



DEPARTMENT OF JUSTICE

SECRETARY LEILA DE LIMA

Keynote Address

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"Human Rights in the Philippines – Development and Trends under the Aquino Administration"

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"There Can Be No Reconciliation Without Justice."

Friends, ladies and gentlemen:

I was told mine was an after-dinner speech.

In short, I am "serving you dessert".

I would have objected and would have asked that I be made your "main course". I like being the "entree" instead of the after-dinner drink that the French call "digestif". The word apparently refers to alcoholic drinks that aid the digestive process. I am afraid I may not fit the

definition. You see, my critics back home have announced many times that I am the major cause of their indigestion.

On second thought, why object to being an after-dinner treat? You see, I am a mother. A Filipino mother. And we, Filipino moms, have known time and again that the main course is not always what children look forward to. In their growing up years, they would rather have the dessert which I have prepared as the main course. The meal is an excuse to have mommy's dessert - and that's a badge of honor Filipino moms proudly wear.

Tonight, I do not promise to give you a fantastic after-dinner treat. But I can promise not to give you indigestion.

Let me begin by thanking Dr. Peter Koppinger and the Konrad-Adenauer-Stiftung Foundation for the invitation to be part of this event. I am pleased and honoured to be here. I come not just as Secretary of Justice of the Government of the Republic of the Philippines, but also as your fellow advocate in the promotion and protection of Human Rights.

At the outset, allow me to underscore that I am awed by the task that has been given me tonight. I realized that tonight's gathering includes many of the spiritual leaders of the Christian Churches both in the Philippines and other parts of the world. And, I realized, too, that the

subject matters of “reconciliation” and “justice” are part of the realm of theological studies.

So, when you asked me to speak on the subject matter “There can be no reconciliation without justice”, I decided I will not treat this from a conceptual viewpoint.

I shall, instead, stick to the simpler “A-B-Cs” of this issue:

“A”, which stands for the “aspiration” of the Philippine government as far as reconciliation and justice are concerned.

“B”, for the “bold initiatives” of the administration of President Noynoy Aquino along these lines; and

“C”, for the present administration’s “commitment” to the promotion and protection of human rights.

Let me go back to the first: the “aspiration”. Let me state for the record in this Conference that “Reconciliation” is an integral part of the vision of Philippine government.

But first, let me ask this: have we answered the questions “What do we really mean by reconciliation” and “reconciliation with whom? In

addition, let us ask the question, why is the issue of "reconciliation" so vital to our Nation today?

To the first question, I say, there are two possible answers. "Reconciliation" may mean simply, one, "the mending of political fences"; or two, "the restoration of right relationships".

I hope we are not looking at the issue simply based on the first definition. Our aspiration for "true reconciliation" goes beyond the resolution of the issues of where and how the late President Ferdinand Marcos is to be buried; and, how the present government is to handle the allegations of graft and corruption in the past administration. Let me tell you, the current direction is not simply on the "mending of political fences". It goes beyond that.

Our current aspiration is towards "genuine reconciliation". The restoration of right relationships.

Next question: reconciliation with whom?

For a while, I thought that it is seemed awkward for a representative of the present administration to talk about "reconciliation". After all, the President has not quarrelled with anyone. The issues of broken political

fences are issues that were brought about by the past; definitely not by the present.

Let me, therefore, underscore: the aspiration for reconciliation is not exclusive to the domain of petty political enmity. It goes beyond that.

So, then, what's the answer? Reconciliation by whom and with whom?

I believe the answer is this: our aspiration is for genuine reconciliation by Filipinos with their countrymen with whom their deeply-held beliefs and ideologies have clashed, and among Filipinos who were separated from one another by the rift caused by social and economic gaps.

The aspiration is for a genuine reconciliation process that would narrow the deep chasm that separate those who stand on the opposite ends of the ideological and economic spectrum, those who are on the left and on the right, those who are perceived as rich and those who think of themselves as poor.

The gaps have caused us hurt; very, very deep hurt. Our countrymen suffer from deep emotional wounds as a result. Many have lost their lives in the consequent physical conflict. And regardless of which side of the ideological or social spectrum they stand on, the direct casualties and the collateral damage are all crying out for justice.

And this is part of the aspiration: that Justice they shall get.

Let me now go to "B" - the bold initiatives; the first steps that would get us there.

First, In December 2010, the President directly ordered the release of 43 health workers who were summarily arrested and detained in February 2010 under the previous administration, on suspicion that they were involved in insurgent activities. It was alleged that they were guerrillas undergoing a training in bomb-making, and that soldiers found bomb-making materials, guns and a claymore mine "under the beds" of the health workers.

In ordering their release, the Aquino administration did not prejudge the merits of the cases filed against the individual detainees. Nor did it ignore the right of people in local communities to be free from the specter of violence. Rather, the government ordered the release to ensure that the rights of the detainees to due process of law are protected and upheld in

accordance with the principles of the rule of law and the rights of human beings, whatever their ideological orientation may be.

The Aquino administration took that initiative - that potentially politically risky step - because, at that time, one thing was absolutely clear to the newly established Aquino administration, that is the understanding that a government cannot lead, cannot expect to be followed, cannot expect to re-establish or demand obedience to the laws of the land, if it is seen by the people as the foremost violators of the Rule of Law. A government - from the Chief Executive to the heads of the other branches of government, and all the way down the ranks - ought to lead by example and destroy the culture of hypocrisy and impunity.

The saying that "no one is above the law," not even the police, the President or the government, may sound trite to most, but in our country, after years of witnessing the spread of moral decay among so-called "public servants," it was time that we were reminded of something so basic. Hence, the order to release the group that has been dubbed, and known internationally, as the "Morong 43" - a bold move to restore and demand respect for the Rule of Law.

Second, in January this year, the Aquino government submitted the Instrument of Ratification to the Optional Protocol to the Convention Against Torture to the Senate for concurrence in our country's accession to the treaty.

Among other things, that treaty provides for a system of regular visits by independent international and national organizations where people are, I quote, “deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”.

This is a bold initiative since this means opening our doors to international scrutiny and boldly seeking the assistance and cooperation of other nations in our bid to ensure that human rights are respected in our country - respected, even by those who wield the powers of the State.

In March 2011, President Aquino also signed and transmitted to the Senate the instrument of ratification of the Statute of the International Criminal Court. We recall that, in the past, the Philippine government had signed but refused to ratify the Statute, defying the fundamental and peremptory obligation to ensure the prosecution and punishment of the worst crimes under international law. This even made necessary that a petition be submitted to compel the then Executive Branch of government to transmit the instrument of ratification. The pleas were left unheard.

Why? Why would an instrument, which has already been signed, be refused to be transmitted - even claimed to have been lost - if not to profess some fear for the possibility of being made to take responsibility for one's actions?

That is a thing of the past. Now, with the transmission to the Senate of the instruments of ratification, the Aquino administration has demonstrated its solidarity with the movement to replace *ad hoc* tribunals

with permanent courts. This is an expression of our firm resolve to ensure that we all can effectively prosecute those accused of the worst international crimes or submit them to an impartial international tribunal. We believe that this will *perfect* the sovereignty of the state, which exists precisely to protect human dignity and development.

For the record, the Aquino administration will fulfil its obligations under these treaties.

Third, we are strengthening the Rule of Law in our country by undertaking the following reforms.

One, reforming the Prosecution mechanism.

In December last year, our Department of Justice launched the Codes of Conduct of the Prosecution Service, which were developed through the collaboration among our department, the National Prosecution Service, and the Planning and Management Service, with support from the Asian Development Bank (ADB), the United States Agency for International Development (USAID) and the American Bar Association (ABA).

We have made sure that the Codes were issued in our determined bid to ensure that prosecutors who stand at the front line of the criminal justice system will conduct their duties with the highest regard for human

rights, particularly the natural right to due process of law, and with fairness, dignity, impartiality, integrity and professionalism.

I believe this is another important step in the comprehensive reform of the criminal justice system which is part of the aspiration for reconciliation.

Two, the government has sent a strong signal that it is set to do battle with the culture of impunity.

Under international law, the obligation to protect rights also includes the duty to provide remedies for their violation. We fully recognize this.

One of the primary battle fronts we are presently facing and earnestly fighting for involves an atrocity so heinous and bestial that I believe it is no exaggeration to state this is one battle we fight, not just in behalf of the victims, their families and the Filipino people, but in behalf of the whole human race. The brutal massacre of fifty-seven (57) human beings in the name of preserving political power has no place in a civilized society. And we hope we have strongly conveyed this in the wake of the expeditious and just investigation of the massacre in Maguindanao, which was allegedly perpetrated by local warlords to prevent a rival group from contesting the last general elections.

Despite the never-ending reference to the alleged political connections of the alleged malfeasors, the case has already been submitted

to the trial court, before which the principal accused have been arraigned to pave way for a public trial. The clamor for live media coverage of the trial, as officially requested by President Aquino himself, was recently granted by the Philippine Supreme Court. That would bring the proceedings in "the light of day."

Yet, the battle is still uphill because - arraigned or not, and detained or not - the primary accused still wield a lot of political and economic influence even from behind bars, and are still capable of thwarting the efforts of investigators and prosecutors, including by terrorizing potential witnesses.

This is one trial that we invite the entire world to continue monitoring, because apathy is to favor the perpetrators and betray the cause of human rights. We will do what we can to win this fight, and deliver justice for the victims.

The stories and cases of Filipino *desaparecidos* have, for a long time now, been a subject and focus of concern from many quarters. In fact, if the plot of the perpetrators of the Maguindanao Massacre wasn't revealed as soon as it was, the victims would have, in all likelihood, been counted among the numbers of the disappeared as they were in the process of being buried in large mass graves along with their belongings and motor vehicles. They would have disappeared from the face of the earth, seemingly without a trace.

Like James Balao, Jonas Burgos, Karen Empeño and Sherlyn Cadapan, to name a few victims of enforced disappearance.

Much public attention has been drawn to the disappearance of these individuals - a mystery which has remained unsolved for several years now. Unfortunately, their disappearance has caused many to suspect that this is the handiwork of military elements.

Mr. James Balao is alleged to be a founding-member of the Cordillera Peoples Alliance, who was supposedly kidnapped from his house in Baguio by armed men in uniform in September 2008. At the time, I was just about three months and three weeks into my appointment as Chairperson of the Philippine Commission on Human Rights (CHR). Unfortunately, until now, there is very little development in solving this case, in huge part because, based on the report of the Police Regional Office Cordillera (PROCOR), there are still no witnesses who are willing to come out that could give relevant information regarding his disappearance.

Unfortunate and deplorable as the current state of the Balao case is, it simply goes to emphasize the difficulties we face when we attempt to solve cold cases that have been pending for so long, and with so little cooperation from potential witnesses. But who could blame them, really, when they were given good reason to grow wary and jaded regarding the sincerity of government efforts? What, with the phrases "culture of impunity," "rampant moral degradation" and "moderation of greed"

having become common words to apply, in the last decade, to describe public perception of its own government?

That is, therefore, our first order of business, especially with respect to human rights violation cases, to *restore the trust and confidence of the public* in our sincerity to deliver justice for all victims, through prompt and sincere action. Thus, we, in the Department of Justice, have taken care to take advantage of the recent developments in other enforced disappearance cases, particularly the Jonas Burgos and the Sherlyn Cadapan-Karen Empeño cases.

A development in the Jonas Burgos disappearance occurred when the Philippine Supreme Court *En Banc* promulgated its Resolution a year ago. As a result of which, I, as Secretary of Justice, directed the Prosecutor General to coordinate with the Philippine CHR and review the Investigation Report it submitted to the Supreme Court. Pursuant to said directive, after more than four (4) years since Jonas went missing in April of 2007, preliminary investigation has finally been initiated to the end of determining whether there is probable cause to charge before the courts a member of the Philippine Army, as Principal By Direct Participation in the abduction of Jonas Joseph T. Burgos; and several other individuals for, among others, obstruction of justice.

The most recent development, however, involves the case of two (2) female students, Sherlyn Cadapan and Karen Empeño who, along with another individual, Manuel Merino, were abducted more than five (5)

years ago on 26 June 2006. The Supreme Court *En Banc* has finally promulgated its Decision in the Petitions for *habeas corpus* filed for their release, the Court ordering their immediate release from detention and ordering, further, that individual respondents - which include officials of the Philippine Army - remain personally impleaded to answer for any responsibilities they may have incurred during their incumbencies. The Department of Justice, for its part, has created a three-person panel to conduct the preliminary investigation of the charges against them for rape, serious physical injuries, arbitrary detention, among others.

Another notable development, perhaps, is the act of the United Church of Christ of the Philippines of filing a civil suit against the former President and the military leaders under her administration for human rights abuses committed against its members.

The efforts of the DOJ, however, is not merely on a case-to-case basis.

As part of our sincere hope to solve cold or unresolved cases of extralegal killings (ELKs) and enforced disappearances, before any available evidence and leads in said cases are lost forever, we have constituted, last December 10, 2010 - to coincide with the celebration of the anniversary of the adoption of the Universal Declaration of Human Rights - a Special Task Force to Address Extralegal Killings and Enforced Disappearances. Said special task force is headed by an Undersecretary of the Department, and assisted by a whole slew of prosecutors, state

counsels and other officers to address all reported and unresolved cases of ELKs and enforced disappearances.

We have also taken steps to strengthen our Witness Protection Program (WPP). In a criminal justice system that, admittedly, still has relatively little familiarity with the use and interpretation of advance forensic evidence, the WPP helps the Department preserve its most vital source of prosecution evidence, namely, the testimony of eyewitnesses. As potential witnesses are, themselves, the most prone to become victims of ELKs and enforced disappearance - especially in cases where involvement of high-ranking government officials are alleged or suspected - adequate and effective protection and assistance to witnesses and whistleblowers are key factors - sometimes, even deal breakers - in the fight against impunity. Hence, we have fought for the increase of budgetary allotment for the Program, and are continuing to advocate for legislative reforms to the WPP and the passage of a Whistleblowers Act.

Most importantly, we are making sure that all the complaints and cases filed before our Department go through a swift, transparent and fair process - and that the process would reach a just conclusion.

In this regard, it is perhaps appropriate to mention another set of controversial cases of human rights violations. At the time I was still Chairperson of the Commission on Human Rights, we investigated a series of killings in the Southern part of the country, allegedly perpetrated by a

group known by the macabre moniker, the “Davao Death Squad” or “DDS”. Unfortunately, the investigation and resolution of the CHR in said cases, which are suspected to be ELKs committed in a systematic and calculated manner under the orders of a long-time, local government chief executive, was not completed before I transitioned to the Department of Justice. Hence, I am one with the rest of the nation in awaiting the release of the CHR resolution in this case soon. The unfortunate part of the story, however, is that we have been receiving information that incidences of killings are still on-going but un-reported. Apparently, the situation has developed into a sort of “cottage industry” for free-lancing hired killers. These are just some of the issues we are keeping a close eye on.

Now, let me underscore an important dimension in the aspiration and initiatives towards reconciliation with justice.

From where the Aquino administration stands, it is clear that the promotion of justice and human rights must not be limited to the prevention of acts against human dignity. It must extend to the active promotion of those social, economic and cultural conditions in which the dignity of human beings and communities can prosper. This is what I meant when I referred earlier to the need to bridge the chasm that separate those who stand on the opposite poles of the socio-economic spectrum.

In the pursuit of this aspiration, we are inspired by the sterling example of the Federal Republic of Germany in the post-war era.

It will be recalled that then Chancellor Konrad Adenauer himself pointed out that human dignity cannot flourish in a regime of individualism that ignored the common good, nor in a system of collectivism that ignored human freedom.

As a result, Germany earned the admiration of the international community by forging a social market economy that reconciled subsidiarity and solidarity, promoted human dignity and paved the way for stable growth.

We will definitely benefit from this example. We affirm our belief in the principle that “doing the right thing does not only make sense morally, but translates into economic value as well”.

So, let me restate our commitment: no reconciliation without justice. And since our aspiration is for genuine reconciliation among us who are separated by reasons of ideology and socio-economic gaps, then we are going all-out in our bid to ensure that justice is done.

Tonight, let me assure you once more that the protection of human right, as well as the promotion of peace efforts are part and parcel of national policy in the Philippines today.

I am sure you are aware that President Aquino has directed an unrelenting pursuit of the peace process. Part of the initial success is that the Moro Islamic Liberation Front (MILF) has already submitted its proposal for negotiations.

Meanwhile, the Philippine government has already agreed with the National Democratic Front (NDF) on a specific time table for the long-delayed negotiation and execution of final agreements on political and economic reforms, socio-economic reforms, and termination of hostilities. The last agreement with the NDF, on human rights and humanitarian law, was signed in 1998, or more than 13 years ago.

By its actions, the government has shown that it does not see the negotiations as a mere gambit, political platform, or strategy for extracting concessions.

For us, this is a concrete bridge to reconciliation. We believe that this demonstration of resolve will finally achieve the cessation of the longstanding conflict and the forging of a lasting and just peace.

It is safe to presume that, after my speech, there would be whispered remarks that these commitments are, quote, unquote, "easier said than done."

So, let me spare you the trouble. Let me say it myself: Ladies and gentlemen, yes, these commitments are easier said than done.

There you go.

Now, going back to our commitment: no reconciliation without justice.

When I started out, I stated that genuine reconciliation is between us, Filipinos, and our countrymen. That is absolutely true. For too long we have been divided along lines of culture, religious belief, political affiliation, economic status, and so forth. What ought to be physical, geographical divisions - *Luzon, Vizayas and Mindanao* - have been interpreted and has, thus, evolved, into representations of ideological divisions that stand in the way of each of us accepting the other fully. True, there are real differences, but real differences do not have to result in lack of understanding. Even the word "tolerance" is not enough, because we need not simply "tolerate" one another when we feel genuine empathy and concern for one another,

The first step of reconciliation, therefore, is among the Filipino people themselves, to learn to accept one another without "ifs" and "buts" - unconditional and genuine reconciliation. So unconditional and genuine that the very thought of doing injustice to any of our brothers and sisters will be felt as a betrayal of our closest of kins.

But such a reconciliation must go further. The Filipino people must come to a reconciliation with *itself*. For too long we have seen ourselves in

the eyes of others – a habit forged by centuries of colonization. We have compared ourselves to other nations and, sadly, at times, even to our own eyes, we feel we are lacking.

That has to end.

We must accept that our strengths are different from those of other nations, but such does not make us inferior in any way. We have to learn to play to our own strong points, and not allow others to dictate our path. That is the only way for Filipinos to progress beyond division and hatred, and move towards peace and justice for all – we must see ourselves as being worthy *and* capable of achieving those ideals.

In other words, the Filipino people must come to a reconciliation with its true self in order to gain the true power derived from the exercise of the right of self-determination.

Finally, and perhaps the aspect of reconciliation that is well within my jurisdiction, is the reconciliation of the Filipino people with its government.

Suspicion, mistrust, counter-productive bickering and heckling have, in varying degrees, characterized the dynamics between the Filipino people and its government of late. We must re-establish the social contract between our people and our government.

That is one of my personal advocacies. I hope to help reconcile what government is now to what it ought to aspire to be. Perhaps, through such

efforts to become the government that the Filipino people need *and* deserve, we can again gain their trust and support.

My point, in all of this, is this: the dynamics between justice and reconciliation does not flow in a single direction. We have been discussing justice as a means to achieve reconciliation but, in truth, a genuine and unconditional reconciliation would serve to reinforce the respect and high regard for justice in our society.

Reconciliation through justice.

Justice through reconciliation.

This is a challenge to all of us, Filipinos. This is where we have to summon our will and our faith in our ability for meaningful and productive dialogues.

By “meaningful and productive”, I refer to our openness to listening and understanding our common hurts, and setting our eyes on the mutual benefits of taking the path towards genuine reconciliation. We must not give up on dialogue. We must not lose faith in ourselves.

Yes, before we can walk along the same path, the hurts must first be salved and the wrongs must be set right. Such is the function of justice. And such is the very mission of the department I head. Our department motto declares: “*pax justitiae opus*”. Peace is the work of justice.

Allow me to give you this assurance: I will fulfil our mandate. My critics and nemesis know that for a fact. And, here is one thing they know for sure: that I am, quote, unquote, a “just” person. I think they mean that, if you cross paths with the law, I will ... “just”... make sure you pay the price for it.

At the end of the day, that may have been exactly what the Conference wanted to find out from me: would the present administration make sure that those who have wronged their fellow Filipinos by reason of political, ideological and socio-economic reasons be made to pay the price before reconciliation is considered?

If that was the intention, then I officially give you the assurance – at least as far as “paying the price” part is concerned.

I think the other part of your question is, would there be political alliances between the present administration with those who may have wronged the Filipino people in the past? I believe that is a question that is best left alone to the politicians to answer.

And, as I have said earlier, I believe that our quest for genuine reconciliation is not confined to the tiny corner of political enmities.

My job is to make sure that the Rule of Law and the Reign of Justice are upheld in our land so that reconciliation, in its most meaningful form, could take place.

I believe the greatest injustice would be for us to give up on dialogue. To do so would be to lose our chance for lasting peace and genuine reconciliation.

But everyone's presence here tonight shows that we continue to have faith in dialogue and in ourselves. In fact, I am deeply honoured and awed because, in reflection, I wonder how many Secretaries of Justice from our country in the past have been given the opportunity to join a conference and dialogue as this, not just in the capacity of being a representative of the Executive Department, but as a true advocate of human rights as well? Given our recent history, human rights advocates and members of the executive branch of government have been more often pitted against one another, rather than joined in ideologies in this manner.

By coming together in this conference, we have taken one very important step towards the aspiration for reconciliation. And such is an important act of justice.

I thank and congratulate you all on behalf of our government.

I wish you all success in this endeavour.

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