mercenaries disguised as missionaries flowed in a steady stream to transfer technologies of war in the jungles of Basilan, Sulu, the Zamboanga Peninsula, and Central Mindanao.

In many parts of the country, mosques and Arabic schools (or Madaris) as far north as Pangasinan are sprouting up. Mass media has been penetrated to spread the word of the Koran.

Over the past three years, depredations by the MILF-ABU SAYAFF-NICC and the so-called "Lost Commands" of the MNLF have increased in number. AS we waged the peace, they prepared for war, supported by underground movements operating in various parts of the globe, including the Philippines. The MILF is headed by Ustadz Hashim Salamat. The Abu Sayaff is led by Amir Abdurajak Janjalani, the NICC—a breakaway MNLF group—is commanded by the former MNLF Chief of Staff Melham Alam. (Rafael M. Alunan III, "Philippines, A Target of Islamic Evangelization." In the Party Line, official organ of the Lakas-NUCD-UMDP, Vol. 2, No. 9, November 1995, pp. 1 and 3. Mr. Alunan III was the Secretary of the Department of Interior and Local Governments when he wrote this article.)

Another extremist policy that stands in the way of human rights work is the total criminalization of rebellion. It may be a good measure to maintain national stability and security. But the law proscribes the employment of violence and armed means to promote even a legitimate aspiration. It thus begs the question: Where do you leave the neglected sectors of society who, lacking a better representation in the government, could not pull the fulcrum of power to their advantage even during elections and other popular democratic exercises? Our laws allow the appreciation of certain mitigating circumstances to lower impossible penalty in favor of the accused. The President is vested with the power to grant pardon and amnesty to convicted prisoners and dissidents. But, as it is before, pardon and amnesty are seasonal measures resorted to by government only during special occasions such as Christmases, presidential birthdays, new year's, etc. These legal institutions temper the harshness of the law, but they do not show enough respect for the primacy of human rights. Perhaps, the liberalization of amnesty as relief institution for political dissidents and members of the neglected sectors who go underground could be one measure. Whatever, the power should not be used as a political tool which comes in handy for some political agenda. But the political mood in government looks disinclined to such a liberal outlook. During the peace talks between the government and the Communist-led National Democratic Front for the past three years, the Presidential Committee on the Grant of Parole, Pardon and Amnesty was actively processing applications for amnesty from alleged political prisoners who were charged and convicted of ordinary crimes by the courts. But after the demise of the talks early this year, the Committee followed its wake. No meeting of the Committee was held again.

Political prisoners should not be regarded as criminals but "prisoners of conscience" who should be weaned over from the Jacobin path with a promise of a better future in a caring society, not wasted in the confines of their cells. In democratic constitutions the world over including that of the Philippines, the right to self-determination is a recognized human right. The United Nations' Universal Declaration of Human Rights goes farther with its third preambular statements:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

The Doctor of the Catholic Church, St. Thomas Aquinas, and the Prophet of Islam prescribed the instrument of rebellion as a weapon of last resort of the weak and the oppressed.

This is not to pontificate on great issues in philosophy which occupied great thinkers for centuries. I just wish to bring home the point that the Commission, particularly myself who belongs to the minority Bangsa Moro, feels in the neck the stricture of a wrong political policy of convenience that loops its noose around people for their political affiliation.

The law on death penalty in the Philippines is also one such policy which tinkers with the dignity of man. It was enacted by our government on October 13, 1993 on the premise that the penalty of death serves as a deterrent to would-be criminals not to commit heinous crimes. But the measure only achieved the opposite with not a few law enforcement agents taking the law into their hands and executing or “salvaging” suspects in heinous crimes and the ever increasing number of heinous criminals.

There are human rights friendly penal impositions lesser in harshness than the death penalty but which also constitutes as a crime-deterrent. One is the condemnation of heinous criminals to a life sentence in jail without pardon or parole or commutation of sentence. But the government does not see the need to scrap the death penalty.

Rights vs. Popular Action

Upon the heels of a spate of crime, local government executives and the police would pursue a crime control policy against criminality that ran roughshod on constitutional guarantees on human rights and freedoms. With the drug menace considered as mostly its “progenitor” of sort, the Mayor of Manila embarked in June

1997 an anti-drug policy that disregarded elementary rules of due process, spray-painting houses occupied not only by suspected drug pushers but other individuals with the phrase, "A drug pusher lives here" and the like. Soon other cities and towns followed with a slight modification to Manila's brutish approach. But what followed was a spate of extra-judicial killings. The media treated the public to a daily dish of people, who were identified as drug pushers, found dead of fatal wounds in some city corners, vacant lots, creeks and rivers. Not a few cities earned the distinction from a city of crime to a city of dead bodies. Some Queen Cities of the Philippines like Manila, Cebu and Davao competed for notoriety. But like Pontius Pilate, some concerned local government executives washed their hands of any bloodstain by laying the blame on vigilantes.

This anti-drug campaign was popular with the masses. When the Commission took a stand against it, it was put on the spot. When, in the name of human rights, I suggested that we pursue our advocacy against this popular action of government to its logical conclusion in the judicial arena, only one Commissioner sided with me. Commissioner Mercedes Contreras-Danenberg and I went ahead and sought the court to declare the unconstitutionality of the spray-painting program of the City Government of Manila and this case is now pending in the Court of Appeals. The Integrated Bar of the Philippines, the biggest association of lawyers in the country, also questioned the same measure, and so did a distinguished group of lawyers, the Mabini, which intervened in our petition. We have high hopes that we will win this case.

Since our watch and even before my appointment to the Commission in late 1994, the police has employed from now and then the strong arm of the law to lynch criminality that doesn't sit well with libertarians but popular to some degree to the people. The conduct of saturation drive in "squatter" areas, which are known lairs or havens of criminal elements in the city, is a fixture in the catalogue of police warfare against criminality. No less than the Supreme Court took notice of this high-handed tactic and went tenuously by its judicial review power and directed in the case of Guanzon vs. de Villa (G.R. No. 80503, 30 January 1990), the Commission on Human Rights, the Department of Justice and the Integrated Philippine National Police to draw up and

enforce clear guidelines to govern police actions intended to abate riots and civil disturbances, flush out criminal elements and subdue terrorist activities. It was ironic that, inspite of a plethora of human rights provisions in the bill of rights in our Constitution, some clear guidelines had to be fashioned out for our law enforcement agencies. Despite the forging of guidelines, however, we still find some sizeable elements of the police force going beyond the pale of the law in their pursuit of criminals to the discomfort and violation of the peace and quiet of the latter's neighbors.

Cases have been filed against the police for human rights violations committed during saturation drives, but the Commission would always find the blank wall in its investigation owing to, among other things, the involvement of a great number of police in the operation and the hostility of the entire hierarchy of the police unit involved which authorized in the first place the operation. Additionally, there is the problem of localizing responsibility on every individual police involved and the degree or the legal complexion of their participation in the raid. At most, only one or two leaders of the raiding teams could be identified among the operatives but, except for the charge of command responsibility, our investigators could hardly connect them to individual human rights violations. In one case, it was forced to accede to the overtures of a local chief executive and his city police force for peace with a covenant between them and the residents who were "disturbed" unnecessarily during a raid in September 1995 of a Muslim community in Manila, outlining the mode of cooperation between them during a raid.

Development Aggression

The Commission on Human Rights is full to the hilt of complaints associated with the demolition of squatter shanties in dense and depressed areas in the city and the eviction of its residents. This government activity is pursued in the name of development and tourism. To give way to high-rise buildings or commercial structures and regarded as eyesores, slum areas are cleansed of its shanties. While the issue of the eviction of squatters mainly relates to the right to housing, a second or third generation right over which the Commission on Human Rights has no investigative jurisdiction, the Commission nonetheless takes jurisdiction in keeping with the mandate of the Lina Law

(R.A. No. 7279, March 24, 1992) which requires the observance of procedural requirements in eviction cases and the provision of resettlement site and financial assistance by government. Also, the Commission sees to its responsibility to safeguard human rights during demolition and rein in uniformed personnel from unnecessarily inflicting injury to squatters who opposed the proceedings. One example where the Commission intervened involved a community of Muslim “squatters” in Manila.

In January 1996, the City Government of Manila tried by force the demolition of Moro shanties on the banks of an estero of the Pasig River in Quiapo and on the shoulder of a city road within the same district. The residents put up a violent and bloody opposition which was publicized in the media. Taking the side of the squatters, the Commission reminded the government about its non-compliance to the demands of the Lina Law. The Ramos presidency took our representation and advisory kindly and a number of high-rise condominium buildings were built for the Moro evictees at a nearby city.

I must however, confess that the action on the case of those Moro squatters in Manila was an exception rather than the rule. Overwhelmed with force, some squatter communities in the cities took the path of least resistance and went with some monetary enticements minus the resettlement site and shelter which are often located far from the economic arteries of the city where they earn their living.

This urban form of development aggression has its ilk in the rural setting. It comes by also as a monster of a strategy to an export-led development plan for economic growth, began and pursued with vigor since 1992 by our economic czars who are awash with every optimism to usher into the millenium our country as a new industrialized country.

In the agriculture sector, this strategy entails the conversion of agricultural lands into farm plantations for high-yielding crops which cater to foreign markets. Operated as a commercial enterprise and technology-intensive for its operation and the processing of

its agricultural products, farmhands only form negligible components of its workforce which comprised of highly skilled personnel. So most of our simple rural folks among our sedentary agriculturists found themselves without a job or lot to till or became exploited small-time feeders and lot farmers. For its arable lands, many of these plantations are situated within the ancestral domain of the indigenous communities with dismally low literacy rate.

To support the energy and other infrastructural needs or requirements of an industrial driven and export-oriented agricultural economy, government embarked on establishing dams to generate hydroelectric power in the midst of the communities of the indigenous people. Some of these “damming projects” in Luzon, especially in the Cordillera and Nueva Vizcaya, have been shelved after violent opposition of the affected indigenous people who fear for the loss of the balanced ecosystem of their community and the lack of a credible rehabilitation and compensation program for them in exchange for their displacement, among other things. But in Mindanao, some dams were allowed to operate after a long negotiation and bloody confrontation between oppositors and government forces.

In livelihood-generating projects of the government within the ancestral domain of the indigenous people, they were sidelined.

In a reforestation project in Davao which was awarded to and operated in 1997 by the local firm of Alcantara and Sons owned by non-members of the tribal communities, the Talainged and Ata-Manobo people in the area of concessions banded themselves against the project and not a few among the members of the tribes were killed or injured for their opposition. The Commission intervened and, after a series of consultations and dialogues, the conflict was resolved with the Alcantara and Sons taking in members of the indigenous communities to its workforce and the government committing to issue in favor of the tribes a certificate of ancestral domain title for their community.

In the mining industry, foreign capital dominates. Controlled by absentee-capitalists who care little, if ever they do, for our environment and the people within the immediate concession area, the industry becomes in a sense a “fleecer” of the lifeblood of the country. Ironically, through Congress we enticed them with every incentive, providing them the freedom to move their profits and capital as they wish to and control over their mining operation to the limits of their equity or capital participation in the industry. Our Mining Law, which was enacted in March 1995, saw to that. It was only in 1996 when the spillage of mine tailings at Marcopper Mining in Marinduque hit the country and riveted public attention to destruction and poisoning of rivers and waterways and affliction of residents with skin diseases and organic disorders from mining wastes that the government began to give consideration to the need for a social welfare provision in the implementing rules and regulations of the Mining Act. A new section was added to the rules, recognizing and according greater respect and protection to the rights of the indigenous people, particularly by pairing a minimum royalty if mining is allowed in ancestral lands and domain. The rules also recognize the rights of local communities affected by mining by requiring a minimum allocation for community development and ensuring their participation in the monitoring of mining projects. (Horacio C. Ramos, “*Sustainable Mining: A Policy to Reinvigorate Mining*.” A keynote address delivered at the 9th Annual Geological Convention at Sulo Hotel, Quezon City, Philippines, December 4-6, 1996)

But the situation on the ground is a sordid story. In Porac, Pampanga, the indigenous Aetas complained against paramilitary men of a copper mining firm who were harassing them to leave their community. At this very moment, a community of indigenous people, the Subanons are holding their picket lines against the operation of a foreign mining firm, Toronto Ventures, in their ancestral homeland in Siocon, Zamboanga del Norte. They feel aggrieved that they were relegated to receive crumbs while the benefit of development mainly goes to foreign capital in the first place, among other complaints.

In the ancestral lands of the indigenous people logging operations by concessionaires from outside of their community are wreaking much destruction, as before, to their economic support system which is environment-based.

Government insensitivity to the protestation of the marginalized sectors of our population is the outgrowth of its adherence to crass capitalism which is bad for human rights. This western implantation is alien to the Filipino and to the Asians. But we are reinventing it to an unfeeling freak of an economic ism more than its western model. Almost every economic enterprise where government awards concessions is the preserve of the moneyed members of society.

In Malaysia, in order to democratize its economy, the government enters into partnership with the *bhumiputras* and provided them with interest-free loan to get them into business and commerce. Iran and some Middle East countries take care of its poor population from a “trust treasury” with money sourced from a poor tax on some wealth or from some philanthropists. In the Philippines, you draw a loan on a collateral or some other arrangements but always with interest which compounds every failure to pay the loan at due date irrespective of whether you are poor or a big-time businessman, or whether you made any profit or not, or whether you are visited by man-made or natural disasters.

Unlike in the Philippines, the disabled sectors in Spain are given preferential treatment to operate the lucrative lotto outlets.

In Japan, penalties for violation of the law on public accessibility in favor of the elderly and the handicapped are held in trust for these marginal sectors of society. In the Philippines, there is no such policy.

It is said that society is measured by how its people regard their animals. This is not an accurate social index of a civilization. People may care for their dogs, carabaos or elephants for its utility, among other things. Rather, it is more congruous to say that a

society enjoys a social climate of harmony where its people care for or grant more human rights or preferential treatment to the less privileged among their brethren.

Under our capitalist culture, I fear we have developed a class of home-grown businessmen and corporate managers who regard the obstinacy of the poor workingmen to the demands of profit and capital as stupidity, or the protestations of our marginalized indigenous people against aggression of capital as ignorance, not as a cry of pain which needs some pills for relief.

As you know, crass capitalism cultivates our individualistic predilections, not our social bondings to humanity. Without a religious face, however governments dress up its development strategy for economic growth as a specie of the social market economy and the like with the people as the objects of development, the disguise of an overall will not change the reality about the capitalists who wear it. It is my thesis here that any activity especially the profit-generating ones, if it is to bear the common good, must be undertaken in the collective name of society or humanity and not merely as an individual pursuit for the good of its undertakers and filial relations. And it is only religion—whether it be Islam or Christianity or Buddhism or Hinduism—that carries the impelment for the individual to look beyond his person and uphold his greater identity as a social being subsumed in the mass of mankind or, if you wish—as in Hinduism—as an embodied soul from the Atman from where all individual souls arise. Where man comes in this social complexion and in the garb of religion, whatever his activity is, it may be assumed that he is a socially-oriented person and the object of his toils is the common good, foremost of all. In brief, it is not the glare of technocratic words that governments used to wrap its development package that makes society and man, but it is in the innate wellspring of his goodness and oneness with mankind that finds its womb in religion. Governments should therefore source from religion its wealth of moral teachings and craft an economic system and call it by its name in religion, so the people will identify themselves with and work by its tutelage like some votaries of a religious faith as they are, respecting the human rights of all and putting the interests of the marginalized a priority concern.

My fear that our socio-economic directions will bring human rights to the drain is not misplaced. As early as December 1996, I made representation with our government to include the Commission on Human Rights for membership in the Regional Development Councils, so we can factor into the economic plans of government some human rights concerns and monitor the implementation of its development projects in the name of human rights. But it was turned down. In the Commission, we feel diminished. As a Constitutional body tasked to promote human rights in the country, the Commission can well contribute some facets to development that consider human rights concerns and interests of the marginalized sectors of our society. In the implementation of development plans and policies, human rights violations almost always ensue such as the displacement of people, loss of or damage to their properties, ancestral land and cultural integrity, among other things.

Threats and Harassment

I wish to stress that government snobbery has not in any way discouraged the Commission from pursuing its investigation mandate against the uniformed members of the bureaucracy who violate human rights. The greater challenge posed to the Commission is our precarious security including that of our investigators and witnesses who received threats and “violent pressures” in connection with controversial cases. To help our witnesses withstand the heat, we enroll them in our witness protection program, shelter them in our office and provide some monthly allowances for some period of time before we get the approval of the Department of Justice for their enlistment in its witness protection program which provides better security and financial assistance to its enrollees. For those who become veritable objects of threats, they enlist the services of security escorts, and secure guns and bulletproof vests.

These threats are real and they could only be the handiwork of violators especially among the local government executives and uniformed personnel who entertained some scare from our investigators. Although the Commission cannot impose administrative sanctions to human rights violators, it has the power to derail the promotion of uniformed

personnel by not issuing them a clearance and, with its active participation in the investigation and prosecution of charges against human rights violators, most likely they will be disciplined by appropriate agencies of government.

Sadly, these threats interfered with our investigation and, in fact, frustrated our quest for the truth in some human rights violation cases.

One such case relates to the violent death of some members of a robbery and kidnapping syndicate, which shook to the hilt the entire police organization. All the investigation arms of the government conducted their own individual and separate probe. The facts are established that before the breaking of the morn on May 18, 1995, the police sprayed bullets on a van while it was cruising on a main thoroughfare in Quezon City, killing some eleven members of the *Kuratong Baleleng* gang. But controversy arose when the police claimed that what happened was a shootout, while there were ample telltale signs that it was a case of a “rubout”. So about ninety or more police officers and men including two generals were indicted for murder in connection with the incident. One of the prosecution witnesses, who is a woman, was under the custody of the Commission. One day, our security guards reported that suspicious-looking armed men were frequently seen within the vicinity of the Commission and that one of those implicated in the case was able to enter its Visitorial Office looking for the witness. To avoid complications, we transferred our witness to the custody of the National Bureau of Investigation. For a more synchronize investigation of the rubout case, the Commission transmitted its records to the Department of Justice and assisted the latter when sought to.

Another case refers to the killing of two Arabs inside the Siongco military camp in Barangay Awang, Datu Odin Sinsuat Municipality, Maguindanao Province, by soldier. One of these Arabs was an Egyptian and the other was a Saudi national. The military command in Southern Philippines claimed that the two are terrorists hanging around the premises of the camp to assassinate the Commanding Officer of the 6th Infantry Division who lives in said camp. In spite of the advise of our Regional Director and his investigatorial staff in the region for me to forego my investigation sortie to the area

“with a view to reviewing policies concerning the safety of (our) personnel and their capability to protect themselves,” I proceeded with my investigation under the security blanket of police security escorts and media people from Manila. We have witnesses to pin down the military for the extrajudicial execution of the two Arabs but they were not willing to come out into the open unless their security and personal safety are guaranteed during and after the investigation of the case. For their security after the investigation of the case, they demanded that they be given asylum abroad or deployed preferably to Malaysia or Saudi Arabia beyond the reach of vengeful elements in the military. Although their fears are legitimate, the Commission could not come up with some arrangement to answer for their requests for obvious reasons. So our investigation was shelved for lack of witness.

Already, a human rights lawyer was murdered on April 30, 1996 for handling a case of human rights violation against a local chief executive. This case involved the killing of a barangay militiaman on November 20, 1995 by a bodyguard and cousin of a town mayor. The town’s police filed a case of ordinary homicide against the gunman. The lawyer and family of the victim sought for the intervention of the Commission, contending that the charge should be murder and it should include the mayor and others as principals by induction. The Commission investigated the case and, on our representation, the Department of Justice amended the charge from homicide to murder and included the Mayor and some other culprits in the charge sheet. No bail was recommended for their release. The case hugged the media headlines for months that no less than the Secretary of the Department of Interior and Local Governments led the arrest of the mayor to the blare of media publicity.

The military and the police had enjoyed 16 years of Marcos rule as a privileged sector of society, feared for their monstrosity and position of untouchability. From the EDSA Revolution of 1986 that overthrew the Marcos dictatorship, 13 years had lapsed and perhaps it will take more than this period of time to wean them away from the decadent culture of martial law. Until then, we have to be true to our calling as human rights advocates, keep our security escorts and guns to ward off evil men from harming us, and

hope that things will fall in its right places and confine the military and the police to their traditional role as protectors of the people and keeper of peace in the community.

Judicial Delay

Finally, I note with sadness that from the 6,356 cases we investigated for the last ten years which reached the prosecution and/or court trial stages, only more than one percent thereof were judicially disposed of. This does not speak well of our judicial system and concern for the primacy of human rights.

Under its investigative power, the Commission may inquire into the actuations of a judge in relation to his observance of the rights of the accused in a case before him. The law secures to every accused certain civil rights during the trial, namely: 1) To be presumed innocent until the contrary is proved beyond reasonable doubt; 2) to be informed of the nature and cause of the accusation against him; 3) to be present and defend in person and by counsel at every stage of the proceedings, from the arraignment to the promulgation of judgment; 4) to testify as a witness in his own behalf but subject to cross-examination on matters he testified thereabout. His silence shall not be in any manner prejudice him; 5) to be exempt from being compelled to be a witness against himself; 6) to confront and cross-examine the witness against him at the trial; 7) to have compulsory process issued to serve the attendance of witnesses and production of other evidence in his behalf; 8) to have a speedy, impartial and public trial; and 9) to have the right of appeal in all cases allowed and in the manner prescribed by law. (Rule 115, Rules of Court; See Sections 14,16, 17, Article III, 1987 Philippine Constitution)

In one case, I tried to get the Commission to investigate a Judge of a Regional Trial Court on a complaint of a party who alleged that the said Judge sat on a case where he is a defendant for an unnecessarily length of time in violation of the latter's right to speedy trial. In our jurisdiction, a Trial Court Judge must conduct a hearing continuously and conclude the same within 90 days as far as practicable unless the parties agree on some other schedules. (See Rule 6, Rules of Court). After the case is submitted for decision, the judge is required to decide it within 90 days. (Article VIII, Section 15 (1),

1987 Philippine Constitution). But the Commission preferred to avoid taking even a peek to the judicial terrain where the Supreme Court roosts as *primus*, so to speak. The Constitution vests in the Supreme Court administrative supervision over all courts and the personnel thereof (Article VIII, Section 6, *ibid.*) and the power to discipline judges of lower courts. (Article VIII, Section II, *ibid.*) I made the point that our investigation is simply an administrative investigation, and in no way will it intrude into the domain of the Supreme Court because such an investigation will be confined to gathering facts and, thereafter the Commission will make recommendations to the Supreme Court which it may adopt or reject or consider as basis for any action in relation to the Judge complained against. But the majority of the members of the Commission were a bit conservative on the issue and chose to look the other way.

BETTER POLICY

Nevertheless, over and above any form of advocacy towards the establishment of a human rights culture particularly among our uniformed men, the better strategy would be the adoption by the government of some ethical norms of conduct and behavior for them with avertive or preventive potency to rein in errant propensities that proceed with power. Better still, the government, especially its military and police components should heed the recommendations of the Commission on Human Rights. Otherwise, our progress in human rights promotion and protection will be, as it is, slow and our toils in the field of human rights will be, as it is, painful.

But the Philippine Military, especially, was mostly unavailing to the recommendations of the Commission. Let me refer to two cases to belabor the point.

In my investigation of the February 1999 shooting war between the government forces and the freedom fighters of the Moro Islamic Liberation Front, I found that some Moro civilian houses in the heart of a Moro town in Mindanao, were burned by elements of the Philippine Army and that torn pages of the Qur'an were strewn all over and some of its pages were found inside a toilet bowl. Such a sacrilege could only be done by a mad man among the military who must have been under the influence of liquor or some

depressants. It is public knowledge that soldiers in Mindanao who are “non-Muslims” drink intoxicants without due regard to the religious sensitivity of its Muslim population. To obviate the happening of a similar incident, I recommended to the military the adoption of a policy banning soldiers assigned in mainly Muslim areas in Mindanao from drinking any intoxicant and providing administrative sanctions for its violation. But the military or the government did not do anything and treats the advisory as a piece of trash, not even addressing the Commission any letter-reply inspite of a Correspondence Law penalizing concerned personnel in government who fail to reply to letters within 15 days from receipt thereof. To some degree, this reflects the state of our military culture and the place of human rights in the military psyche.

Much earlier, the military ignored the recommendation of the Commission for the military to relieve or subject to disciplinary measures the Commanding Officer of the 31st Infantry Battalion whose unit was responsible for most of the human rights violations in Maguindanao and to compensate the civilian population of three towns in the province whose houses and crops were either destroyed or burned by the military during a counter-insurgency operation against the Bangsa Moro Army in January and February of 1997.

One wonders why after our EDSA Revolution in February 1986 which overthrew the Marcos dictatorship, human rights concerns are still at rock bottom in the hierarchy of government programs. Realizing the need to strengthen our Commission, correct its structural weaknesses and make it a quasi-judicial agency and a truly independent one for the weak and the oppressed, we sought Congress to pass the pertinent enabling law and its certification as priority government bill as far back as 1996 but the bill has not moved beyond the first-reading stage. The presidency did not bother to give the certification to fast-track its passage.

In the meanwhile, we struggle to keep our bearing as an independent Constitutional body and get on with our partnership with government agencies which fund some of our human rights work and flagship projects, and still claim that we are human rights advocates in the best traditions because we shout for human rights.

And in our shouts for human rights, we do not have any better friend than the crusading media practitioners who keep our company and raise our complaints to the bar of public opinion and prick the ears of the powers-that-be in the bigger government.

But what if these shouts only fall on stone-deaf ears? Do we elevate our case to the United Nations' Office of the High Commissioner on Human Rights?

While we have a free press and a political tradition of democracy, our experience in human rights work is not enviable. But this does not deter us from mounting our horses as soldiers of human rights and freedom. Even against the windmills of power we raise our torch and stand our ground. Ultimately, the winners would come from those who try.

Thank you and good day.