

PDL SUMMIT TALKING POINTS

- I. It has been a little more than two months since I took on the leadership of the Commission on Human Rights. In this short period of time, I have become more convinced that indeed one of the major situs of human rights violations is the places of detention – the jails, the prisons, the lock-up cells and of course, the secret detention centers. I say this because some of the most outrageous human rights violations that occurred at this early stage of my term as Chairperson happened in these places of confinement.
 - A. The Tondo Torture Case
 - This human rights violation occurred in the Police Community Precinct of Asuncion, Tondo, Manila. Involved are policemen – middle-ranking officers at that – sadistically torturing and maltreating a fragile, helpless man.
 - Thanks to the video, we have become sensitized again to the fact that this kind of inhumanity does occur everyday right under noses.
 - B. The Zamboanga del Norte Torture Case
 - This is yet another torture case involving no less the Chief of Police of Zamboanga del Norte who mercilessly beat a media man for exposing widespread corruption in the province that implicated the police.
 - The Governor of the Province himself ordered the Chief of Police to release the media man and bring him to the hospital. But the Chief of Police openly defied the Governor and instead continued to lock up the person with all his wounds and bruises and with no one to treat him.
 - We have seen the pictures of the victim inside the jail; his wounds and bruises are unmistakably the result of a severe beating that can only be done by a depraved, power-lust creature.
 - C. The Bataan Provincial Jail Incident
 - This involved the BJMP in Region III using unnecessary, excessive force to quell but an act of protest by the 700 or so detainees in the Bataan Provincial Jail. The detainees were protesting the draconian implementation of what are otherwise laudable reforms in the management of the provincial jail.
 - The nature and location of some injuries sustained by many detainees suggest that they were beaten while they were defenseless. Indeed, the use of pressured water hose had already caused the detainees to lie prostrate on the ground. Worse, rubber bullets were fired at some detainees, belying the claim that the shots were only warning shots. These rubber bullets were not officially issued by the government; their use was not officially sanctioned.

These three atrocious cases occurred in just three months. In all probability, these cases would not have been known to the public if not for the influential people and the media who brought the stories out in the open. For sure, there are many other human rights violations committed against persons deprived of their liberty of which we do not come to know simply because there are no media covering their plight, and there are no politicians or political groups backing them up. These nameless and faceless victims suffer the same fate of physical abuse and psychological despair.

- II. But why are we so concerned about persons deprived of liberty? Why do we give so much attention to their plight when there are many other social ills that we need to prioritize and resolve? Why do we even care for people who have transgressed our laws, who have committed crimes and therefore have committed offenses against the people and the State?
- A. First off, let us disabuse ourselves of our misconceptions. A large majority of the detained are not yet convicted. Many of them are even placed in jails upon trumped up cases.
 - B. PDLs are put in a very vulnerable position. They are cut off from the free world. They cannot provide for their own food, medicine and other personal basic needs. They are placed in a situation of inferiority, of insecurity and weakness. To a large extent, they are left to the mercy of detention officials.
 - C. We care about persons deprived of liberty precisely because they are particularly vulnerable. I know this for a fact because I myself was detained during Martial Law and it was during my detention that I was tortured and molested by elements of the security forces.
 - D. More importantly, we care about them because like us, they are human beings. Article 10, paragraph 1 of the International Covenant on Civil and Political Rights (ICCPR) reads:

All persons deprived of their liberty shall be treated with humanity and with full respect for the inherent dignity of the human person.

This lofty standard is an expression of the immutability of one's humanity. It is a codification the precept of universality of human dignity: all human beings are possessed of inherent dignity and therefore must be treated with respect. Thus, the respect we accord to free persons should be the same respect we extend to persons deprived of their liberty.

Art. 10 is a fundamental and universal norm. Consequently, it is a minimum requirement which cannot be made entirely dependent on material resources or political considerations. It is because of the sanctity of the human person that both international and national laws guarantee the rights of PDLs. Therefore, PDLs have:

- The right to due process of law;
- The right not to be arbitrarily arrested or detained;
- The right to be informed of their rights;
- The right to counsel at all times;
- The right to a fair, impartial and speedy trial;
- The right not to be subjected to torture and other cruel, inhumane and degrading treatment or punishment;
- The right to adequate and nutritious food
- The right to clean, safe and adequate water;
- The right to the highest attainable standard of living;
- The right to family life; and
- The right to be treated humanely at all times under all circumstances.

- III. Let us pause and ask ourselves: are we observing these rights of the PDLs? Can we honestly say with a clean conscience that we are giving the detainees their due? Are we treating them humanely and with respect for their inherent dignity?
- A. When we visit our prisons, jails and detention centers, we easily notice that the detainees are packed like sardines in small, suffocating dingy cells. Our detention facilities are simply overcrowded. The national average congestion rate of our jails is somewhere at 292%, while the highest congestion rate is at 533%. The primary causes of this are the relentless and most of the time arbitrary application of the Anti-Illegal Drugs Law and the slow movement of judicial processes.
 - B. On top of this, our detention infrastructures are old, dilapidated and ill-functioning. Ironically, they are called “correctional facilities” when they are obviously not fit for correctional purposes and they themselves badly need correction.
 - C. We also do not adequately provide our detainees with the most basic of their needs: nutritious food, clean water, sufficient medicine and appropriate clothing and beddings.
 - D. We acquiesce, if not encourage, the Mayores system or the “Batas ng Kulungan.”
 - E. We allow the most vulnerable groups – the children, the women, the old and the Sick, and the political prisoners – to be mistreated and maltreated.
 - F. We turn a blind eye to torture and have grown to consider it a “trick of the trade” without which policing the peace and order will not be possible.

Again, let us pause and ask ourselves: are we observing the rights of the PDLs? Can we honestly say with a clean conscience that we are giving the detainees their? Are we treating them humanely and with respect for their inherent dignity?

- IV. PDLs are detained not because we want to brutally punish them. No, we detain the accused to ensure the dispensation of justice; we incarcerate the convicted for them to realize the gravity of their offense, thereafter lead a reformed life, and eventually become a productive and law-abiding citizen. We detain the PDLs to ensure peace, security and justice. As things stand, we can never achieve these goals unless we address the root causes of the problems embedded in our criminal justice system:
- A. Law enforcers should set an example in following the law. This means securing a warrant of arrest or a search and seizure warrant and cautiously implementing them. This means not abusing the provision for warrantless arrest. This means not planting incriminating evidence. This also means not allowing yourselves to be used as personal goons or bodyguards of the rich and the powerful to achieve their selfish and corrupt ends.
 - B. The unholy alliance amongst the investigators, the prosecutors and the judges ought to be broken. This alliance is forged by corruption – a deadly acid that corrodes every fiber of our society.
 - C. The Judiciary should find ways to dispose cases in a speedy and equitable manner without causing miscarriage of justice. A good start will be the strict implementation of the Speedy Trial Act and the intensification of the Justice on Wheels program.
 - D. Human rights – its nature, importance and implications – need to be mainstreamed in correctional operations and inculcated in the hearts and minds of our detention officers, including the police and the military. Detention personnel who have direct contact with the detainees should be thoroughly trained about the norms, rules and standards on the treatment of PDLs. The inequitable Mayores system has to be dismantled.

- E. As much as we are working towards a unified correctional system, we should also work to ensure sufficient budget allocation for the reconstruction and repair of detention facilities and for the provision of the barest minimum needs of the detainees. PDLs should not be subjected to further hardship or restraint other than those resulting from the deprivation of their liberty.
 - F. Lastly, the education and training programs for the detainees geared towards their reformation and rehabilitation ought to be enhanced and intensified towards their eventual reintegration to society. Restoring the offender is the whole point. If we are making no impact in this aspect, then, it is us who would have failed; our institutions would have been ineffective, and therefore we were merely wasting scarce public resources for nothing.
- V. The Commission on Human Rights under my leadership will give special attention to the rights of PDLs. We will do these through the following:
- A. We will ensure that there are no secret detention places and that all PDLs in detention centers are held in accordance with law through the full implementation of Article 7 of the Anti-Torture Law requiring the PNP, the AFP and other concerned agencies such as the BuCor, the BJMP, the Provincial Governments and the DSWD, to submit a detailed list of their detention places and the corresponding information on persons held by them.
 - B. We will strengthen our visitation and assistance programs by vigorously implementing a purpose-driven and results-oriented system of preventive monitoring that will concern both the conditions of correctional infrastructures and the treatment given to the PDLs.
 - C. We will assert our authority to unhampered and unrestrained access to places of detention and we will make sure that the authorities will immediately get a hold of our visit reports, conclusions and recommendations.
 - D. We will partner with the CSOs in empowering the PDLs and ensuring access to justice. We will help detention officers to enhance their capacities to respect and fulfil the rights of the PDLs. We will collaborate with government agencies, but we will never shirk from our responsibility to protect and assist PDLs; we will continue to do our duty to expose violations of their rights and to seek for their effective redress.
- VI. The Commission on Human Rights believes in Restorative Justice. Rather than satisfying the primal need for retribution – the proverbial *eye for an eye, tooth for tooth* notion of justice – we should all focus our resources in reintegrating to the community those who have committed wrongs and infractions. We need to stop dehumanizing the detained and start treating them as human beings worthy of our respect simply because they are human beings. I humbly ask all of you, please, let us all work to establish a justice system that seeks to restore victims and offenders alike; let us allow them to become whole, contributing and productive members of society.
- VII. If we don't treat them right, it says a lot about how we are as a society, how we let slip our sense of humanity and how we have allowed ourselves to disrespect human rights simply because it is convenient and, in the context of PDLs, somehow excusable. Let me end by quoting what Nelson Mandela said: "no one truly knows a nation until one has been inside the jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."